

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 GUN CLUB ROAD
WEST PALM BEACH, FLORIDA

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Order No. 2010-206-DACWS
SOUTH FLORIDA
WATER MANAGEMENT DISTRICT

IN THE MATTER OF:

Water Shortage Warning for all
Use Classes Using Surface Water
From Lake Istokpoga, the Indian Prairie
Water Use Basin, and Lake Okeechobee
and Surface Waters Hydraulically
Connected to Lake Okeechobee within
the Everglades Agricultural Area Water
Use Basin, Lakeshore Perimeter Water
Use Basin, Caloosahatchee River Water
Use Basin, Interior Palm Beach County
Water Use Basin, Interior Martin County
Water Use Basin, and St. Lucie River
Water Use Basin within all or parts of
Okeechobee, Glades, Highlands, Lee,
Hendry, Palm Beach, Martin, and St.
Lucie Counties

_____ /
ORDER ISSUING WATER SHORTAGE WARNING

The Governing Board of the South Florida Water Management District, after considering recommendations of District staff and being otherwise fully apprised of the matter, issues this Order issuing a water shortage warning, pursuant to Chapter 40E-21, Fla. Admin. Code, making the following Findings of Fact and Ultimate Facts and Conclusions of Law.

FINDINGS OF FACT

1. The water source experiencing the potential concern is the surface water in both Lake Istokpoga and the Central and Southern Florida Flood Control Project Canals known as C-39A, C-40, C-41, and C-41A ("Project Canals") north of L-59, L-60, and L-61 as well as Lake Okeechobee and the surface waters hydraulically connected to Lake Okeechobee within the basins identified below.

2. The water use basins experiencing the potential concern are the Everglades Agricultural Area Water Use Basin, Lakeshore Perimeter Water Use Basin, Caloosahatchee River Water Use Basin, the Indian Prairie Water Use Basin, the Interior Palm Beach County Water Use Basin, the Interior Martin County Water Use Basin, and the St. Lucie River Water Use Basin, which comprise the Lake Okeechobee Region and are located within all or part of Okeechobee, Glades, Highlands, Lee, Hendry, Palm Beach, Martin Counties, and St. Lucie Counties and the Indian Prairie Water Use Basin which is part of the Indian Prairie Region and located in all or part of Highlands and Glades Counties. The affected areas are depicted on the map attached as Exhibit "A."

3. Although water users located within these basins are generally within the agricultural water use class, all water use classes withdrawing surface water within the basins identified above are subject to this Order.

4. The affected water basins depend almost exclusively upon surface waters from both Lake Okeechobee and Lake Istokpoga and the Project Canals for water supply.

5. In the most recent El Niño/La Niña-Southern Oscillation monthly predictions issued October 13, 2010, the Climate Prediction Center continues to predict cooler than normal equatorial Pacific sea surface temperatures through winter and early spring of 2011. The current negative temperature anomalies are well established and are near the threshold necessary to be classified as a strong La Niña.

6. Based on the La Niña conditions, the upcoming dry season has an increased probability of below normal rainfall for the entire District.

7. With below normal soil moisture conditions and falling groundwater levels already developing in the Lake Okeechobee tributary basin and the upcoming dry

season having an increased chance of below normal rainfall, water supply becomes an increasingly important priority.

I. Lake Istokpoga

8. The Lake Istokpoga – Indian Prairie Area Regional Water Shortage Plan establishes a minimum permissible schedule for Lake Istokpoga and the various, primary canals into which Lake Istokpoga discharges.

9. Lake Istokpoga's minimum level varies throughout the year. Generally, the minimum level of Lake Istokpoga rises between late June and mid-October at which point Lake Istokpoga's minimum level reaches its peak stage of 39.0 feet. After mid-October, Lake Istokpoga's minimum level declines throughout the dry season, reaching its lowest level of 37.0 feet for the period of late April to late June.

10. Inflows from Arbuckle and Josephine Creeks are below normal and are currently reported as 63 cubic feet per second ("cfs") and 26 cfs, respectively.

11. From June 1, 2010 through November 8, 2010, rainfall averaged 26.36 inches over the Lower Kissimmee Region, which includes Lake Istokpoga and the Indian Prairie Water Use Basin. This amount is 90% of normal rainfall. District gauges indicate that there was no direct rainfall over Lake Istokpoga during the past 5 days.

12. As of midnight November 8, 2010, the level of Lake Istokpoga was 38.93 feet NGVD 29 as measured using the 5-gage average. The current stage is approximately 0.13 feet above the minimum regulation schedule, thus Lake Istokpoga is nearing the 40E-22, Fla. Admin. Code (Figure 22-2) minimum regulation level.

13. Rule 40E-22.122, Fla. Admin. Code, states that when a minimum level is reached, a termination of all surface water withdrawals from the Lake or canals shall occur. Additionally, Rule 40E-22.082, Fla. Admin. Code, states no releases from Lake

Istokpoga are to be made via S-68.

14. The District has been making occasional minimal releases through S-68 since October 1, 2010. Following the existing Lake Istokpoga Regulation Schedule, once the average lake level falls below the minimum level, discharges from S-68 are not permitted until the stage in the Lake exceeds the minimum regulatory line.

15. Historically, a wide range of scenarios have occurred and could be predicted for Lake Istokpoga between now and the end of the dry season. Over the thirty year period of record, Lake Istokpoga has fallen below its minimum level approximately one-third of the time. Some of these instances resulted in declared water shortages, generally involving phase I restrictions. The duration of Lake Istokpoga's level declining below its minimum also varies widely. During severe drought years, Lake Istokpoga's level remained below its minimum for approximately 8 months.

16. Presently, all primary canals within the region are above the minimum levels. However, it is possible the canals will experience declining levels in the upcoming months due to the onslaught of the dry season and the lack of recharge from Lake Istokpoga. Thus, a water shortage warning is appropriate. The canal minimum stages, as compared with the present stages as of November 9, 2010, are as follows:

Primary Canals	Minimum Stage	Current Stage
Canal 39A above Structure 75	22.5	25.86
Canal 40 above Structure 72	17.7	20.35
Canal 41 above Structure 71	17.0	19.80
Canal 41 above Structure 70	22.5	25.84
Canal 41A above Structure 84	21.7	24.27
Canal 41A above Structures 82 & 83	29.0	31.96

17. Variation in Indian Prairie Water Use Basin surface water resources is due to the resources rainfall dependency, although pump stations G-207 and G-208 offer water supplies to the lower basin from Lake Okeechobee. Due to the unpredictability of

the resource, ecological benefits experienced when Lake Istokpoga levels decline, additional supplies from Lake Okeechobee, and the present canal stages, a declaration of water shortage and imposition of mandatory restrictions is not warranted at this time.

18. However, due to the potential for a water shortage to occur in the Indian Prairie Water Use Basin within the upcoming dry season, the issuance of a water shortage warning is desirable.

II. Lake Okeechobee

19. During the “wet season” from June through October, Lake Okeechobee normally receives significant recharge from direct rainfall and inflow through surface water runoff from the watershed basins surrounding it. Under average rainfall conditions, Lake Okeechobee and its tributaries receive about 28 inches of rain from June through October, and Lake Okeechobee levels average about 16.2 feet NGVD 29 (14.9 feet NAVD 88) at the end of October.

20. However, from June 1, 2010 through October 31, 2010, the normal wet season rainfall conditions to recharge the low levels in Lake Okeechobee were deficient. As a result, water levels in Lake Okeechobee are relatively low.

21. Rainfall in watershed basins recharging Lake Okeechobee was up to 25% below average.

22. From June 1, 2010 through November 8, 2010, rainfall averaged 22.74 inches over the Lake Okeechobee Region. This amount is 78% of normal rainfall.

23. At midnight on November 8, 2010, the total Lake Okeechobee inflow was reported as 46 cfs, consisting of structure flows from S65E of 13 cfs and Fisheating Creek of 33 cfs. The average inflow from November 2-8, 2010 is approximately 280 cfs.

24. On November 8, 2010, the total Lake Okeechobee outflow was approximately 1,749 cfs consisting of flows in the amount of 443 cfs, 360 cfs, 68 cfs, 4 cfs, 66 cfs, and 111 cfs from S-77, S-308, S-351, S-352, S-354, and L-8, respectively. The average outflow from November 2-8, 2010 was approximately 1,611 cfs.

25. As of November 8, 2010, the level of Lake Okeechobee was 13.33 feet NGVD 29. The current stage is 1.70 feet lower than the historical average for this date and 0.62 feet lower than the simulated average using the current regulation schedule (LORS 2008). Thus, Lake Okeechobee water levels are nearing the water shortage management line set forth in Rule 40E-22.332, Fla. Admin. Code (Figure 22-4).

26. Pursuant to Rule 40E-22.332, Fla. Admin. Code, when water levels within Lake Okeechobee fall below a specified water shortage management zone, set forth in Figure 22-4 of the Rule, a Phase I water shortage may be declared within the Lake Okeechobee Region.

27. There is a potential for a water shortage to occur in the Lake Okeechobee Region within the upcoming dry season.

28. The declaration of a water shortage warning, which includes voluntary restrictions, will serve to place surface water users within the affected areas on notice of the potential need for water use restrictions.

29. Voluntary reductions in the amount of water presently being withdrawn, specifically as set forth in Phase I of the water shortage restrictions, may produce a 15% overall reduction in demand and thereby obviate the need to mandate restrictions.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

30. Section 373.246, Fla. Stat., authorizes the Governing Board to adopt a water shortage plan to regulate the withdrawal and use of water so as to protect the

water resources of the District.

31. The District's Water Shortage Plan is set forth in Chapter 40E-21, Fla. Admin. Code.

32. Regional water shortage plans for the Lake Istokpoga – Indian Prairie Area and Lake Okeechobee are contained in Chapter 40E-22, Fla. Admin. Code. Implementation of the restrictions contained in these Regional Water Shortage Plans is not presently considered advisable.

33. Rule 40E-21.231(3), Fla. Admin. Code, authorizes the Governing Board to issue a water shortage warning calling for voluntary reductions in demand prior to declaring a water shortage.

34. Chapter 40E-22, Fla. Admin. Code, contains the Regional Water Shortage Plans the District's Governing Board adopted for the subject areas.

35. The District has monitored the condition of the water resources and the needs of the users as required by Rule 40E-21.221, Fla. Admin. Code.

36. The District has compared current data with historical data and has determined that the estimated present and anticipated available water supply within the same class may be insufficient to meet the estimated present and anticipated demands of the users and may be insufficient to protect the water resources from harm as required by Rule 40E-21.221(3), Fla. Admin. Code.

37. Considering the above findings of fact, the best present option to protect the surface water resources of the affected water use basins is to issue a water shortage warning calling for voluntary Phase I reductions in use.

ORDER

Based upon the above Findings of Fact, Ultimate Facts and Conclusions of Law, the Governing Board orders that:

38. A water shortage warning is issued for the all users located withdrawing surface water from Lake Istokpoga, all surface water users within the Indian Prairie Use Basin, as described in Rule 40E-21.631(1)(f)1, Fla. Admin. Code, and all surface water users withdrawing from Lake Okeechobee and waters hydraulically connected to Lake Okeechobee as described in Rule 40E-21.631(1)(c), Fla. Admin. Code.

39. All users within the named basins are requested to voluntarily reduce their use in accordance with the Phase I restrictions detailed in Rule 40E-21.521, Fla. Admin. Code. These restrictions are included in the attached Exhibit "B."

40. A Notice of Rights is attached hereto as Exhibit "C."

DONE AND SO ORDERED at a public meeting held at the Florida Gulf Coast University in Lee County, Florida 33965, on this 11th day of November, 2010.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
By its Governing Board

By: *Sheryl G. Wood*
SHERYL G. WOOD
General Counsel



ATTEST:

By: *Sachi McGarty*
District Clerk/Assistant Secretary
Date: November 19, 2010

Legal Form Approved:

By: *Jennifer Bokankowitz*
Jennifer Bokankowitz, Esq.

Water Shortage Warning for the Lake Okeechobee Basins, Indian Prairie Water Use Basin, and Lake Istokpoga

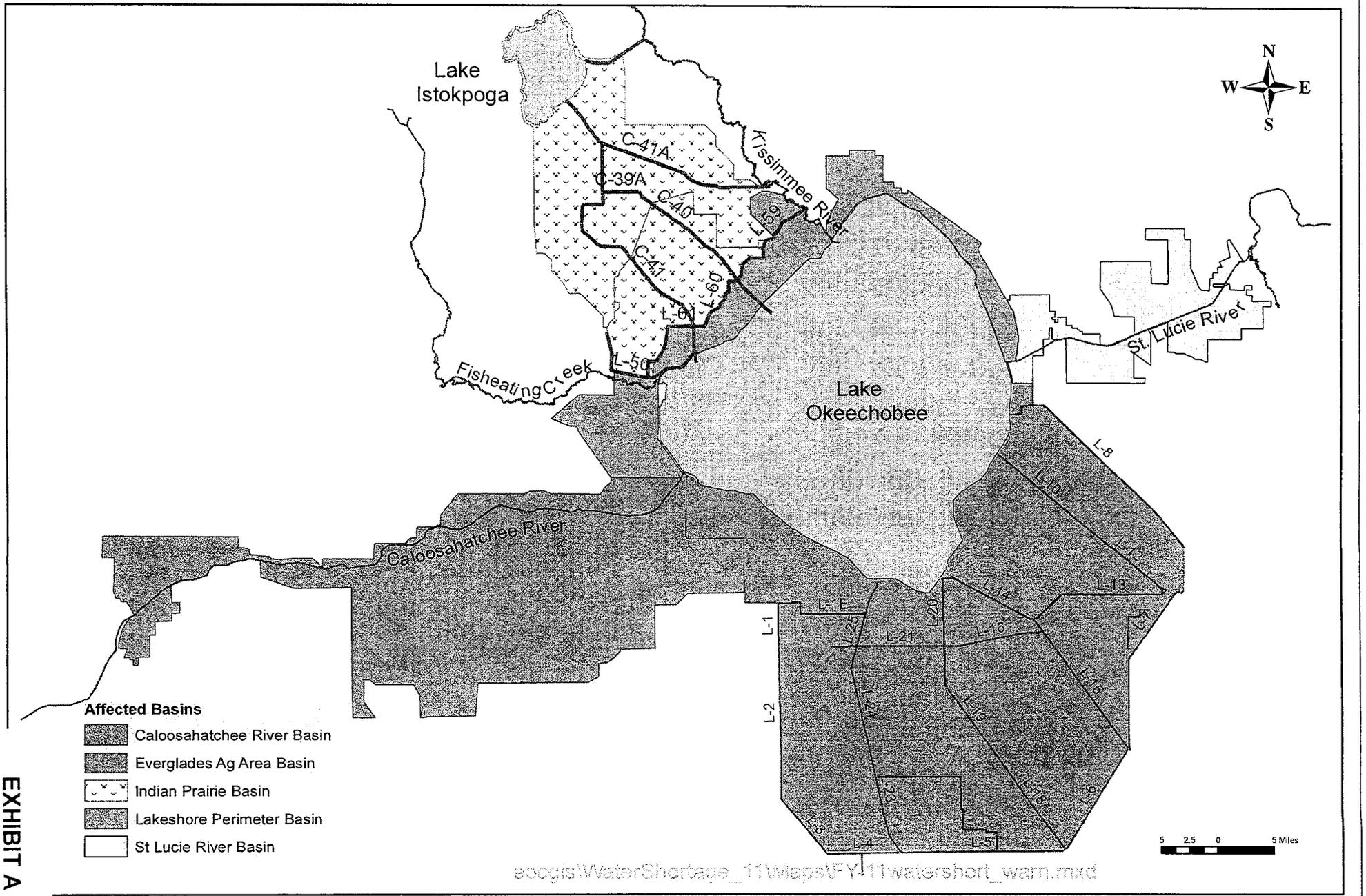


EXHIBIT A

40E-21.521 Phase I Moderate Water Shortage.

The following restrictions shall apply when a Phase I water shortage is declared by the District.

(1) Essential/Domestic/Utility/Commercial.

(a) Essential Use:

1. The use of water for firefighting, safety, sanitation, health and medical purposes and other essential uses shall not be restricted.

2. Fire hydrant flushing shall be undertaken only on an emergency basis.

3. Sanitary sewer line flushing and testing shall not be restricted except on a voluntary basis.

(b) Domestic Type Use:

1. Residential type domestic use shall be voluntarily reduced to achieve a per capita consumption of 60 gallons per person per day.

2. Domestic type use in industrial and commercial establishments shall be voluntarily reduced.

(c) Water Utility Use:

1. Initial pressure at the point of use (meter) shall be voluntarily reduced to levels no greater than 45 pounds per square inch. Upon reduction of pressure, the utility shall notify the appropriate fire-fighting agencies and make arrangements for direct communication when additional pressure is required.

2. New water line flushing and disinfection shall be restricted to the hours of 7:00 p.m. to 7:00 a.m. seven days per week.

3. As may be appropriate the utility shall institute additional voluntary conservation measures such as reclaiming of backwash water, improving and accelerating leak detection surveys and repair programs, installing and calibrating meters, and stabilizing and equalizing system pressures.

(d) Power Production Use. Water used for power production shall be voluntarily reduced.

(e) Commercial and Industrial Process Use:

1. Commercial car washes shall be restricted as follows:

a. For washes servicing passenger vehicles and mobile equipment weighing less than 10,000 pounds,

i. Use in excess of 75 gallons per wash shall be prohibited and

ii. Use equal to or less than 75 gallons per wash shall be voluntarily reduced;

b. For washes servicing mobile equipment weighing 10,000 pounds or more,

i. Use in excess of 150 gallons per wash shall be prohibited and

ii. Use equal to or less than 150 gallons per wash shall be voluntarily reduced.

2. Water used for commercial and industrial processes shall be voluntarily reduced.

3. Water use for cleaning, adjusting and repair of irrigation systems by a licensed person or entity shall be restricted as follows:

a. Projects one irrigated acre or greater in size shall be limited to one hour per acre per week,

b. Projects less than one irrigated acre in size shall be limited to 10 minutes per zone per week.

4. Water use for pesticide application under the supervision of a licensed pest control operator shall be voluntarily reduced.

Under the provisions of this subparagraph, the applicator must be on the premises when water is applied outside of the hours allowed for irrigation.

5. Water use for well development under the supervision of a licensed well contractor shall be voluntarily reduced.

6. Water use for mobile equipment washing by a licensed person or entity shall be voluntarily reduced.

(f) Diversion and Impoundment into Non-District Facilities. Water used for diversion and impoundment into non-District facilities shall be voluntarily reduced; however, the diversion of surface water from sources in the Lake Okeechobee Region as depicted on Figure 21-4 and described in subsection 40E-21.691(3), F.A.C., shall be subject to the restrictions described in subparagraph (2)(a)6., below.

(2) Agriculture.

(a) Agricultural Use:

1. Overhead irrigation shall be restricted to the hours of 2:00 p.m. to 10:00 a.m.

2. Low volume irrigation hours shall not be restricted.

3. All irrigation systems shall be operated in a manner that will maximize the percentage of water withdrawn and held which is placed in the root zone of the crop and will minimize the amount of water which is withdrawn and released or lost to the user but is not immediately available for other users.

4. Users having access to more than one source class shall maximize the use of the lesser or least restricted source class.

5. Overhead irrigation for field grown citrus nursery stock moisture stress reduction shall be allowed daily for 10 minutes per irrigation zone from 11:30 a.m. to 12:00 p.m. and from 1:30 p.m. to 2:00 p.m.

6. The District's allocation determination for agricultural irrigation within the entire Lake Okeechobee Region as depicted on Figure 21-4 will be based on 15% cutbacks to the calculated 1 in 10 supplemental crop demands calculated on a weekly basis. The entire Lake Okeechobee Region supplemental crop demands will be distributed among the sub-basins depicted in Figure 21-4 based on a grouping of crop types, irrigation methods (e.g. flood irrigated crops versus micro irrigated crops), the associated acreage totals as identified in the individual water use permits combined with the associated 1 in 10 evapotranspiration demands of the crops. An additional amount of water from Lake Okeechobee will be added to the weekly allocation as necessary to account for conveyance losses that occur through seepage and free surface evaporation from the Central and Southern Florida Flood Control System Project canals. The share of the entire Lake Okeechobee Region irrigation allocation available to each sub-basin may be further adjusted to prioritize water deliveries among crops, as long as the sum of the sub-basin allocations does not exceed the weekly allocation for the entire Lake Okeechobee Region and that equity among users and sub-basins is assured. Such adjustments shall be based upon irrigation efficiency, potential for economic loss, and acreage irrigated as opposed to non-irrigated acreage. Withdrawals by each permitted user within the Lake Okeechobee Region as described in subsection 40E-21.691(3), F.A.C., shall be limited to an amount that represents each user's share of their sub-basin weekly allocation based on their permitted crop type and irrigated acreage. The District shall provide the users with the data necessary to calculate their weekly allotment of water.

(b) Livestock Use. Livestock water use shall be voluntarily reduced.

(c) Aquacultural Use. Aquacultural water use shall be voluntarily reduced.

(d) Soil Flooding:

1. Soil flooding for vegetable seed planting, rice planting, burning of sugarcane prior to harvest and to permit harvesting of sod shall be voluntarily reduced.

2. Soil flooding for all other purposes shall be prohibited.

(e) Freeze Protection. Water use for freeze protection shall be restricted to situations in which official weather forecasting services predict temperatures likely to cause permanent damage to crops.

(3) Nursery/Urban Irrigation/Recreation.

(a) Nursery Use:

1. Low volume irrigation uses and low volume hand watering shall be voluntarily reduced.

2. Overhead irrigation uses shall be restricted as follows:

a. Inside – 8:00 a.m. to 8:00 p.m., seven days per week.

b. Outside – 7:00 p.m. to 7:00 a.m., seven days per week.

c. Overhead irrigation for containerized nursery stock moisture stress reduction on stock grown in containers up to and including 1 gallon in size shall be allowed daily for 10 minutes per irrigation zone from 11:30 a.m. to 12:00 p.m., 1:30 p.m. to 2:00 p.m. and 3:30 p.m. to 4:00 p.m.

3. Flood irrigation systems shall be restricted to 8 days per month.

(b) Landscape Irrigation – New Installation:

1. For installations which have been in place for less than 30 days, and

a. Less than 5 irrigated acres in size, water use for irrigation shall be restricted to the hours of 2:00 a.m. to 8:00 a.m., Monday through Friday,

b. 5 irrigated acres or greater in size, water use for irrigation shall be restricted to the hours of 12:01 a.m. to 8:00 a.m., Monday through Friday.

2. Low volume irrigation and low volume hand watering of new landscaping shall be voluntarily reduced.

3. Cleaning and adjusting of new irrigation systems shall be restricted to 10 minutes per zone on a one time basis.

(c) Landscape Irrigation – Existing Installation:

1. For existing installations less than 5 irrigated acres in size, water use for irrigation shall be restricted to the hours from 4:00 a.m. to 8:00 a.m. for all types of irrigation, except low volume irrigation, and 5:00 p.m. to 7:00 p.m. for low volume hand watering only, three days per week.

a. Installations with odd addresses shall be permitted to irrigate on Monday, Wednesday and Saturday.

b. Installations with even addresses or no address shall be permitted to irrigate on Tuesday, Thursday and Sunday.

2. For existing installations 5 irrigated acres or greater in size, water use for irrigation shall be restricted to the hours from 12:01 a.m. to 8:00 a.m. , three days per week.

a. Installations with odd addresses shall be permitted to irrigate on Monday, Wednesday and Saturday.

b. Installations with even addresses or no address shall be permitted to irrigate on Tuesday, Thursday and Sunday.

3. Water use for cleaning, adjusting and repair of existing irrigation systems shall be limited to ten minutes per zone per week.

4. Low volume irrigation uses shall be voluntarily reduced.

(d) Recreation Area Use:

1. Landscape irrigation for new and existing recreation areas shall be restricted to the hours prescribed for new and existing landscape irrigation in paragraphs (b) and (c) respectively.

2. Irrigation of seeded and/or sprigged recreation areas that have been in place for less than thirty days shall be allowed daily for 10 minutes per irrigation zone from 11:30 a.m. to 12:00 p.m., 1:30 p.m. to 2:00 p.m. and 3:30 p.m. to 4:00 p.m.

3. Watering of pervious non-vegetated recreational/sporting surfaces shall be restricted to ten minutes of application prior to each recreational/sporting event. Low volume watering shall be used.

(e) Golf Course Use:

1. Irrigation of greens and tees shall be voluntarily reduced and shall be accomplished during non-daylight hours.

2. Irrigation of fairways, roughs and nonplaying areas on the first nine holes of the course shall be restricted to the hours of 12:01 a.m. to 8:00 a.m. on Monday, Wednesday and Saturday.

3. Irrigation of fairways, roughs and nonplaying areas on the last nine holes of the course shall be restricted to the hours of 12:01 a.m. to 8:00 a.m., Tuesday, Thursday and Sunday.

4. Irrigation of seeded and/or sprigged areas that have been in place for less than thirty days shall be allowed daily for 10 minutes per irrigation zone from 11:30 a.m. to 12:00 p.m., 1:30 p.m. to 2:00 p.m. and 3:30 p.m. to 4:00 p.m.

(f) Water Based Recreation Use:

1. Water based recreation water use shall be voluntarily reduced.

2. Draining of facilities into sewers or onto impervious surfaces shall be prohibited.

(4) Miscellaneous.

(a) Cooling and Air Conditioning Use.

The use of water for cooling and air conditioning shall be restricted to that amount of water necessary to maintain a minimum temperature of 78 degrees Fahrenheit.

(b) Dewatering Use. Discharge of fresh water to tide from dewatering shall be prohibited.

(c) Navigation Use:

1. The District shall request the U. S. Army Corps of Engineers to restrict its lockages to maintain acceptable chloride concentrations upstream of the locks and to conserve water.

2. In the case of the Franklin Lock and Dam, the District shall request the U. S. Army Corps of Engineers to restrict lockages to once every four hours if:

a. Chloride levels upstream of S-79 are 180 parts per million or higher, and

b. A rainfall in excess of one inch in 24 hours is not predicted in the surface water use basin within the next 48 hours.

3. If the restrictions imposed in subparagraph 2. are insufficient to stop the rising chloride levels, the District shall request the U. S. Army Corps of Engineers to further restrict lockages to once every four hours, twice per week.

4. If the restrictions imposed in subparagraphs 2. and 3. are still insufficient to stop the rising chloride levels, the District shall request the U. S. Army Corps of Engineers to prohibit lockages.

(d) Other Outside Uses:

1. Washing or cleaning streets, driveways, sidewalks, or other impervious areas with water shall be prohibited.

2. Outside pressure cleaning shall be restricted to only low volume pressure cleaning, seven days a week.

3. Mobile equipment washing with water shall be restricted to the hours and days prescribed for existing landscape irrigation in subparagraph (3)(c)1., using only low volume mobile equipment washing methods and shall be conducted over a pervious surface or in an area that immediately drains to a pervious surface. Rinsing and flushing of boats after saltwater use shall be limited to 15 minutes once a day for each boat.

4. Washing boats that serve as a primary residence shall be restricted to the hours and days prescribed for existing landscape irrigation in subparagraph (3)(c)1. Boats with an odd slip number shall be permitted to be washed on Monday, Wednesday and

Saturday. Boats with an even slip number or no slip number shall be permitted to be washed on Tuesday, Thursday and Sunday.

(e) Aesthetic Use:

1. Non-recirculating outside aesthetic uses of water shall be prohibited.
2. Water use for outside aesthetic purposes by facilities that recirculate water shall be voluntarily reduced and must meet the following criteria:
 - a. Draining of water from outside aesthetic facilities into sewers or onto impervious surfaces is prohibited.
 - b. Outside aesthetic facilities shall not be operated when wind conditions cause water to be lost from the recirculating capacity of the facility.
 - c. Outside aesthetic facilities that leak water shall not be operated.
 - d. Outside aesthetic facilities that lose water due to an overflow shall not be operated.
3. Inside aesthetic uses of water shall be voluntarily reduced.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.175, 373.246 FS. History--New 5-31-82, Amended 1-26-86, 2-14-91, 9-10-01, 11-19-07.

NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: 1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or 2) within 14 days of service of an Administrative Order pursuant to Subsection 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of either written notice through mail, or electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

Filing Instructions

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** Any person wishing to receive a clerked copy with the date and time stamped must provide an additional copy. A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the SFWMD Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the SFWMD Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the SFWMD Clerk. **Delivery of a petition to the SFWMD's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the SFWMD's security officer to contact the Clerk's office.** An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by facsimile must be transmitted to the SFWMD Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the SFWMD Clerk receives the complete document.

Initiation of an Administrative Hearing

Pursuant to Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 and 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other SFWMD identification number, if known.
2. The name, address and telephone number of the petitioner and petitioner's representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the SFWMD's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

If the District takes action with substantially different impacts on water resources from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law.

Mediation

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.