

2:38 pm Sep 25, 2024

SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 Gun Club Road
West Palm Beach, Florida

SOUTH FLORIDA
WATER MANAGEMENT DISTRICT

AMS

IN THE MATTER OF:

SFWMD ORDER NO. 2024-071-DAO

EMERGENCY AUTHORIZATION FOR
PUMPING, REPAIR, REPLACEMENT,
RESTORATION, ABROGATING TIME
REQUIREMENTS, NOTICE REQUIREMENTS,
AND DEADLINES ON ACTION ON PERMITS
AND OTHER APPROVALS, AND FOR OTHER
MEASURES MADE NECESSARY BY
HURRICANE HELENE

_____ /

ORDER AMENDING EMERGENCY FINAL ORDERS

Under the authority of State of Florida Executive Orders No. 24-208 and 24-209, and sections 120.569(2)(n), 252.46, 373.119(2), and 373.439, Florida Statutes, the South Florida Water Management District ("District"), enters this Order Amending Emergency Final Orders SFWMD 2024-065-DAO, SFWMD 2024-066-DAO, SFWMD 2024-067-DAO, and SFWMD 2024-068-DAO, authorizing repairs, replacement, restoration, abrogating time requirements, notice requirements, deadlines on action on permits, and other emergency measures, respectively, to address impacts associated with Hurricane Helene ("the Storm").

FINDINGS OF FACT

1. Governor DeSantis issued Executive Orders No. 24-208 and 24-209 ("the Executive Orders") on September 23 and 24, 2024, respectively, declaring a state of emergency based upon the serious threat to the public health, safety, and welfare posed by then Potential Tropical Cyclone 9, which has since progressed into Hurricane Helene. The Governor included the following counties in the Executive Order that are within the District's

jurisdiction: Charlotte, Collier, Glades, Hendry, Highlands, Lee, Monroe, Okeechobee, Orange, Osceola, and Polk counties (“the Emergency Areas”).

2. The Storm has the potential to cause widespread wind damage and flooding and poses an immediate danger to the lives and property of persons throughout the Emergency Areas and all 16 counties within the District's jurisdiction.

3. On September 24, 2024, the District's Executive Director issued the following Emergency Orders:

a. Emergency Final Order, SFWMD Order No. 2024-065-DAO, which authorized repairs, replacement, restoration, and certain other measures made necessary by the Storm. A copy of this Order is attached and incorporated by reference as Exhibit A;

b. Emergency Final Order, SFWMD Order No. 2024-066-DAO, which authorized pumping and other measures to address flooding caused by the Storm. A copy of this Order is attached and incorporated by reference as Exhibit B;

c. Emergency Final Order, SFWMD Order No. 2024-067-DAO, which waived all advertisement and competition requirements for the procurement of equipment, services, and commodities due to the serious threat to public health, safety, and welfare from the Storm. A copy of this Order is attached and incorporated by reference as Exhibit C; and

d. Emergency Final Order, SFWMD Order No. 2024-068-DAO, which authorized abrogating time requirements, notice requirements, and deadlines for action on permits and other approvals made necessary by the Storm. A copy of this Order is attached and incorporated by reference as Exhibit D.

5. As a result of the Storm, immediate action by Florida's citizens and government may be necessary throughout the District's jurisdiction, not just within the Emergency Areas.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

6. The District's Executive Director is authorized to issue emergency orders with concurrence of the Governing Board under sections 120.569(2)(n) and 373.119(2), Florida Statutes, and to immediately employ any remedial means necessary to meet the emergency when immediate action is necessary to protect public health, safety, or welfare.

7. The District finds that the actions authorized under this Order are narrowly tailored to address the immediate need for action and are procedurally fair under the circumstances.

9. Based on the above findings of fact, and in order to protect the public's immediate health, safety, and welfare, and to not prevent, hinder, or delay necessary action in coping with the emergency, it is both reasonable and appropriate to amend the previously issued Emergency Orders to apply to the District's entire jurisdiction.

ORDER

Based upon the above Findings of Fact, Ultimate Facts, and Conclusions of Law, the Executive Director orders that Emergency Final Orders SFWMD 2024-065-DAO, SFWMD 2024-066-DAO, SFWMD 2024-067-DAO, and SFWMD 2024-068-DAO, are hereby amended to apply to all 16 counties within the District's jurisdiction.

DONE AND ORDERED on this 25th day of September 2024, in West Palm Beach,
Florida.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT



Drew Bartlett
Executive Director

NOTICE OF RIGHTS

Any party substantially affected by this Order has the right to seek judicial review under section 120.68, Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the District at 3301 Gun Club Road, West Palm Beach, Florida 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 thirty days after this Order is filed with the Clerk of the District.

**RECEIVED
DISTRICT CLERK'S OFFICE**

4:45 pm Sep 24, 2024

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 Gun Club Road
West Palm Beach, Florida**

**SOUTH FLORIDA
WATER MANAGEMENT DISTRICT** *W.S.*

IN THE MATTER OF:

SFWMD ORDER NO. 2024-065-DAO

**EMERGENCY AUTHORIZATION
FOR REPAIRS, REPLACEMENT,
RESTORATION, AND CERTAIN
OTHER MEASURES MADE
NECESSARY BY POTENTIAL
TROPICAL CYCLONE NINE**

EMERGENCY FINAL ORDER

Under the authority of State of Florida Executive Orders No. 24-208 and 24-209, and sections 120.569(2)(n), 252.46, 373.119(2), and 373.439, Florida Statutes, the South Florida Water Management District ("District"), enters this Order authorizing repairs, replacement, restoration, and other emergency measures to address impacts associated with Potential Tropical Cyclone Nine ("the Storm").

FINDINGS OF FACT

1. Governor DeSantis issued Executive Orders 24-208 and 24-209 ("the Executive Orders") on September 23 and 24, 2024, respectively, declaring a state of emergency based upon the serious threat to the public health, safety, and welfare posed by the Storm. The Governor included the following counties in the Executive Orders that are within the District's jurisdiction: Charlotte, Collier, Glades, Hendry, Highlands, Lee, Monroe, Okeechobee, Orange, Osceola, and Polk counties ("the Emergency Areas").

2. The Storm has the potential to cause widespread wind damage and flooding, and poses an immediate danger to the lives and property of persons throughout the Emergency Areas.

3. In the Executive Orders, the Governor found that the special duties and responsibilities of some agencies in responding to disasters may require them to deviate from the statutes and rules they administer. Moreover, the Executive Orders permit an agency, including the District, to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business, or the orders or rules of the agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the Storm.

4. Should a conflict exist between this Order and any similar order issued by the Florida Department of Environmental Protection ("the Department"), then the Department's order shall control.

5. As a result of the Storm, immediate action by Florida's citizens and government may be necessary to repair, replace, or restore structures, equipment, surface water management systems, works, and operations damaged by the Storm.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

6. The District's Executive Director is authorized to issue emergency orders with concurrence of the Governing Board under sections 120.569(2)(n) and 373.119(2), Florida Statutes, and to immediately employ any remedial means necessary to meet the emergency when immediate action is necessary to protect public health, safety, or welfare.

7. The District finds that the actions authorized under this Order are narrowly tailored to address the immediate need for action and are procedurally fair under the circumstances.

9. Based on the above findings of fact, and in order to protect the public's immediate health, safety, and welfare, and to not prevent, hinder, or delay necessary action

in coping with the emergency, it is both reasonable and appropriate to suspend the statutes and rules described herein.

ORDER

THEREFORE, IT IS ORDERED that within the Emergency Areas, the following authorizations apply:

1. *Definitions*

a. For the purposes of this Order, the term “structures” includes the following when such structures are within the District’s jurisdiction: utility infrastructure, including wastewater treatment plants, substations, lift stations, solid and hazardous waste facilities, utility lines (including transmission and distribution), poles, towers, support structures, cables, conduits, outfalls, intake structures, and pipelines; roads, bridges, culverts, driveways, sidewalks, bike paths, and other similar public and private infrastructure; public, private, and commercial habitable and non-habitable buildings, and structures ancillary to these buildings, such as garages, cabanas, storage sheds, bath houses, pools, and decks; piers (including docks, boardwalks, observation platforms, boat houses, and gazebos), and pilings; shore-stabilization structures, such as seawalls, bulkheads, revetments, breakwaters, and groins; and fences, signs and billboards; and buoys, navigational aids, and other channel markers.

b. For the purposes of this Order, the term “works” includes ditches, canals, drainage systems, ponds, swales, and other surface water conveyances; wet or dry detention or retention areas, dams, weirs, dikes, and levees; and underdrains, outfalls, and associated water control structures.

2. *Environmental Resource, Dredge and Fill, District Right of Way Occupancy, and Other Surface Water Management Activities, and Coastal Construction Activities*

The following activities may be undertaken to repair, restore, or replace structures, land, works, and submerged contours to the configurations and conditions authorized or otherwise legally existing immediately prior to the Storm, subject to the limitations in this Order. This Order does not authorize the construction of structures that did not exist prior to the Storm, unless specifically authorized below.

Any damage to authorized structures or works may be repaired to the design that was originally authorized by the District. Minor deviations to upgrade structures or drainage systems to current standards also are authorized.

a. No Notice Required

The following activities may be conducted without notification to the District and must be commenced before the expiration of this Order or any of its Amendments:

(1) Temporary and permanent repair or restoration of structures and works to the conditions, dimensions, and configurations that were authorized by the District or otherwise legally existing immediately prior to the Storm. The repair and restoration activities shall not result in any expansion, addition, or relocation of the existing works, structures, or systems. However, the use of different construction materials or minor deviations to allow upgrades to current structural and design standards are not precluded. Nothing in this paragraph shall be construed as an exemption for any party performing such repair or restoration to obtain after-the-fact permits or to modify the repair or restoration that was performed, as may be required by any federal agency.

(2) The restoration (regrading, dredging, or filling) by local, regional, and state governments of upland, wetland, works, and submerged land contours to the conditions and configurations that were authorized or otherwise legally existing immediately prior to the Storm, provided the restoration does not result in any expansion or addition of land or deepening of waters beyond that which existed immediately prior to the Storm, and subject to the following limits:

(a) The removal or deepening of plugs formerly separating canals from other waters is not authorized by this Order;

(b) In the case of dredging, all excavated material shall be deposited on a self-contained upland spoil site that is diked or otherwise sloped or designed to prevent any discharge into wetlands or other surface waters, except where such dredged material is used to restore bottom contours and shorelines, excluding sandy beaches fronting the Gulf of Mexico or the Atlantic Ocean, to the conditions existing immediately prior to the Storm. In addition, excavated material shall not be deposited in any location that would obstruct District operations and/or maintenance;

(c) In the case where upland or dredged material is placed in water to restore pre-existing conditions, only clean material (i.e., free from debris and pollutants) from the previous uplands may be used in the restoration, and no change (from pre-existing conditions) in the slope of the land or the type, nature, or configuration of any pre-existing shoreline stabilization materials is authorized. For example, sloping revetments cannot be replaced with vertical seawalls, and rock riprap cannot be replaced with interlocking blocks;

(d) Best management practices and devices such as hay bales, mulch, and floating turbidity screens shall be used to prevent violations of state water quality standards for turbidity during the performance of restoration activities in accordance with the guidelines and specifications in The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual (DEP October 2018), <https://floridadep.gov/dear/florida-stormwater-erosion>, and the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (July 2013), <https://www.fdot.gov/programmanagement/implemented/urlinspecs/flerosionsedimentmanual.shtm>. Best management practices shall also be used to prevent erosion and retain sediment of all newly established or restored exposed shorelines during and after the restoration activities, which may include methods such as planting temporary and permanent vegetation and placing clean natural rock or concrete rubble riprap;

(e) Any fill that is deposited to restore a former shoreline, and any riprap that is used to stabilize a shoreline, must not be placed any farther waterward than the toe of the slope of the shoreline that legally existed immediately prior to the Storm. If the pre-Storm shoreline was stabilized with a functioning seawall or riprap, the seawall or riprap may be restored at its former location or within 18 inches (if, within an aquatic preserve, then one foot) waterward of the location where the seawall or riprap legally existed immediately prior to the Storm, as measured from the face of the existing seawall slab to the face of restored seawall slab or from the front slope of the existing riprap to the front slope of the restored riprap; and

(f) This shall not constitute authorization to fill submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund.

(3) Removal of debris, including sunken or grounded vessels, vegetation, and structural remains that have been deposited into waters, wetlands, or uplands by the Storm, if such removal will not result in filling of wetlands or other surface waters or dredging that creates or expands surface waters. All removed materials must be deposited on self-contained uplands and must be managed in accordance with other provisions of this Order.

b. Field Authorization Required

(1) District personnel may issue field authorizations for:

(a) the replacement of works or structures that are no longer intact;

(b) regrading, dredging, or filling of the contours of uplands, wetlands, works, and submerged bottoms, by parties other than local, regional, or state governments;

(c) removal of debris, including sunken or grounded vessels, vegetation, and structural remains, that has been deposited into waters, wetlands, or uplands by the Storm, and the removal of which requires filling of wetlands or other surface waters, or requires dredging that creates or expands wetlands or other surface waters. Any wetlands or other surface waters that are dredged or filled to affect such removal must be restored to the contours and conditions that existed immediately prior to the Storm; and

(d) other activities District personnel determines, in writing or verbally, to have the potential to result in only minimal adverse individual or cumulative

impact on water resources, water quality, and District's property interests, including rights of way.

(2) Field authorizations may be issued only to restore works, structures, and property to authorized or otherwise legally existing conditions that existed immediately prior to the Storm, or to a more environmentally compatible design than what existed immediately prior to the Storm, as determined by the District in writing or verbally.

(3) Field authorizations may be requested by providing a notice to the District's local office containing a description of the work requested, the location of the work, and the name, address, and telephone number of the owner or representative of the owner who may be contacted concerning the work. District staff may also issue field authorizations without prior notice. Field authorizations may include specific conditions for the construction, operation, and maintenance of the authorized activities. Failure to comply with the conditions of the field authorization may result in enforcement actions by the District. District staff shall create and maintain written records of all field authorizations.

(4) Other activities not described above shall be regulated in accordance with Part IV of chapter 373, Florida Statutes and the rules adopted thereunder.

3. *Rights-of-Way*

The following activities may be conducted without prior notice to the District:

a. All encroachments on District rights-of-way ("ROWs") authorized pursuant to chapter 40E-6, Florida Administrative Code, may be replaced or repaired as necessary if the replacement and restoration activities do not result in any expansion, addition, or relocation of the authorized encroachments and comply with the provisions set forth in Section 2 of this Order.

b. Local, federal, and state governments in emergency vehicles may use the District's ROWs for emergency access. Utility companies and local, state, and federal governments may access the ROWs to repair structures and to restore utilities during the term of this Order without any requirement for notice to the District.

c. Use of works upon the District's ROWs that are not authorized by the issuance of a Right-of-Way Occupancy Permit prior to the effective date of this Order shall be prohibited unless otherwise determined to be necessary as an emergency repair or restoration for the benefit of public health, safety and welfare by the Executive Director or his/her designee. In such case, the party proposing to perform the emergency repair or restoration ("Applicant") shall contact the District and request issuance of a field authorization so that the appropriate emergency actions can be performed. The Applicant shall be responsible for complying with all terms of the field authorization, including, but not limited to, securing an after-the-fact Right-of-Way Occupancy Permit, obtaining Section 408 authorization from the U.S. Army Corps of Engineers, modifying the emergency actions if required to do so by the District, federal, or other agency permits, and documenting the emergency actions performed.

d. This Order does not authorize placing trash or debris, including vegetation, on any District ROW.

e. In the event any such repair or restoration occurs on the District ROW pursuant to Section 2.a., documentation shall be provided upon completion to the District which includes the party that performed the work, the dates work was performed, the scope of work performed, and the materials and methods employed.

4. Authorization to Use Submerged Lands Owned by the State

Pursuant to chapters 253 and 258, Florida Statutes, and Rule 62-330.075, Florida Administrative Code, the District issues proprietary authorizations to use state-owned submerged lands when the activity permitted by the District occurs on land for which an environmental resource permit is issued by the District (“SLERP Authorization”).

a. Except as otherwise provided in this Order, authorization to use sovereign submerged lands is hereby granted for the repair, replacement, or restoration of the activities and structures located on submerged lands owned by the State when such activities have a previously issued SLERP Authorization. This authorization is subject to the provisions and limitations of Section 2, and is only granted for activities for which a SLERP Authorization was obtained prior to the Storm. The structures and activities authorized under this Order shall be repaired, restored, or replaced in the same location and configuration as was authorized in the SLERP Authorization.

b. This Order does not authorize the reconstruction or repair of unauthorized structures that failed to qualify for the grandfathering provisions of Chapter 18-21, Florida Administrative Code.

5. General Conditions

a. All activities conducted under this Order shall be performed using appropriate best management practices. For activities conducted in or discharging to wetlands or other surface waters, best management practices include properly installed and maintained erosion and turbidity control devices to prevent erosion and shoaling, to control turbidity, to prevent violations of state water quality standards, and to protect the

functions provided by wetlands and other surface waters to fish, wildlife, and listed species.

b. The authorizations in this Order shall not apply to structures and associated activities in the Emergency Areas that were not properly authorized by all applicable agencies before the passage of the Storm.

c. All activities shall be accomplished so as not to disturb marked marine turtle nests or known nest locations or damage existing native salt-tolerant or submerged vegetation.

d. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.

e. This Order serves as relief for the duration of the Order from the regulatory and proprietary requirements of the District only and does not provide relief from the requirements of other federal, state, water management districts, and local agencies. This Order does not negate the need to obtain any other required permits or authorizations.

f. All structures that are rebuilt shall be rebuilt in accordance with all applicable local, state, and federal building standards and requirements of the Federal Emergency Management Act (FEMA).

g. It is recommended that, where possible, owners of property should maintain documentation (such as photos) of the condition of the structures or lands as they existed prior to initiating any activities authorized under this Order and should provide such documentation if requested to do so.

h. This Order does not provide relief from any of the requirements of chapter 471, Florida Statutes, regarding professional engineering.

6. General Limitations

The District issues this Order solely to address the emergency created by the Storm. This Order shall not be construed to authorize any activity within the jurisdiction of the District except in accordance with the express terms of this Order. Under no circumstances shall anything contained in this Order be construed to authorize the repair, replacement, or reconstruction of any type of unauthorized or illegal structure, habitable or otherwise.

7. Suspension of Statutes and Rules

Pursuant to the authorities in the Executive Order, the following provisions of statutes and rules are hereby suspended for the activities authorized by this Order for the duration of this Order:

a. All requirements for permits, leases, consent of uses or other authorizations, including, but not limited to, provisions in chapters 120, 161, 253, 258, 373, 376, and 403, Florida Statutes, and Rules adopted thereunder;

b. All notice requirements, including, but not limited to, notice provisions in chapters 120, 161, 253, and 373, Florida Statutes, and chapters 18-18, 18-20, 18-21, 40E-0, 40E-1, 40E-6, and 62-330, Florida Administrative Code; and

c. All application fee, lease fee, and easement fee requirements, including, but not limited to, provisions in chapters 161 and 373, Florida Statutes, and chapters 18-18, 18-20, 18-21, 40E-1, 40E-2, 40E-6, and 62-330, Florida Administrative Code, provided, however, that such lease and easement fees shall be suspended only in proportion to the percentage loss of functionality of the total area under lease or

easement, and only for the duration of this Order unless otherwise provided in a field authorization issued under Section 2. The duration of the suspension of lease and easement fees under a field authorization may be extended on a showing that contractors or supplies are not available to commence the necessary repairs or replacement, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers.

8. *Completion of Authorized Activities*

All activities authorized under this Order must be commenced before the expiration of this Order unless otherwise provided in a field authorization or permit. The deadline for commencement under any field authorization or permit issued under this Order may be extended on a showing that contractors or supplies are not available to commence the work, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers. Any Environmental Resource Permit, Surface Water Management Permit, Dredge and Fill Permit, and/or Right-of-Way Occupancy Permit activities that require a field authorization must be completed by the expiration date of the field authorization. Activities not completed by the expiration date of the field authorization are subject to the regulatory and proprietary authorizations required prior to the execution of this Order.

9. *Expiration Date*

This Order shall take effect immediately upon execution and shall expire on November 22, 2024, unless otherwise extended or terminated by the District's Executive Director or the Governing Board.

10. *Violation of Conditions of Emergency Final Order*

Failure to comply with any conditions set forth in this Order shall constitute a violation of a District Final Order under chapters 120, 161, 253, 258, 373, 376, and 403, Florida Statutes, and enforcement proceedings may be brought in the appropriate administrative or judicial forum.

DONE AND ORDERED on this 24th day of September 2024, in West Palm Beach, Florida.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT



Drew Bartlett
Executive Director

NOTICE OF RIGHTS

Any party substantially affected by this Order has the right to seek judicial review under section 120.68, Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the District at 3301 Gun Club Road, West Palm Beach, Florida 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 thirty days after this Order is filed with the Clerk of the District.

**RECEIVED
DISTRICT CLERK'S OFFICE**

4:53 pm Sep 24, 2024

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 Gun Club Road
West Palm Beach, Florida**

**SOUTH FLORIDA
WATER MANAGEMENT DISTRICT** *W.S.*

IN THE MATTER OF:

SFWMD ORDER NO. 2024-066-DAO

**EMERGENCY AUTHORIZATION FOR
PUMPING AND OTHER MEASURES
TO ADDRESS FLOODING CAUSED
BY POTENTIAL TROPICAL CYCLONE NINE**

EMERGENCY FINAL ORDER

Under the authority of the State of Florida Executive Orders No. 24-208 and 24-209, and section 120.569(2)(n), Florida Statutes, the South Florida Water Management District ("District"), enters this Order authorizing pumping and other emergency measures to address impacts associated Potential Tropical Cyclone Nine ("the Storm").

FINDINGS OF FACT

1. Governor DeSantis issued Executive Orders 24-208 and 24-209 ("the Executive Orders") on September 23 and 24, 2024, respectively, declaring a state of emergency based upon the serious threat to the public health, safety, and welfare posed by the Storm. The Governor included the following counties in the Executive Orders that are within the District's jurisdiction Charlotte, Collier, Glades, Hendry, Highlands, Lee, Monroe, Okeechobee, Orange, Osceola, and Polk counties ("the Emergency Areas").

2. The Storm has the potential to cause widespread wind damage and flooding and poses an immediate danger to the lives and property of persons throughout the Emergency Areas.

3. In the Executive Orders, the Governor found that the special duties and responsibilities of some agencies, including the District, in responding to disasters may

require them to deviate from the statutes and rules they administer. Moreover, the Executive Orders permit agencies, including the District, to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business, or the orders or rules of the agency, if strict compliance with the provisions of any such statute, order, or rule would, in any way prevent, hinder, or delay necessary action in coping with the Storm and its effects.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

4. The District issues this Order to carry out the directives in the Executive Orders. Additionally, the District has authority to issue this Order under Sections 120.569(2)(n), 252.46, 373.119(2), and 373.439, Florida Statutes.

5. The District finds that the actions authorized under this Order are narrowly tailored to address the immediate need for action and are procedurally fair under the circumstances.

6. Based on the above findings of fact, and in order to protect the public's immediate health, safety, and welfare, and to not prevent, hinder, or delay necessary action in coping with the Storm and its effects, it is both reasonable and appropriate to suspend the statutes and rules described herein.

ORDER

THEREFORE, IT IS ORDERED that the following activities may be undertaken to address emergency flooding situations resulting from the Storm that require immediate action, subject to the limitations in this Order:

1. *On-Site Discharges – No Notice Required*

Internal movement of water from flooded areas within a project site to other areas within the same project site shall be allowed in the Emergency Areas during the course

of this Order. No notice to the District is required. Examples of activities authorized by this paragraph include moving water from internal roadways, parking lots, swales, or other on-site areas to on-site surface water management ponds or lakes, or other areas on-site that would not directly discharge off-site. This Order does not authorize pumping or discharging of flood waters to off-site property, canals, or water bodies not completely on-site other than through permitted facilities, subject to permit requirement.

2. Off-Site Discharges – Field Authorization Required

Moving water from flooded project areas to areas off-site may be temporarily allowed only if approved by the District after a field inspection. Field authorizations shall be granted only if:

a. The off-site discharge is necessary to relieve flooding resulting from the Storm that poses an immediate threat to public health, safety, or welfare. Minor inconvenience flooding, such as standing water in roads, swales or yards, is not considered an immediate threat.

b. Field authorizations may be requested by providing a notice to the local office of the District containing a description of the discharge requested, the facilities and the water stages, the rate of discharge and the discharge location of the flooded areas and receiving body, the location of the discharge, and the name, address, and telephone number of the owner or representative of the owner who may be contacted concerning the discharge. District staff may also issue field authorizations without prior notice. District staff shall create and maintain written records of all field authorizations.

3. Operational Changes by Local Governments or 298 Districts – Notice Required

Water Control Districts authorized under Chapter 298 of the Florida Statutes and local governments may, during the course of this Order, discharge water on-site or off-site in excess of District-permitted operational schedules to prepare for the impacts of the Storm and to mitigate flooding impacts resulting from the Storm if:

a. Notice is provided to the District's Emergency Operations Center. The notice shall:

(1) identify a responsive and responsible representative of the water control district or local government, including title and emergency contact information; and

(2) describe the facilities and the water stages, rate of discharge, and the discharge location of the flooded areas and receiving body.

b. Authorization for the excess discharges is granted, either orally or in writing, by District staff assigned by the District's Emergency Operations Center to this function.

Local governments or 298 districts operating under the emergency provisions of this Order shall immediately cease the excess discharge upon notification by the District to do so.

4. General Conditions

All activities authorized under paragraphs 1, 2, and 3 shall be conducted in accordance with the following conditions and requirements:

a. All activities shall be performed in a manner which minimizes adverse water quality and water quantity impacts. This includes properly installed and maintained erosion and turbidity control devices to prevent erosion and shoaling and to control turbidity, nutrient loading, and sedimentation in off-site receiving waters.

b. Entities operating under this Order shall immediately correct any erosion, shoaling, or water quality problems that result from the activities authorized under this Order.

c. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.

d. This Order serves as relief for the duration of the Order from the specified regulatory requirements of the District only, and does not provide relief from the requirements of other federal, state, water management districts, or local agencies. This Order therefore does not negate the need for the property owner to obtain any other required permits or authorizations, nor does it negate the need to comply with all the requirements of those permits.

5. *General Limitations*

The District issues this Order solely to address the emergency created by the Storm. This Order shall not be construed to authorize any activity within the jurisdiction of the District except in accordance with the express terms of this Order.

6. *Suspension of Statutes and Rules*

The following provisions of statutes and rules are hereby suspended for the activities authorized by this Order for the duration of this Order:

a. All requirements for permits, leases, consent of uses or other authorizations, including, but not limited to, provisions in chapters 120, 161, 253, 258, 373, 376 and 403, Florida Statutes, and Rules adopted thereunder; and

b. All notice requirements, including, but not limited to, provisions in chapters 120, 161, 253, and 373, Florida Statutes, and chapters 18-18, 18-20, 18-21, 40E-0, 40E-1, 40E-6, and 62-330, Florida Administrative Code.

7. *Expiration Date*

This Order shall take effect immediately upon execution by the Executive Director of the District, and shall expire on November 22, 2024, unless otherwise extended or terminated by the Executive Director or Governing Board.

8. *Violation of Conditions of Emergency Final Order*

Failure to comply with any condition set forth in this Order shall constitute a violation of chapters 120, 161, 253, 258, 373, 376, and 403, Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or other judicial forum.

DONE AND ORDERED on this 24th day of September 2024, in West Palm Beach, Florida.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT



Drew Bartlett
Executive Director

NOTICE OF RIGHTS

Any party substantially affected by this Order has the right to seek judicial review under section 120.68, Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the District at 3301 Gun Club Road, West Palm Beach, Florida 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 thirty days after this Order is filed with the Clerk of the District.

**RECEIVED
DISTRICT CLERK'S OFFICE**

4:55 pm Sep 24, 2024

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 Gun Club Road
West Palm Beach, Florida**

**SOUTH FLORIDA
WATER MANAGEMENT DISTRICT** *W.S.*

IN THE MATTER OF:

SFWMD ORDER NO. 2024-067-DAO

**EMERGENCY AUTHORIZATION
FOR PROCUREMENT OF GOODS
AND SERVICES MADE NECESSARY
BY POTENTIAL TROPICAL CYCLONE NINE**
_____ /

EMERGENCY FINAL ORDER

Under the authority of the State of Florida Executive Orders No. 24-208 and 24-209, and section 120.569(2)(n), Florida Statutes, the South Florida Water Management District ("District"), enters this Order authorizing the emergency procurement of goods and services, and suspending rules and policies requiring advertisement or competition, due to the impacts and time constraints caused by Potential Tropical Cyclone Nine ("the Storm").

FINDINGS OF FACT

1. Governor DeSantis issued Executive Orders 24-208 and 24-209 ("the Executive Orders") on September 23 and 24, 2024, respectively, declaring a state of emergency based upon the serious threat to the public health, safety, and welfare posed by the Storm. The Governor included the following counties in the Executive Orders that are within the District's jurisdiction: Charlotte, Collier, Glades, Hendry, Highlands, Lee, Monroe, Okeechobee, Orange, Osceola, and Polk counties ("the Emergency Areas").

2. The Storm has the potential to cause widespread wind damage and flooding, may continue to impact the operational capability of critical infrastructure, and poses an immediate danger to the lives and property of persons throughout the Emergency Areas.

3. As provided in the Executive Orders, the Governor found that the special duties and responsibilities of some agencies, including District, in responding to disasters may require them to deviate from the statutes and rules they administer. More specifically, the Executive Orders give each political subdivision of the State authority to waive the procedures and formalities otherwise required by law in relation to performing public work and taking necessary action to ensure the health, safety, and welfare of the community. This included entering into contracts, incurring obligations, employing permanent and temporary workers, utilizing volunteer workers, renting equipment, acquiring and distributing, with or without compensation, supplies, materials, and facilities, and appropriating and expending public funds.

4. The District's Executive Director has determined that an immediate danger to the public health and safety, or other substantial loss to the public, exists because the Storm poses a serious and imminent threat to District canals, works, lands, equipment, and facilities within the District such that operational capability of the Big Cypress Basin, Central & Southern Florida Flood Control System, and other District functions may be jeopardized.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

5. The District issues this Order to carry out the directives in the Governor's Executive Orders. The District has authority to issue this Order under sections 120.569(2)(n), 252.46, 373.119(2), and 373.439, Florida Statutes.

6. The Executive Orders permit agencies, including the District, to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business, or the orders or rules of the agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency. The Executive Orders give the District further authority to take formal action by emergency order to cope with the emergency.

7. Based on the above findings of fact, and to protect the public's immediate health, safety, and welfare, and to not prevent, hinder, or delay necessary action in coping with the emergency, it is both reasonable and appropriate to waive any applicable statute, including, but not limited to, chapters 255 and 287, Florida Statutes, and any District rule, policy, or order governing the procurement of equipment, services, and commodities necessitated by this emergency.

ORDER

THEREFORE, IT IS ORDERED that:

1. Effective upon execution of this Order, all requirements for advertisement and competition for the procurement of equipment, services, and commodities set forth in any statute, including, but not limited to, chapters 255 and 287, Florida Statutes, and any District rule, policy, or order are hereby waived for the duration of this Order.

2. District staff may procure equipment, services, and commodities necessitated by this emergency without advertisement or competition as described below:

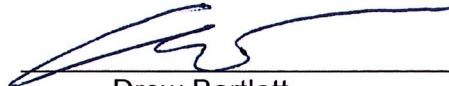
a. The procurement of all goods and services necessary to prepare, maintain, and restore District canals, works, lands, equipment, and facilities to full operational condition.

b. All such procurements shall be reported to the Governing Board prior to or at the next regularly scheduled Governing Board meeting.

c. This authorization shall expire on November 22, 2024, unless otherwise extended or terminated by the District's Executive Director or Governing Board.

DONE AND ORDERED on this 24th day of September 2024, in West Palm Beach, Florida.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT



Drew Bartlett
Executive Director

NOTICE OF RIGHTS

Any party substantially affected by this Order has the right to seek judicial review under section 120.68, Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the DISTRICT at 3301 Gun Club Road, West Palm Beach, Florida 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 thirty days after this Order is filed with the Clerk of the DISTRICT.

**RECEIVED
DISTRICT CLERK'S OFFICE**

4:57 pm Sep 24, 2024

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 Gun Club Road
West Palm Beach, Florida**

**SOUTH FLORIDA
WATER MANAGEMENT DISTRICT** *w.s.*

IN THE MATTER OF:

SFWMD ORDER NO. 2024-068-DAO

**EMERGENCY AUTHORIZATION
ABROGATING TIME REQUIREMENTS,
NOTICE REQUIREMENTS, AND
DEADLINES FOR ACTION ON
PERMITS AND OTHER APPROVALS
AS MADE NECESSARY BY POTENTIAL
TROPICAL CYCLONE NINE**

_____ /

EMERGENCY FINAL ORDER

Under the authority of the State of Florida Executive Orders No. 24-208 and 24-209, and 120.569(2)(n), 252.46, 373.119(2), and 373.439, Florida Statutes, the South Florida Water Management District ("District"), enters this Order abrogating time requirements, notice requirements, and deadlines for actions on permit applications and other approvals due to the impacts and time constraints caused by Potential Tropical Cyclone Nine ("the Storm").

FINDINGS OF FACT

1. Governor DeSantis issued Executive Orders 24-208 and 24-209 ("the Executive Orders") on September 23 and 24, 2024, respectively, declaring a state of emergency based upon the serious threat to the public health, safety, and welfare posed by the Storm. The Governor included the following counties in the Executive Orders that are within the District's jurisdiction: Charlotte, Collier, Glades, Hendry, Highlands, Lee, Monroe, Okeechobee, Orange, Osceola, and Polk counties ("the Emergency Areas").

2. The Storm has the potential to cause widespread wind damage and flooding and poses an immediate danger to the lives and property of persons throughout the Emergency Areas.

3. In the Executive Orders, the Governor found that the special duties and responsibilities of some agencies, including the District, in responding to disasters may require them to deviate from the statutes and rules they administer. More specifically, the Executive Orders gave all agencies of the state, including the District, the authority to abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits and other approvals under any statute or rule that deems such applications approved unless disapproved in writing by specified deadlines.

4. Given the widespread potential impact of the Storm, District staff will spend extensive time addressing matters resulting from the Storm, including staffing emergency operations, performing field authorizations, and approving work necessary to address the Storm's impacts. Consequently, it is not feasible for District staff to effectively respond to all Storm -related impacts and simultaneously address all existing and new regulatory actions for projects not related to the Storm within the requisite timeframes under Florida law.

ULTIMATE FACTS AND CONCLUSIONS OF LAW

5. The District's Executive Director is authorized to issue emergency orders with concurrence of the Governing Board by sections 120.569(2)(n) and 373.119(2), Florida Statutes, and to immediately employ any remedial means necessary to meet the emergency when immediate action is necessary to protect public health, safety, and welfare.

6. The District finds that the actions authorized under this Order are narrowly tailored to address the immediate need for action and are procedurally fair under the circumstances.

7. The Executive Orders permit an agency, including the District, to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business or the orders or rules of the agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency. The Executive Orders gave agencies the authority to take formal action by emergency rule or order to cope with the emergency.

8. Based on the above findings of fact, and in order to protect the public's immediate health, safety, and welfare, and to not prevent, hinder, or delay necessary action in coping with the emergency, it is both reasonable and appropriate to suspend and toll time requirements, notice requirements, and deadlines for action on applications for permits and other approvals until November 22, 2024.

ORDER

THEREFORE, IT IS ORDERED that:

1. The time requirements, notice requirements, and deadlines for the District to act on applications for permits and other approvals are suspended and tolled.

2. Any deadlines specified in statutes, rules, agreements, or District orders under which the District is required by law to take action within a specified time period, and under which failure by the District to timely take such action could result in any type of default binding on the District, including the time to request additional information on permit applications, are hereby suspended and tolled.

3. This Order is effective upon execution and remains in effect until November 22, 2024, unless otherwise extended or terminated.

DONE AND ORDERED on this 24th day of September 2024, in West Palm Beach, Florida.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT



Drew Bartlett
Executive Director

NOTICE OF RIGHTS

Any party substantially affected by this Order has the right to seek judicial review under section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the District at 3301 Gun Club Road, West Palm Beach, Florida 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 thirty days after this Order is filed with the Clerk of the District.