

**BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In Re:

EMERGENCY AUTHORIZATION FOR OGC Case No.: 09-4214
ACTIONS FOR COMMUNITY PUBLIC
WATER SYSTEMS MADE NECESSARY
BY EXTENSIVE DROUGHT

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EMERGENCY FINAL ORDER

Under Section 120.569(2)(n), Florida Statutes (F.S.), the State of Florida Department of Environmental Protection (the Department) enters the following Emergency Final Order for community public water systems as defined by subsection 403.852(3), F.S., including findings of fact and conclusions of law, made necessary because of the extensive drought across much of the state.

FINDINGS OF FACT

1. The drought that began on October 1, 2006, has lowered both ground and surface water levels to record or near record lows. These low water levels continue through much of peninsular Florida. Suppliers of water that rely on good quality raw water for drinking water have experienced a decrease in their water quality from either saline water intrusion or other factors directly resulting from the drought.

2. On April 16, 2007, the Department issued an emergency order, OGC Case No.: 07-0593, to address this emergency. Specifically, that water quality has or may in the near future cause some suppliers of water to not meet the drinking water standards for total dissolved solids (TDS), chloride, sulfate, pH, and sodium in the water they

supply to the public. Elevated levels of these constituents do not cause a public health concern so long as the alternate levels for the specified contaminants listed in paragraph C below are not exceeded.

3. The Department extended that order in a First Amended Emergency Order to June 30, 2008, because it found that the drought had not ended, and that the expiration of the previous order on December 31, 2007, would not adequately provide the needed relief.

4. The Department extended that order in a Second Amended Emergency Order to December 31, 2008, because it found that the drought had not ended, and that the expiration of the previous order would not adequately provide the needed relief.

5. The Department issued another order in an Emergency Final Order, OGC Case No.: 09-0735, dated April 16, 2009, because it found that the drought had not ended, and that the relief provided in the previous orders was still needed and reasonable.

6. The Department finds that it is necessary to again have an emergency authorization for some public water systems to meet alternative levels listed in paragraph C below, until further order of the Department or until December 31, 2010, whichever occurs first.

CONCLUSIONS OF LAW

1. Section 120.569(2)(n), F.S., gives the Department the authority to issue an emergency final order if as agency head, I find that an immediate danger to the public

health, safety, or welfare so requires and the order recites with particularity the facts underlying that conclusion.

2. Based on the findings recited above, I find and conclude that the emergency caused by the extensive drought conditions requires an immediate order of the Department to protect the public health, safety, or welfare, in order to allow the affected public water systems to continue to supply drinking water to the public.

THEREFORE, IT IS ORDERED:

A. Each affected public water system that already notified the appropriate Department District office or approved county health department that it intends to operate under the April 2007 order and received written approval from the District or county may continue to operate as such under this new emergency order. Any newly affected public water system that intends to operate under this order must notify in writing the appropriate Department District office or approved county health department that it intends to use the authorization contained herein and will abide by the conditions set forth below in conditions C through K. In addition, any affected public water system that provided the notice described in this paragraph, and no longer intends to operate under this emergency order, shall so notify, in writing, the same entity as identified above.

B. Public water systems whose raw water sources have degraded because of the drought are hereby authorized to exceed the specified secondary drinking water standards and sodium in their finished water. Alternative levels for the specified standards in paragraph C below shall not be exceeded, nor shall any primary drinking

water standard other than sodium be exceeded. These public water systems shall operate in accordance with all other applicable rule requirements, except as described in the below.

C. The alternate levels for the specified contaminants are: total dissolved solids 1200 mg/L, chlorides 500 mg/L, sulfates 500 mg/L, pH 6.5 to 9.0, and sodium 300 mg/L.

D. Each affected public water system shall monitor monthly for the parameters covered by this order (paragraph C above) and submit the results to the Department District Office or approved county health department by the tenth of the following month.

E. Each affected public water system shall provide public notice of the exceedances of the alternative levels in paragraph C above, within thirty days after the exceedance is discovered and follow the public notice requirements in the same manner required for public notice of maximum contaminant level violations of chronic contaminants. The public notice shall comport with the requirements in Rule 62-560.410, (1)(a)2., 3., and (c); with the content prescribed in (5); and for multi-lingual notices (8), Florida Administrative Code (F.A.C.).

F. Each affected public water system shall continue to monitor for other regulated contaminants, applicable to the type of public water system, per Chapter 62-550, F.A.C. All other sampling and analyses requirements for those contaminants contained in Chapter 62-550, F.A.C., shall be followed. The results must be submitted,

within ten days of the month following the system's receipt, to the Department District Office or approved county health department, as appropriate.

G. The Department issues this Emergency Final Order solely to address the continued emergency created by the extensive drought conditions. This order shall not be construed to authorize any activity within the jurisdiction of the Department except in accordance with the express terms of this order.

H. Nothing in this order shall eliminate the necessity for obtaining any other federal, state, or local permits or other authorizations that may be required.

I. Nothing in this order shall supersede any variance or other relief mechanism already granted to an affected public water system that addresses any of the parameters contained herein because of drought conditions, unless the relief under this emergency order provides greater relief than a public water system's variance. In that situation, the affected public water system who wishes to operate under this order rather than a variance it received for the drought conditions, must so notify the appropriate Department District office, and approved county health department (if applicable).

J. Any affected public water system that the Department determines has a chronic water quality problem associated with low rainfall or a shortage of available source water must also investigate solutions to its long-term water quantity or quality problems. To trigger this condition, the Department must provide such a determination in writing to the affected system.

K. This Emergency Final Order shall take effect immediately.

NOTICE OF RIGHTS

Any party adversely affected by this Emergency Final Order has the right to seek judicial review under section 120.68, Florida Statutes, by filing a notice of appeal under rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice with the appropriate district court of appeal, along with the required filing fee. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department.

DONE AND ORDERED on this 4th day of January 2010 in Tallahassee, Leon County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Michael W. Sole
Secretary

3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000
Telephone: 850/245-2011

FILING AND ACKNOWLEDGMENT

FILED, on this date with the designated Department Clerk, pursuant to section 120.52, Florida Statutes, receipt of which is hereby acknowledged.

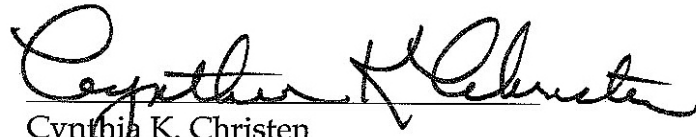
[Lisa Swearengin] 1/4/10
Clerk Date

Lisa Swearengin 1-4-10
Deputy Clerk Date

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this EMERGENCY FINAL ORDER was sent by electronic mail to Janet Llewellyn, Director, Division Janet.Llewellyn@dep.state.fl.us and Van Hoofnagle, Administrator Drinking Water Program, van.hoofnagle@dep.state.fl.us on this 4th day of January 2010.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

A handwritten signature in black ink, appearing to read "Cynthia K. Christen", written over a horizontal line.

Cynthia K. Christen
Sr. Assistant General Counsel

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