

BEFORE THE GOVERNING BOARD OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Order No. 2011-____-DAO

IN THE MATTER OF:

Governing Board Concurrence with
Executive Director's Issuance of
Rescission of Emergency Final Order
No. 2011-178-DAO, Which Provided
Authorization for the Temporary
Closure of Navigational Locks and
Boat Ramps in the Lower Kissimmee
Basin Due to Increased Water Levels
(Concurrence with Order No. 2011-196-DAO)

**FINAL ORDER OF GOVERNING BOARD CONCURRENCE WITH
EXECUTIVE DIRECTOR'S ISSUANCE OF FINAL ORDER OF
RESCISSION OF EMERGENCY FINAL ORDER**

This matter came before the Governing Board of the South Florida Water Management District ("District") on November 10, 2011, for concurrence with Order No. 2011-196-DAO, which was issued by the District's Executive Director. After being otherwise fully apprised of the matter, the Governing Board issues this Final Order of Governing Board Concurrence, containing the following Findings of Fact, Ultimate Facts, and Conclusions of Law.

FINDINGS OF FACT

1. On October 11, 2011, the Executive Director issued Emergency Final Order No. 2011-178-DAO, providing emergency authorization for the temporary closure of navigational locks and boat ramps in the Lower Kissimmee Basin ("Basin") due to

increased water levels that threatened the public health, safety and welfare of recreational boaters within the Basin.

2. Since the issuance of Emergency Final Order No. 2011-178-DAO, the water levels in that portion of the Basin, as specified in Order No. 2011-178-DAO, have receded and the flow velocities are no longer a threat to the public health, safety or welfare.

3. Based on information provided by District staff, the Executive Director issued Order No. 2011-196-DAO (Final Order of Rescission of Emergency Final Order No. 2011-178-DAO) determining that, due to the decreased water levels and discharges in the Basin, the rescission of the temporary closure of navigational locks and boat ramps in the Basin was warranted and the re-opening of those portions of the navigational locks and boat ramps in the Lower Kissimmee Basin was necessary at this time. A copy of Order No. 2011-196-DAO is attached hereto as Exhibit "A".

ULTIMATE FACTS AND CONCLUSIONS OF LAW

4. Rule 40E-1.611, Florida Administrative Code ("Fla. Admin. Code"), states that an emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

5. Pursuant to Section 373.119(2), Florida Statutes ("Fla. Stat."), and the facts described above, the Executive Director found that an emergency situation no longer existed and the rescission of Emergency Final Order No. 2011-178-DAO was warranted.

6. A Notice of Rights is attached hereto as Exhibit "B".

ORDER

Based on the foregoing Findings of Fact and Ultimate Facts and Conclusions of Law, the Governing Board of the South Florida Water Management District hereby concurs with the actions taken by the Executive Director of the District in issuing Final Order of Rescission of Emergency Final Order No. 2011-178-DAO.

DONE AND SO ORDERED in West Palm Beach, Florida, on this 10th day of November, 2011.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
By its Governing Board

CAROLYN S. ANSAY
General Counsel

Attest:

Legal Form Approved:

District Clerk/Assistant Secretary
November ____, 2011

Frank Mendez, Esq.