



County Administration

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Official Electronic Letterhead

November 23, 2009

Ms. Carol Wehle, Executive Director
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, FL 33406

Re: Year Round Landscape Irrigation Rule

Dear Ms. Wehle:

On behalf of the Palm Beach County Board of Commissioners, I would like to thank you and your staff for attending the Board of County Commissioner's meeting on November 17, 2009. I believe we had a very productive discussion concerning the South Florida Water Management District's (District) proposed Year-Round Landscape Irrigation Rule (Rule), water conservation and Palm Beach County's permitted water use.

Palm Beach County shares the District's commitment to water conservation. With the expenditure of more than \$175 Million on alternative water supply projects and the diligent implementation of water conservation measures our utility has achieved a per capita consumption of 80-90 gallons per person per day, which is approximately half of the District's average per capita water consumption and comparable to the per capita water consumption achieved in other regions of the State of Florida such as the Tampa Bay and Orlando areas. All this was done without the implementation of year-round landscape irrigation restrictions, which I understand have been in effect in those other areas for a number of years.

Palm Beach County staff worked closely with the District during the past two years in developing the Rule. The District made a number of changes to the original published version of the Rule in response to our comments, for which we are grateful. Although Palm Beach County has been portrayed by some as opposing the days-of-the-week irrigation restrictions proposed by the District, you know now from our meeting that is not the case. However, despite the good faith effort on both sides, our staff believes, the final version of the



Rule could potentially create substantial problems for our water utility and its customers. Although our staff urged us to seek administrative review of the proposed Rule in order to protect Palm Beach County's water utility and customers, the Board of County Commissioners instead elected to seek your Governing Board's assistance in addressing our concerns without the need for a formal Administrative Challenge. Palm Beach County took this step based on your personal commitment to work cooperatively with our staff to resolve our concerns and preserve our long-standing working relationship with the Governing Board.

When water conservation measures such as the Rule operate as they are intended, they should have the effect of reducing water demands, extending the ability of the existing permitted supply to meet those demands and delaying the need to implement new and expensive alternative water supply sources. When applied in this manner water conservation benefits the environment by reducing the impact of withdrawals on the water resource and benefits the public water system by deferring the unnecessary expenditure of the rate payer's money on utility infrastructure. However, this only works, if the water conservation measure does not result in the permanent reduction of a utility's existing permitted water supply and that water, which has been conserved, is not wasted, but stored for further resource protection and use. Should conservation result in the loss of permitted water use, then both the environment and the public water system would suffer from the premature and unnecessary development of alternative water supply projects to meet public water demand. Palm Beach County is especially concerned about this scenario as it has invested \$175 Million in maintaining its permitted water use and its water utility serves as a regional water supply for coastal communities and self-supplied water users, whose water supply may be threatened by adverse water quality changes.

Our staff advises us that the water conservation savings created by the Rule, when coupled with the District's existing Regional Water Availability Rule and the 5-year permit compliance review under Section 373.236, Florida Statutes could result in the concerns iterated above being realized. I was gratified to hear you say at our meeting that this scenario is not what you or the Governing Board intended, when the District adopted the Rule. In fact, you advised us that District staff had included some language in the Rule that would prevent this situation from occurring in the future with respect to Palm Beach County's permitted water use. Our staff believes the language in question does not clearly state the intent that you expressed to us at the meeting. I believe that all of us agreed that further clarification in writing would be equally beneficial.



There was some discussion at the meeting as to what would be the best option for clarifying the District's intent concerning the impact of water conservation savings on existing permitted water use. Some suggested that a verbal statement by the Governing Board at its next meeting or even a letter from the District would be a sufficient expression of agency intent. However, the problem with those suggestions is that the District's personnel change over time and a future Governing Board or Executive Director could decide to rescind the statement without any recourse on our part. Palm Beach County believes the only way to properly memorialize the District's intent would be to include appropriate language in the Rule.

Consequently, we would ask you to please agenda with your Governing Board at the next regularly scheduled meeting to either reopen the proposed Rule, if that is still legally possible, or authorize a new rule development to accommodate clarifying language by date certain.

We would further request that you meet with our staff subsequent to that Board action, to develop language that would be to our mutual satisfaction in final resolution of these important concerns.

We are confident that mutually satisfactory results are attainable in this matter when our focus is on resolving the issues. We trust this will further this Commission's desire to build upon the close working relationship with the District that this Commission has come to respect and now count upon. If you have any questions concerning this matter, please feel free to contact myself or our staff.

Sincerely,

A handwritten signature in blue ink, appearing to read "Burt Aaronson", with a long horizontal flourish extending to the right.

Commissioner Burt Aaronson, Chair
Palm Beach County Board of County Commissioners

- c: Members of the Board of County Commissioners
 District Governing Board Members
 Robert Weisman, County Administrator
 Shannon R. LaRocque, P.E., Assistant County Administrator
 Bevin Beaudet, P.E., Director, Water Utilities
 Thomas Miller, Regulatory & Legislative Liaison
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