

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

IN RE:

**EMERGENCY FINAL ORDER
DECLARING AN EMERGENCY
RELATING TO SEVERE WEATHER
AND FLOODING UNDER CHAPTERS
373, 403, AND 120, FLORIDA STATUTES
AND FOR RESPONSE MEASURES TO
THE EMERGENCY**

ORDER NO. 2019-02

EMERGENCY FINAL ORDER

Under chapter 373 and sections 120.569(2)(n) and 252.36 of the Florida Statutes (“F.S.”), and upon consideration of that there has been an executive order signed by the Governor declaring a State of Emergency, and the following findings of fact, Hugh Thomas, Executive Director of the Suwannee River Water Management District (“District”), at 9225 County Road 49, Live Oak, Florida, enters this Emergency Final Order (“Order”) in response to the imminent or immediate danger to the public health, safety, and welfare of residents within the District to remove impediments posed by statutory and rule permitting requirements to delivery of emergency assistance to private persons and governmental entities affected by severe weather and flooding.

FINDINGS OF FACT

1. On August 28, 2019, Executive Order No. 19-189, was signed by the Governor declaring a state of emergency for specific counties located within this District in response to the severity and magnitude of Hurricane Dorian; and
2. On August 29, 2019, Executive Order No. 19-190 amending Executive Order No. 19-189, was signed by the Governor declaring a state of emergency for all counties in the state in response to the severity and magnitude of Hurricane Dorian; and
3. Beginning August 31, 2019, Hurricane Dorian is predicated to move into the State and bring strong winds and coastal storm surge to portions of the District; and
4. Based on the predicted storm path it can be anticipated the following Affected Counties within the District could be impacted: Alachua, Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union; and
5. The National Hurricane Center and National Weather Service models depict the path of Hurricane Dorian to produce inclement weather conditions which will persist through September 7, 2019; and

6. Severe weather will cause flooding within the District.
7. Based on the above, the District believes that most counties included within the District boundaries will be vulnerable to the adverse weather conditions and effects as set out above.

CONCLUSION OF LAW

8. Based on the findings recited above, it is hereby concluded that an emergency will cause severe weather, which will pose an immediate danger to the public health, safety, or welfare and requiring immediate action.
9. The Executive Director of the District is duly authorized by Section 373.119(2), F.S. to declare that an emergency exists requiring immediate action to protect health, safety, and welfare and authorizing such action as the Executive Director deems necessary to meet the emergency.
10. Under Sections 120.569(2)(n) and 252.36, F.S., the Executive Director is authorized to issue this Emergency Final Order.
11. Suspension of statutes and rules as noted within this Order is required so as not to prevent, hinder, or delay necessary action in coping with the emergency.

ORDER

A. STATE OF EMERGENCY DECLARED; GENERAL PROVISIONS

12. A State of Emergency is hereby declared for those portions of the Affected Counties lying within the jurisdiction of the District.
13. This Order shall remain in effect in accordance with its terms until cancelled by subsequent order of the Executive Director or the District's governing board.
14. Failure to comply with any condition set forth in this Order shall constitute a violation of a District final order under Chapters 120, 161, 253, 258, 373, 376, and 403, F.S., and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

B. DISTRICT STAFF AND EQUIPMENT PLACED ON EMERGENCY STANDBY

15. The staff and equipment of the District are placed on emergency standby to assist any federal, state, county, municipal or local government in managing any emergency resulting from the severe weather and flooding.

C. DISTRICT LANDS AND FACILITIES TO BE CLOSED

16. Concerning District owned lands and facilities located in the Affected Counties:
 - a. The District's Land Management Staff is authorized to close such lands and facilities in the Affected Counties.
 - b. All special use authorizations for access and activities on such lands and facilities are suspended.
 - c. All contractor personnel and equipment shall be relocated off such lands and facilities.
 - d. The closures, special use authorization suspensions, and the relocation of contractor personnel and equipment provided herein shall remain in effect until it is determined by District staff (and reviewed and approved by the Land Management disaster team) that unsafe conditions no longer exist. This may be before or after the expiration of this Order.

D. PERMITS AND PERMITTED ACTIVITIES

17. Permitting Activities to be Undertaken as Provided Herein - Within those portions of the Affected Counties lying within the jurisdiction of the District, for those entities requiring emergency action due to the adverse effects of the severe weather and flooding; permitting activities pursuant to Chapters 40B-2, 40B-4, and 40B-400, Florida Administrative Code ("F.A.C.") shall be undertaken in accordance with the procedures set forth below to facilitate and expedite the severe weather and flooding, containment, and recovery activities.

E. EMERGENCY PROCEDURES FOR PERMITTING ACTIVITIES

18. Authorized Representatives - The persons authorized to represent the Executive Director under this Order are the District's Deputy Executive Directors, Division Directors, Chief Professional Engineers, Senior Hydrogeologist, and Senior Professional Engineers.
19. Notices and Deadlines - Notice of non-compliance with permits, consent orders and all other notices requiring action by a public or private entity under Chapter 40B, F.A.C. are deferred until the expiration of this Order, for those entities in need of emergency relief from those requirements due to the effects on them from the severe weather and flooding. All deadlines imposed by any statute or rule governing permitting are tolled for 30 days from the date of the Governor's Order.

20. General Limitations - This Order is issued solely to address the emergency created by the severe weather and flooding within the Affected Counties for those entities affected by the severe weather and flooding. 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. This Order does not convey any property rights or any rights or privileges other than those specified in this Order.
21. Other Authorizations Required - Nothing in this Order shall eliminate the necessity for obtaining any other federal, state, or local permits or other authorizations that may be required.
22. Commencement and 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 permit issued pursuant to Chapters 18-21, 40B-2, 40B-4, and 40B-400, F.A.C. that require an Authorized Representative's Authorization must be completed by the expiration date as included in the approval of the Authorized Representative. Activities not completed by that expiration date are subject to the regulatory and proprietary authorizations required prior to the execution of this Order.

F. ENVIRONMENTAL RESOURCE AND WORKS OF THE DISTRICT PERMITS

23. Definitions - For purposes of paragraphs in this Section of this Order, the term "drainage system" includes ditches, canals, ponds, swales, and other surface water conveyances; dams, weirs, dikes, and levees; and underdrains, outfalls, and associated water control structures.
24. The following activities may be undertaken for prevention, containment, and recovery activities associated with the severe weather and flooding. This Order does not authorize the construction of structures that did not exist prior to the emergency, unless specifically authorized below.
 - a. The repair or restoration of any grandfathered, authorized or permitted structure, improvement, property or drainage system to conditions prior to the severe weather and flooding.
 - b. The use of pumps to move water across drainage basins as determined to be necessary by governmental or private entities.
 - c. The construction, operation and maintenance of drainage systems for prevention or relief of flood waters as deemed necessary by governmental or private entities.

d. The removal of vegetation and/or debris for the restoration of property or drainage systems.

25. General Conditions

a. Authorized Representatives – The persons authorized to represent the Executive Director and issue authorizations and permits under this section of this Order in addition to the Executive Director are the Deputy Executive Directors, the District's Resource Management Division Director, and Chief Professional Engineer within the Resource Management Division.

b. All activities conducted under paragraph 22 above 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, and to prevent violations of state water quality standards.

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

d. Environmental resource, surface water management, dredge and fill, stormwater, and coastal construction control line permits shall be required following provisions of statute and rule for other activities not authorized above that do not otherwise qualify as an exempt activity under statute or rule.

e. The removal or deepening of plugs formerly separating canals from other waters is specifically not authorized by this Order. 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, threatened and endangered species and historical and archeological resources.

f. Other activities not described above shall be regulated in accordance with Parts II and IV of Chapter 373 of the Florida Statutes, and the rules adopted thereunder.

g. Activities authorized under this Order must be commenced before the expiration of this Order or at such time as directed by an Authorized Representative listed in paragraph 23.a. above. The deadline for commencement under any authorization 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.

h. This Order only serves as an alternative emergency process under the statutes and rules implemented by the District for the duration of the Order and do not have any effect upon the requirements of other federal, state, water management districts, and local agencies. This Order therefore does not negate the need for the property owner to obtain any other required permits or authorizations of any other local, state or federal agency, or the need to comply with all the requirements of those agencies.

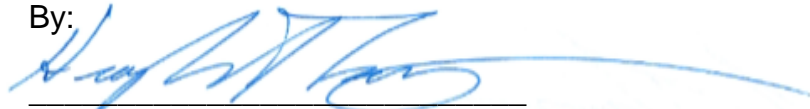
i. Any activity which will not be temporary will require the owner of the property to submit an application for an after-the-fact permit for the activity. The activity must be in compliance with 40B-4 and 40B-400, F.A.C. or be redesigned and reconstructed to be brought into compliance during the after-the-fact permitting process. The application for any activity that has commenced under this Order must be submitted to the District within 90 days of the expiration of this Order.

j. This Order shall expire sixty days from August 28, 2019 unless extended.

DONE AND ORDERED in Suwannee County, Florida, on August 30, 2019


Suwannee River Water
Management District

By:



Hugh Thomas, Executive Director

Filed this date, pursuant to
Section 120.52 Florida Statutes,
with the Designated District Deputy
Clerk, receipt of which is hereby
acknowledged.



Clerk

Date: 8/30/2019

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 the 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 address 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.