

## SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

IN RE:

DECLARATION OF EMERGENCY RELATING  
TO DAMAGE TO THE CITY OF PUNTA GORDA'S  
WATER UTILITY SYSTEM RESULTING FROM  
HURRICANE CHARLEY

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### EXECUTIVE DIRECTOR ORDER NO. SWF 04-068

David L. Moore, Executive Director of the Southwest Florida Water Management District (District), at District Headquarters, 2379 Broad Street, Brooksville, Florida, received evidence and information from District staff and representatives of the City of Punta Gorda regarding water quality effects on the City's water utility system from Hurricane Charley.

#### FINDINGS OF FACT

1. Governor Jeb Bush issued Executive Order No. 04-182 declaring a state of emergency for the State of Florida in anticipation of Storm Bonnie and Hurricane Charley striking various parts of the State.
2. On Friday, August 13, 2004, Hurricane Charley, a Category 4 hurricane made landfall on the Southwest Coast of Florida, at Sanibel Island, heading inland over the mainland, including passing over the City of Punta Gorda (the "City").
3. The City's source of water is Shell Creek. In 1997, the District issued the City Water Use Permit No. 200871.04 authorizing the City to withdraw a specified quantity of water from Shell Creek upon certain terms and conditions.
4. The City's water utility system provides water for drinking, sanitation and other purposes to approximately 29,000 residents.
5. The water treatment plant and the water distribution system sustained damage from the hurricane. The water treatment plant is running on power from an emergency generator. The service distribution system branching from the main trunk lines have been impacted. Many of the various components of the distribution system have been damaged and destroyed, including valves, meters and lines. There are many homes that were destroyed that are no longer connected to the system.

6. The damage to the distribution system has resulted in excessive water loss within the system which necessitated shutting off service distribution lines from public use in some instances.

7. In order to systematically open the service distribution lines for use by the public, water quality regulations of the Florida Department of Environmental Protection require that the City flush the lines thoroughly and test for chlorine residuals and conduct bacteriological sampling. These flushings, tests and samplings require water that will be supplied by the City through water withdrawals permitted for public supply use under Water Use Permit No. 200871.04 (the "Permit").

8. The quantities of water resulting from the remaining leaks and system flushing that is needed to conduct the required tests and samplings may exceed the quantities authorized to be used under the Permit.

9. Prior to Hurricane Charley, the City had begun testing Aquifer Storage and Recovery ("ASR") wells to provide additional water for the water supply utility system. The first cycle testing conducted in 2003 had indicated that the recovered water quality meets the drinking water quality standards and the recovered water was used for public consumption. There is currently approximately 10 million gallons of water stored in each of the tow test ASR wells Nos. 3 and 4 and approximately 50% of this water can be expected to be recovered if needed.

#### CONCLUSIONS OF LAW

10. The Executive Director of the District is duly authorized by section 373.119(2), Florida Statutes to declare that an emergency exists requiring immediate action to protect the public health, safety or welfare and authorizing such action as the executive director deems necessary to meet the emergency.

#### ORDER

11. An emergency is declared for the City's water utility system due to at risk to the health, safety and welfare of the approximately 29,000 residents that obtain water from the City.

12. The City is authorized to use such quantity of water as is necessary to maintain system pressure and complete the required line flushing, chlorine residuals testing, and bacteriological sampling in order to open the water service distribution system for normal public use.

13. The City is authorized to obtain the water necessary to conduct the activities described in paragraph 11. above from those sources authorized under the Permit or from its test ASR wells to the extent of the quantity of water currently stored in those wells and recoverable, subject to any other authorizations

required by law for use of the ASR wells, including any necessary authorizations from the Florida Department of Environmental Regulation.

14. The City shall continue to meter, if possible, and report to the District the quantity of water withdrawn from the sources authorized under the Permit and from the ASR wells, indicating the starting and ending dates of emergency operations and return to normal operations. If metering is not possible due to damaged equipment, the City shall provide estimates to the District of the quantity of water withdrawn under the Permit and from the ASR wells and the starting and ending dates of emergency operations and return to normal operations. If estimates are provided, the method use to estimate the quantity of water withdrawn shall be included along with the start and end dates. Reports should be submitted every 30 days, as feasible, prior to return to normal operations.

15. Quantities withdrawn pursuant to paragraph 12. and 13. shall not be included in calculations to determine the 12-month running average compliance or peak month compliance with the withdrawal quantity limitations in the Permit.

16. No adverse impacts prohibited by 40D-2.301, F.A.C. are anticipated to result from the withdrawals authorized by this Order. In the event that adverse impacts do occur, the City shall coordinate with the District to address those impacts.

17. Except as provided in paragraph 12. and 13. above, all other terms and conditions of the Permit shall remain in full force and effect.

18. This Order shall remain in effect until public health, safety and welfare are restored including, but not limited to, restoration of normal operation of the water utility system.

DONE AND ORDERED in Hernando County, Florida, as of August 16, 2004.

Filed this 18<sup>th</sup> day  
of August, 2004.

Carolyn L. Stout

Southwest Florida Water  
Management District

By:

David L. Moore  
David L. Moore  
Executive Director

(SEAL)

## **NOTICE OF RIGHTS**

Persons to whom this Executive Director Order is directed, or whose substantial interests are affected, may request pursuant to Section 373.119(3), Florida Statutes, to petition for an administrative hearing in accordance with Sections 120.569 and 120.57, Florida Statutes, and Chapter 28-106, F.A.C. A request for a hearing must:(1) explain how the petitioner's or other person's substantial interests will be affected by the District's action; (2) state all material facts disputed by the petitioner or other person, or state that there are no disputed facts; and (3) otherwise comply with Chapter 28-106, F.A.C.

A request for hearing must be filed with and received by the Agency Clerk of the District at the District's Brooksville address, 2379 Broad Street, Brooksville, FL 34604-6899 within 21 days of receipt of this notice. Receipt is deemed to be the fifth day after the date on which this notice is deposited in the United States mail. Failure to file a request for hearing within this time period shall constitute a waiver of any right you or any other person may have to request a hearing under Sections 120.569 and 120.57, Florida Statutes.

Mediation pursuant to Section 120.573, Florida Statutes and Rule 28-106.111, F.A.C. to settle an administrative dispute regarding the District's action in this matter is not available prior to the filing of a request for hearing.

In accordance with Section 120.569(1), Florida Statutes, the following additional administrative or judicial review may be available.

A party who is adversely affected by final agency action may seek review of the action in the appropriate District Court of Appeal pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, within thirty (30) days after the rendering of the final action by the District.

**PURSUANT TO SECTION 373.119(3), F.S., AND NOTWITHSTANDING ANY OTHER PROVISION UNDER CHAPTER 120, FLORIDA STATUTES, PERSONS TO WHOM THE ORDER IS DIRECTED SHALL COMPLY THEREWITH IMMEDIATELY, AND THE TIMELY FILING OF A PETITION SHALL NOT STAY SUCH PERSON'S OBLIGATION TO MAINTAIN SUCH COMPLIANCE DURING THE PENDENCY OF ANY ADMINISTRATIVE PROCEEDING.**