

CONE & GRAHAM, INC.

HEAVY CONSTRUCTION

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Anurag Shah
Mehta
3597 SW Corporate Parkway
Palm City, FL 34990

June 15, 2011

Financial Project Identification Number 231812-2-52-01
Project WIM Station Southbound I-95
FDOT Contract Number
Letter Number 00041

Issue: 044

Subject: Water Restrictions on Landscape Item

Reference: Standard Specification 7-14

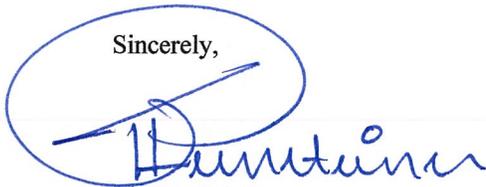
Dear Mr. Shah

We have been advised by our Landscaping subcontractor, Nature's Keeper that the South Florida Water Management District (SFWMD) has imposed severe watering limitations in effect due the extreme drought that south Florida is experiencing. As result of these limitations our subcontractor is prohibited from watering landscape materials from well or surface waters sources.

We will replace the trees that have been identified prior to this notification under our warranty, however we cannot be held responsible for items outside our control (i.e. Acts of God). The Department will have to make a decision as to what materials will be replaced after the watering limitations are lifted. Landscape materials that fail to thrive will not be covered as a warranty item and will be replaced at the owner's expense.

Please see attached letter from Nature's Keeper and SFWMD.

Sincerely,



Tim Pernsteiner

CC: 2963 Correspondance File
Enclosures:



Date: 6/14/2011
To: Cone & Graham Inc.
Co: Tim Pernsteiner, Randy Cropp
Re: Way in Motion Landscape Water Restriction

Dear Gentlemen,

Natures Keeper has been working diligently to keep the landscape and grassing areas watered through this difficult drought period. We have allocated significantly more of our resources to maintain the site than what is normally anticipated, and this has come at a considerable cost to Nature's Keeper.

Per the new watering restrictions that have been mandated per the SFWMD Nature's Keeper will now be restricted to watering the site twice weekly. We have so far made every effort possible to ensure the survivability of the landscape and sod areas, but per these new mandates, we now have major concerns about the well being of the material and how this will affect our warranty.

Since we have performed our due diligence to date, in excess of what we budgeted for, we now consider that if material becomes compromised due to this prolonged drought condition, that provision need to be made that will provide a financial means for Nature's Keeper to replace the material. We are looking for a directive from your organization that would approve this possible outcome and we would appreciate it if you could provide a written correspondence that corroborates this arrangement. Please contact Nature's Keeper at your earliest convenience to discuss.

Respectfully

Stewart Feketa
Nature's Keeper



Date: 6/7/2011
To: Valued Customer
Re: Grassing Issue Related to Current Drought Conditions

Nature's Keeper has always strived to provide superior quality material and service to their clients with the hope and desire that they would forge long term relationships with the select contractors that we work with. The current drought conditions have created a situation that we need to bring to your attention.

When NK installs sod with no irrigation we typically hand water the grass to help it get established. We would like to clarify the concept associated with "hand watering". The premises that one can hand water sod in order to get it established is not correct. The hand watering events are intended to "complement" the natural rain cycles, not to substitute for them. With the current shortage of rainfall we are experiencing, the survival rate of newly laid sod is very low. Per the latest report from the National Weather Service (NWS) the Treasure Coast and Palm Beach areas have reported the driest Water-Year-To-Date (Oct 1, 2010 to May 30 2011) since 1850, with only 10.39 inches of rainfall. Lake Okeechobee is significantly below the critical line for water shortage, well levels are low and water restrictions have been put into place by SFWMD.

Nature's Keeper has performed our due diligence and made every effort possible to establish the sod on various projects, however due to the unusually dry weather that we have been experiencing this effort has proven to be unsuccessful. Therefore, NK will refrain immediately from the installation of sod "not under irrigation" until we get into the rainy season. If your organization decides that you want the sod installed regardless of these conditions NK will comply with your request but we will not be able to provide supplemental water and we will not assume any warranty on the sod material.

The FDOT specification even has a stipulation that discusses this type of event. As stated in the FDOT Standard Specification book section 570-3.1 quote "The department will only pay for replanting as necessary due to factors determined by the Engineer to be beyond control of the contractor". The record setting drought that is affecting the South Florida area is definitely a factor that is beyond Nature's Keeper control and we should not be held accountable for "Acts of God" that we are not responsible for.

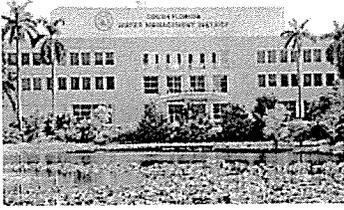
Nature's Keeper is making every effort possible to manage through this difficult drought period and it is our hope that our select contractors will be receptive to this correspondence and appreciate the difficult circumstance we are in, and as soon as the rainy season starts NK will resume the installation of sod on regular bases. Nature's Keeper looks forward to servicing your landscape & irrigation needs and please contact us to discuss this matter at your convenience.

Best Regards

Nature's Keeper

3795 SNEED RD / FT PIERCE , FL 34945
P: 772-467-1230 / F: 772-467-8923

May 2011



just the **FACTs**

This fact sheet is provided as a reference to encourage a greater understanding of the various issues related to managing water in South Florida.

Landscape Irrigation Restrictions

For Broward, Glades, Hendry, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach and St. Lucie counties. Also for portions of Osceola County within the SFWMD boundaries, the Town of Windermere in Orange County and cities within Lee County except Cape Coral.

- Landscape irrigation using reclaimed water is not restricted.

Existing landscaping

- Watering is not allowed between 10 a.m. and 4 p.m.
- Residents and businesses with **odd**-numbered street addresses may water lawns and landscapes on **Wednesdays** and **Saturdays** from 12 a.m. to 10 a.m. and/or from 4 p.m. to 11:59 p.m.
- Residents and businesses with **even**-numbered street addresses, no street address or irrigate both even and odd address within the same zones, including multi-family units and homeowners associations, may water lawns and landscapes on **Thursdays** and **Sundays** from 12 a.m. to 10 a.m. and/or from 4 p.m. to 11:59 p.m.
- For the most efficient use of water, residents should avoid irrigating during both time periods on the same day.

New landscaping, sod or other plantings

- New landscaping can be watered without regard to restrictions on the first day it is installed.
- Landscaping that has been in place from **2 days to 30 days** can be watered on **Mondays, Tuesdays, Wednesdays, Thursdays, Saturdays and/or Sundays** during the hours allowed for regular landscape irrigation.
- Landscaping that has been in place from **31 days to 90 days** can be watered on **Mondays, Wednesdays, Thursdays and Saturdays** during the hours allowed for regular landscape irrigation.
- Additional watering days can only be used to benefit new landscaping. An entire irrigation system zone may only be watered if it contains at least 50 percent new landscaping.

Applying lawn maintenance products

- Landscape irrigation for watering-in fertilizers, insecticides, pesticides, fungicides and herbicides is allowed for one application unless the need for more than one application is stated in the directions specified by the product manufacturer.



sfwmd.gov
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406
561-686-8800 or 1-800-432-2045 in Florida
www.sfwmd.gov

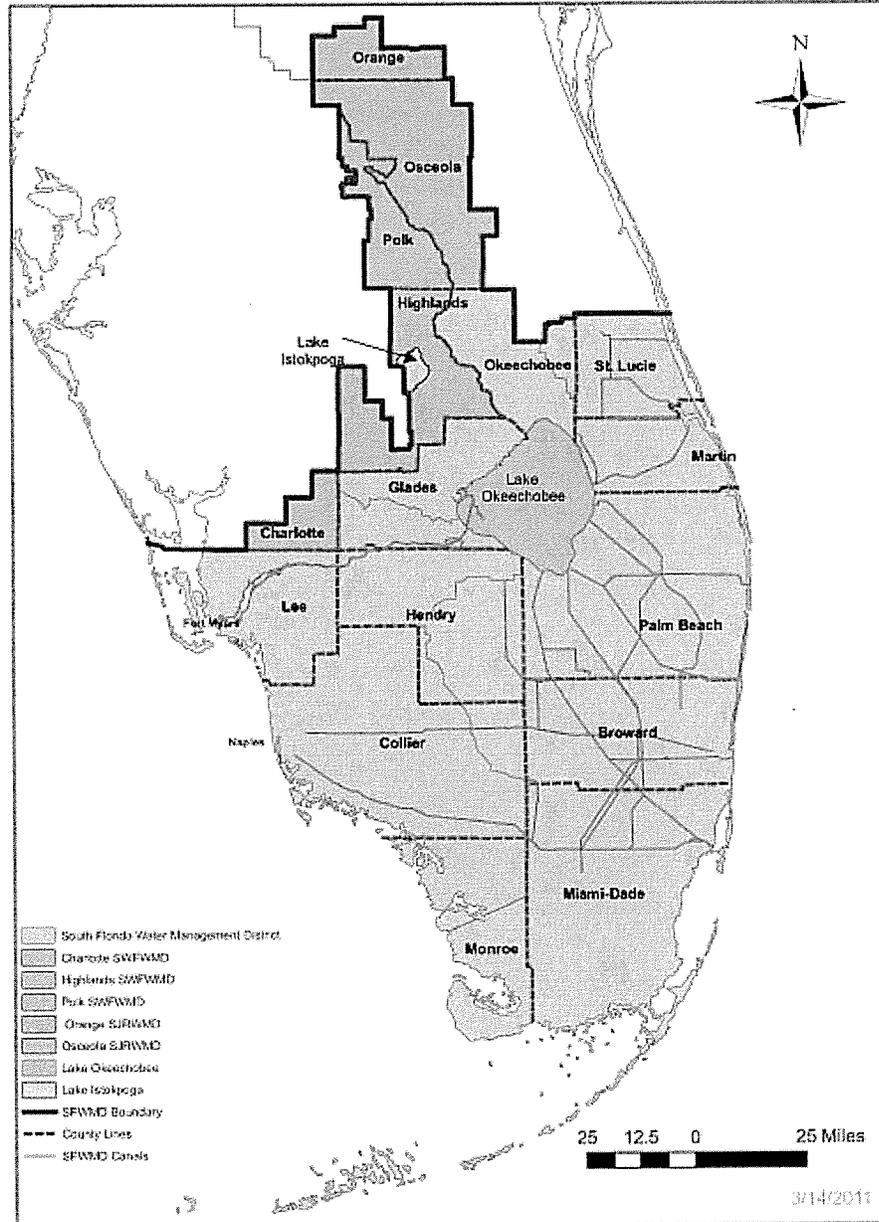
MAILING ADDRESS: P.O. Box 24680
West Palm Beach, FL 33416-4680

- Watering-in is allowed only during established watering days and times unless a professional licensed applicator has posted a temporary sign with the date of the application and the date of needed watering-in.

Frequently Asked Questions

- Restrictions apply to all sources of water for irrigation including wells, canals, ponds and lakes.
- Using a watering can or hand-watering with a hose and attached adjustable spray or trigger nozzle is allowed.
- Drip, bubble and micro-jet systems that apply water directly to root plant zones may be used anytime. Any low-volume system should not produce water runoff.
- Landscape irrigation systems may be operated once a week during restricted days and/or times for cleaning, maintenance and repair if an attendant is on site in the area being tested. Testing should not exceed 10 minutes per zone.
- Car, boat and other vehicle washing is allowed. Always attach an adjustable spray or trigger nozzle to the hose and wash vehicles over a non-paved, grassy or porous area.
- Residential and commercial water restrictions are mandatory and are enforced by South Florida Water Management District staff, local governments and law enforcement agencies. Residential fines vary by municipality, but typically range from \$25 to \$125 for a first offense. Civil penalties for violations of restrictions by District permittees and commercial users begin at \$1,500 and can increase depending on the severity of the violation.
- Violations of water restrictions may be reported to local law enforcement or city/county zoning and code enforcement agencies. Both have the authority to issue warnings and citations that can lead to fines. If you choose to notify your local law enforcement agency, please call their non-emergency number.
- Variances from restrictions that may allow you to change your watering days and/or times can be applied for through the South Florida Water Management District. The application form and instructions are online at: www.sfwmd.gov/waterwatch. Applications will be reviewed by South Florida Water Management District staff, and approval or denial is based on criteria listed in the Water Shortage Plan Rule. Water restrictions must be observed while a variance application is under consideration. For more information call (800) 662-8876.

MODIFIED PHASE II RESTRICTIONS



NOTE: LOSA, Indian Prairie and Lake Istokpoga Follow
 ORDER: 2010-206-DAO-WS as modified by 2010-214-DAO-WS

Exhibit A

For more information on water shortage restrictions, visit the South Florida Water Management District Web site at www.sfwmd.gov/waterwatch.