



Don't Drink the Water

Collapse of Florida's Safe Drinking Water Enforcement Program

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This report addresses the safe drinking enforcement results for the State of Florida, Department of Environmental Protection (FDEP or the Department) through calendar year 2015. The information provided herein was obtained from raw data provided to Florida PEER by the FDEP in response to a public records request under Chapter 119, Florida Statutes.

Overview of Potable Water Program

The importance of the potable water program became clearer in the aftermath of the Flint, Michigan disaster. The potable water program administers the federal Safe Drinking Water Act and, in turn, oversees the provision of drinking water to Florida's families, businesses, schools, daycare centers etc. The FDEP describes its responsibility on its website:

“The Department of Environmental Protection has the primary role of regulating public water systems in Florida. Authority derives from Chapter 403, Part IV, Florida Statutes and

by delegation of the federal program from the U.S. Environmental Protection Agency. The Department has promulgated a number of rules in the Florida Administrative Code.

A public water system is one that provides water to 25 or more people for at least 60 days each year or serves 15 or more service connections. These public water systems may be publicly or privately owned and operated.”¹

According to the latest figures posted on the Department website,² the FDEP concluded that there were 5,310 active potable water systems in Florida. (See, report, page 11) Of those, 689 were in violation and those 689 had 1842 violations. Of the 1842 violations, 295 (16%) were what are known as Maximum Contaminate Level violations. These are violations for things such as total coliform, organic and inorganic compounds, radionuclides and disinfection byproducts. The remaining violations were monitoring and reporting (MNR) violations. During this same period, according to the FDEP’s own enforcement records, the Department had a total of 5 cases in the entire state of Florida.

In spite of these dismal results, the U.S. Environmental Protection Agency has just proposed delegating even more of its responsibilities under the Safe Drinking Water Act to the State of Florida’s FDEP. See, <https://www.federalregister.gov/articles/2016/07/28/2016-17898/public-water-system-supervision-program-revision-for-the-state-of-florida> A review of the notice filed by EPA in the Federal Register shows that the FDEP applied for this action in 2013. The notice states, in pertinent part that:

On March 20, 2013, the State of Florida submitted requests that EPA Region 4 approve a revision to the State’s Safe Drinking Water Act Public Water System Supervision Program to include the authority to implement and enforce the Stage 2 Disinfectants and Disinfection Byproducts Rule, the Long Term 2 Enhanced Surface Water Treatment Rule, and the Ground Water Rule.

In other words, the EPA is just now acting upon it at a time when enforcement of the program has fallen through the floor.

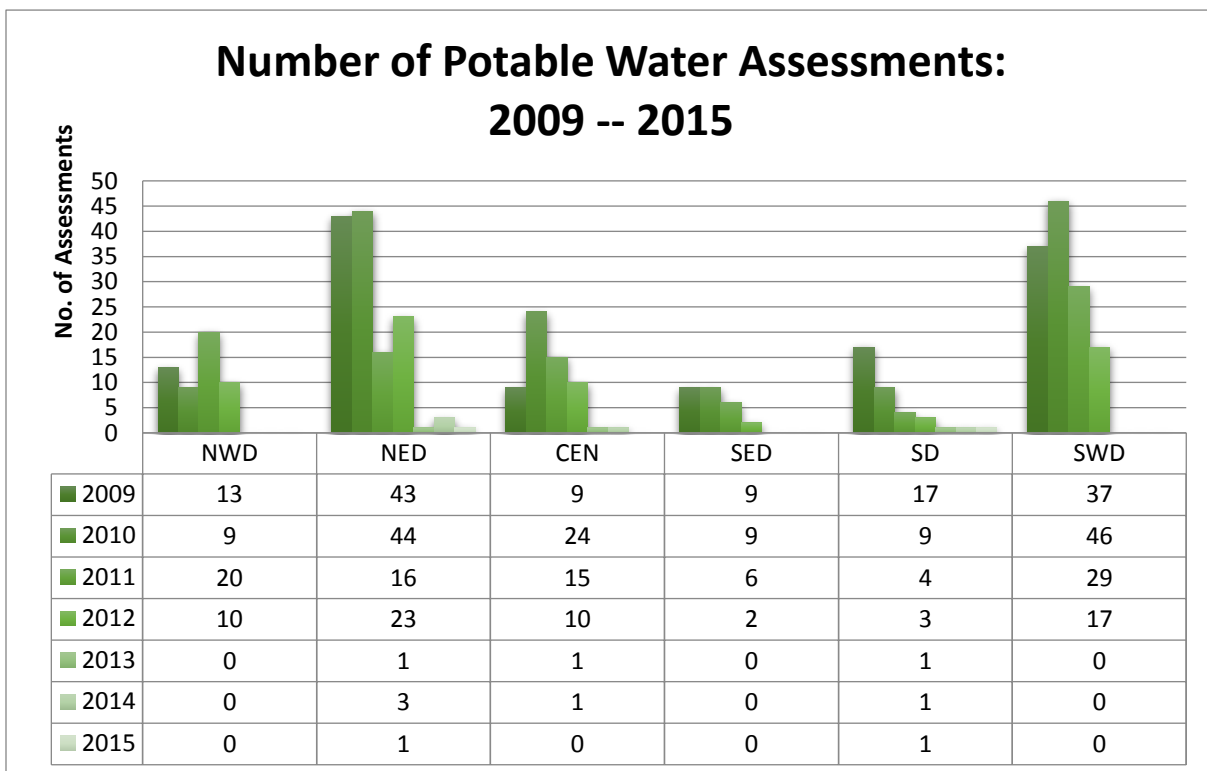
Notwithstanding the critical role that this program plays, there were only 2 assessments statewide in 2015. The number of potable water assessments has declined steadily since 2010 to a point that it is all but nonexistent in Florida:

¹ <http://www.dep.state.fl.us/water/drinkingwater/index.htm>

² The results are found in a report entitled *The 2014 Annual Report on Violations of the U.S. Safe Drinking Water Act in the State of Florida* located online at <http://www.dep.state.fl.us/water/drinkingwater/docs/2014-ACR-Florida.pdf> . This report was issued on July 1, 2015.

Year	Number of Assessments
2009	128
2010	141
2011	90
2012	65
2013	3
2014	5
2015	2

This is the worst performance in the Department's history dating back to 1988. None of the districts improved their performance in 2015. Only one, the South District, managed to equal the number of assessments that it had in 2014. **Three districts, the Northwest, Southeast and Southwest have had no assessments for the past 3 years.** The historical performance looks like this:

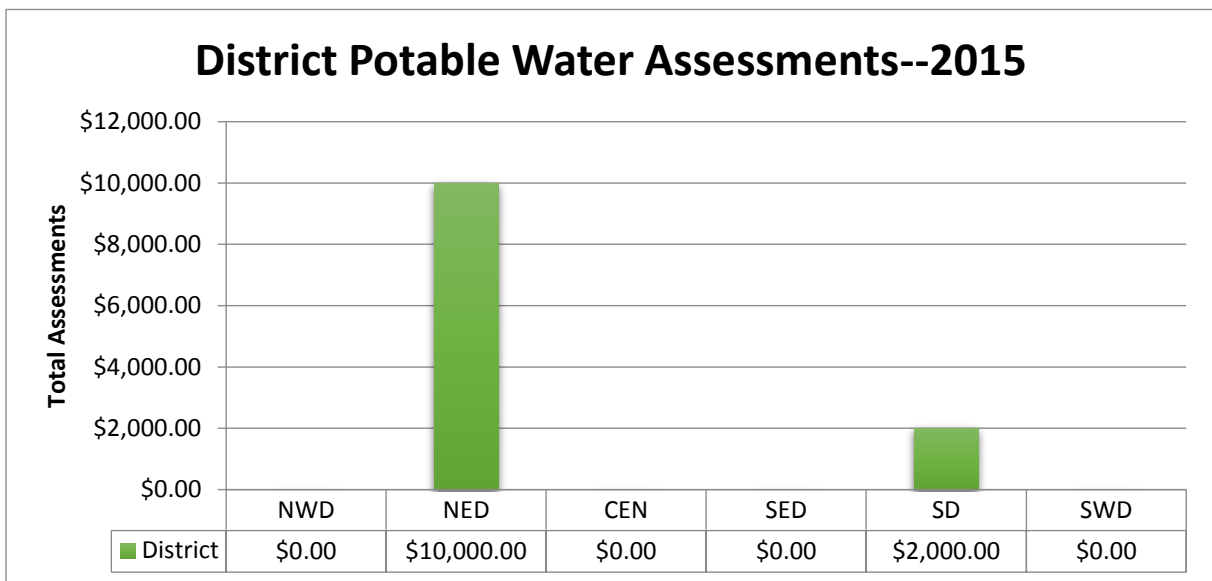


Since 2011 there has been an unmistakable decline in the number of assessments in every district.

The Department as a whole assessed penalties of \$12,000.00 in this program, a \$20,000.00 decrease from 2014. This represents a 957% decline when compared with the results in 2010:

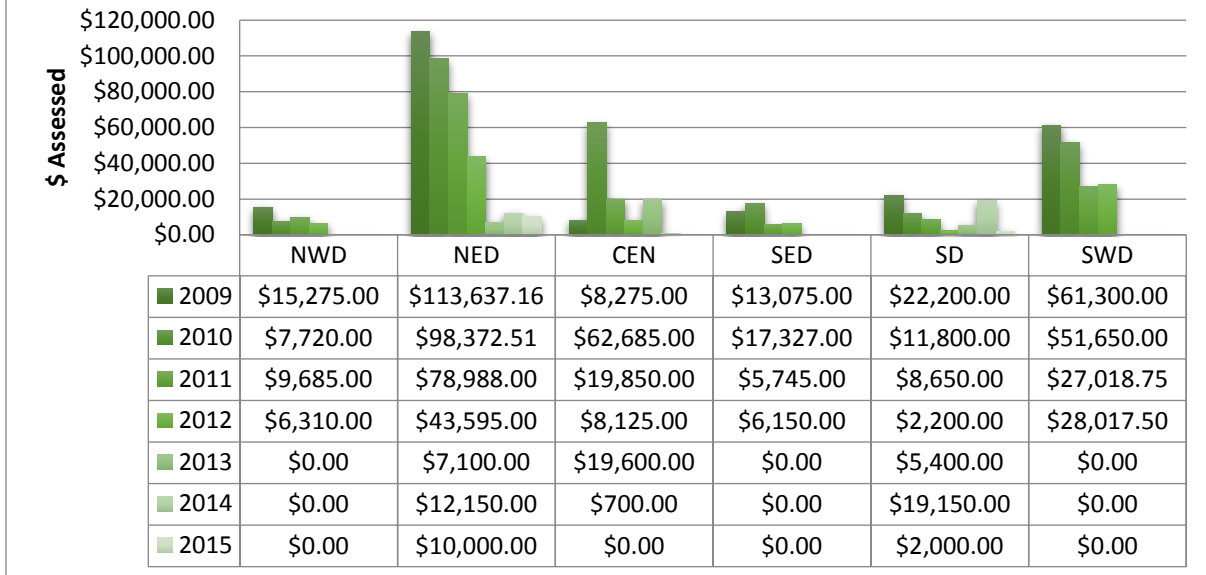
Year	Total Potable Water Assessments
2009	\$233,762.16
2010	\$249,554.51
2011	\$149,936.75
2012	\$94,397.50
2013	\$32,100.00
2014	\$32,000.00
2015	\$12,000.00

The fines were distributed amongst the districts in 2015 as follows:



None of the districts assessed more potable water penalties in 2015 than in 2014. Every district assessed fewer penalties than in 2010. The distinct downward trend over the past six years that was seen in the number of assessments is also seen in the penalty dollars assessed:

Potable Water Assessments: 2009 -- 2015

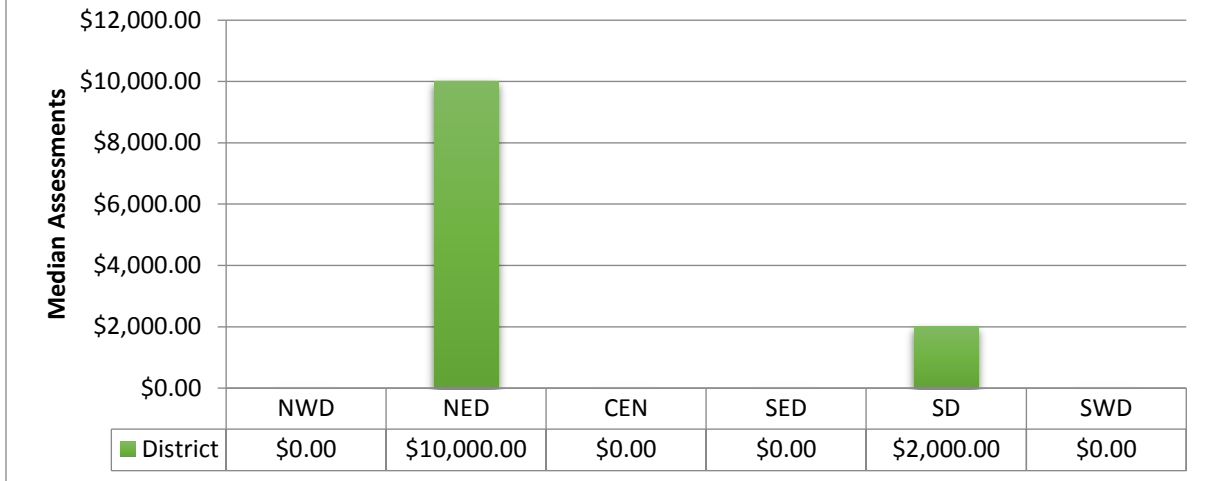


Median assessments rose markedly in 2015, but given that there were only 2 cases statewide the result is hardly impressive or statistically significant:

Year	Median Potable Water Assessments
2009	\$750.00
2010	\$875.00
2011	\$537.50
2012	\$500.00
2013	\$7,100.00
2014	\$1,650.00
2015	\$6,000.00

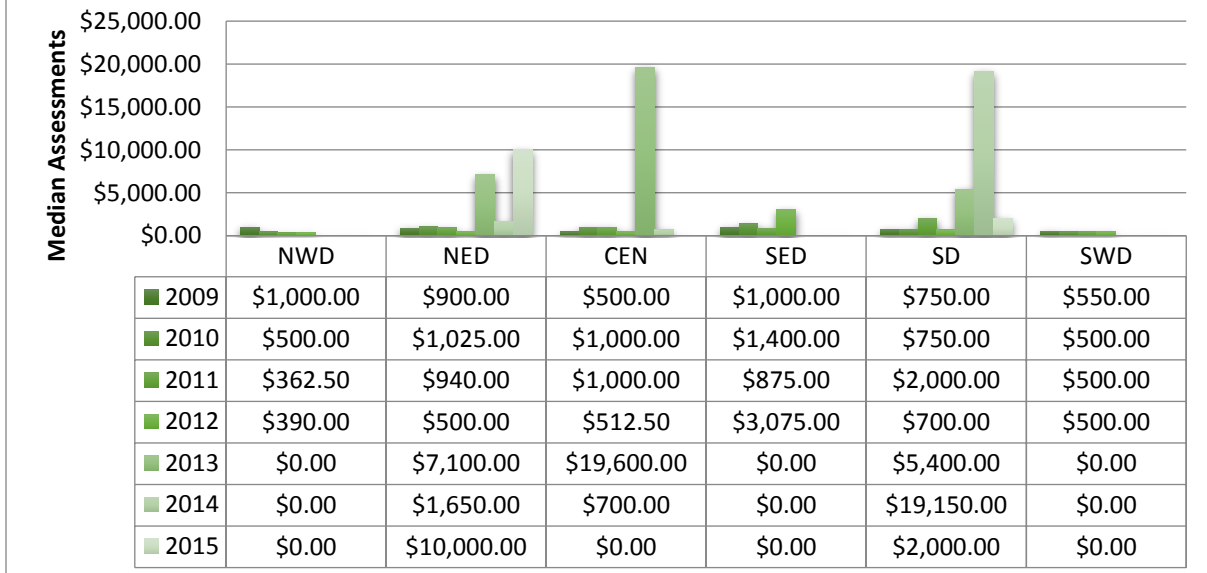
A comparison of the medians for the districts in 2015 yields these results:

Median Potable Water By District--2015



Over the past six years there is no discernable pattern that applies to every district. This is due in large part to the lack of assessments over the past 3 years:

Potable Water Medians: 2009 -- 2015



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