

STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

FEDERAL
RECORDING DISTRICT
2009-07-14 1:55 PM
SOUTH FLORIDA
WATER MANAGEMENT DISTRICT

In re:

SFWMD ORDER NO. 2009-76 -DAO

EMERGENCY AUTHORIZATION FOR
TEMPORARY BURN BAN ON DISTRICT
LANDS SUBJECT TO CHAPTER 40E-7,
Part V, F.A.C., DUE TO DROUGHT CONDITIONS
AND IMMINENT DANGER OF WILDFIRES

EMERGENCY FINAL ORDER

Under sections 120.569(2)(n), 373.016, 373.119(2), 373.1391 of the Florida Statutes and Rule 40E-1.611, F.A.C., the Executive Director of the South Florida Water Management District ("SFWMD") enters this Emergency Final Order (the "Order"), including Findings of Fact and Ultimate Facts and Conclusions of Law, in response to concern for the threat to the public health, safety, and welfare of the citizens of the State of Florida, natural resources, and recreational use of District lands due to severe drought conditions and the imminent danger of wildfires.

FINDINGS OF FACT

1. Currently, south Florida is experiencing a severe drought condition that is manifested in both substantially below normal rainfall and extremely dry conditions. This condition has necessitated restrictions on water use to protect the public's health, safety and welfare and the water resources from serious harm affecting the majority of the area within the District's jurisdiction.

2. As of March 10, 2009, 1,024 wildfires have burned 24,730 acres in Florida, compared with 11,292 acres that were impacted by 508 fires during the same period last year.

3. Although recent rainfalls have reduced the drought conditions across the northern half of the state, central and south Florida are still experiencing extremely dry conditions with rainfall totals well below normal so far this year. The current weather outlook calls for the fire threat to remain high in central and south Florida through the end of fire season in June.

4. The danger of additional wildfires will increase dramatically if dry conditions persist.

5. Fifteen counties throughout the State have established burn bans, including six (6) counties within the District's jurisdiction (i.e. Osceola, Highlands, Glades, Polk, Hendry and St. Lucie Counties).

6. The building of fires on District lands open to the public for recreational purposes under Chapter 40E-7, Part V, F.A.C., in grills, fireplaces and fire rings provided by the District or other authorized management agencies could result in additional wildfires.

7. The use of portable campstoves and grills brought in by users for cooking purposes only does not pose the same threat as fires which the rule allows to be built in grills, fireplaces and fire rings provided by the District or other authorized management agencies.

8. The SFWMD finds that the building of fires on District lands open to the public for recreational purposes under Chapter 40E-7, Part V, F.A.C., in grills,

fireplaces and fire rings provided by the District or other authorized management agencies threatens the public health, safety and welfare, natural resources, and recreational use of SFWMD lands. Immediate action by Florida's citizens and government is necessary to prevent or ameliorate dangers to the public health, safety and welfare, natural resources, and recreational use of SFWMD lands posed by the increased risk of wildfires during the current drought.

9. The SFWMD finds that an emergency authorization is required to address the need for immediate action.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

10. Pursuant to Rule 40E-7.537(9), F.A.C., building a fire in a grill, fireplace, or fire ring provided by SFWMD or other authorized management agencies on SFWMD lands subject to Chapter 40E-7, Part V, F.A.C., is allowed. The rule also allows for the use of portable campstoves and grills provided by the user. The building of fires by the public on District lands open to the public for recreational purposes other than as provided in Rule 40E-7.537(9), F.A.C., is specifically prohibited.

11. Based on the findings recited above and pursuant to Section 373.119(2), Florida Statutes, it is hereby concluded that the current severe drought conditions and increased risk of wildfires threatens the public health, safety, and welfare, natural resources, and recreational use of SFWMD lands, thereby requiring SFWMD to issue an immediate order suspending the provisions of Rule 40E-7.537(9), F.A.C., and temporarily prohibiting the building of fires in grills, fireplaces, or fire rings provided by SFWMD or other authorized

management agencies and limiting the use of portable campstoves and grills provided by the users for cooking purposes only in order to protect the public health, safety, and welfare, natural resources and recreational use of District lands.

12. Pursuant to Sections 120.569(2)(n) and 373.119(2), Florida Statutes, the Executive Director of SFWMD is authorized to issue this Order.

ORDER

THEREFORE IT IS ORDERED that

13. The building of fires in grills, fireplaces, or fire rings provided by SFWMD or other authorized management agencies on SFWMD lands subject to Chapter 40E-7, Part V, F.A.C., otherwise allowed under Rule 40E-7.537(9), F.A.C., is hereby prohibited until this Order is rescinded.

14. The use of portable campstoves or grills provided by users on SFWMD lands subject to Chapter 40E-7, Part V, F.A.C., is allowed for cooking purposes only.

15. The general prohibition against the building of fires by the public on SFWMD lands subject to Chapter 40E-7, Part V, F.A.C., other than in grills, fireplaces, or fire rings provided by SFWMD or other authorized management agencies, as set forth Rule 40E-7.537(9), F.A.C., remains in full force and effect.

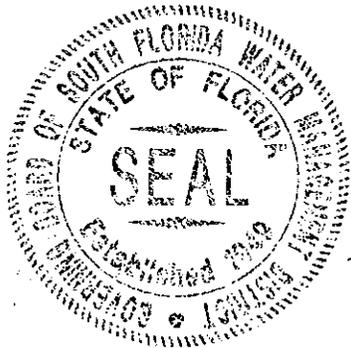
16. Failure to comply with the terms of this Order shall constitute a violation of a SFWMD Final Order under Chapter 373, Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

17. This Order shall take effect immediately upon execution by the Executive Director of the SFWMD, and shall remain in effect until rescinded by the Executive Director or the Governing Board.

NOTICE OF RIGHTS

Any party substantially affected by this Order has the right to seek judicial review of it under section 120.68, Florida Statutes, by filing a written notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the SFWMD at 3301 Gun Club Road, West Palm Beach 33406, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days after this Order is filed with the Clerk of the SFWMD.

DONE AND ORDERED on this 10th day of April, 2009, in West Palm Beach, Florida.



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Carol Ann Wehle
Carol Ann Wehle
Executive Director

ATTEST:

BY Shirley M. Gentry
ON 4/10/2009

Legal Form Approved

By Wally Whitten