

MEMORANDUM

TO: Governing Board Members

FROM: Sheryl G. Wood, General Counsel

DATE: June 23, 2009

SUBJECT: Executive Director's emergency authorization to rescind temporary burn ban on District lands subject to Chapter 40E-7, Part V, F.A.C., because recent rainfall has reduced the imminent danger of wildfires (Order No. 2009-164 DAO)

Background:

Pursuant to Rule 40E-7.527(29), F.A.C., the building of fires on District lands open to the public for recreational use is limited to grills, fireplaces and fire rings provided by the District or other authorized management agencies. On April 10, 2009, following a finding that a serious threat to the public health, safety and welfare, natural resources and recreational use of District lands existed due to severe drought conditions and the imminent danger of wildfires, the District issued an Emergency Final Order, SFWMD Order No. 2009-76 DAO, to temporarily prohibit the building of fires in grills, fireplaces and fire rings provided by the District or other authorized management agencies. The Order also restricted the use of portable campstoves and grills provided by the users to cooking only on District lands open to the public under Chapter 40E-07, Part V, F.A.C. The Governing Board concurred with the Order at its May 10, 2009 meeting.

Due to recent rainfall, the danger of wildfires on District lands has decreased. As a result, the six (6) counties within the District's jurisdiction which previously had burn bans in effect (i.e. Osceola, Highlands, Glades, Polk, Hendry and St. Lucie Counties) have lifted their bans. Similarly, on June 17, 2009, the District rescinded SFWMD Order No. 2009-76 DAO, to once again allow the building of fires in grills, fireplaces and fire rings provided by the District or other authorized management agencies and the use of portable campstoves and grills provided by users on District lands subject to Chapter 40E-7, Part V, F.A.C. Such use must be in accordance with all applicable statutes, laws, rules and ordinances, including without limitation, Rule 40E-7.537(9), F.A.C., which specifically addresses the building of fires of District lands open to the public.

How this helps meet the District's 10-year Strategic Plan:

SFWMD Order No. 2009-164 DAO furthers District policy and Land Stewardship's objectives to allow public recreational use of District lands which is consistent with the protection of natural resources.

Funding Source:

N/A

This Board item impacts what areas of the District, both resource areas and geography:

The Land Stewardship Division; all District lands open to the public under Chapter 40E-7, Part V, F.A.C.

What concerns could this Board item raise?

The threat of wildfires that existed when SFWMD Order No. 2009-77 DAO was issued has declined due to recent increased rainfall. The rescission of the Order allowed the public to resume building fires in accordance with all applicable statutes, laws, regulations and ordinances, including Rule 40E-7.537(9), F.A.C., which regulates the building of fires on District lands open to the public.

Why should the Governing Board approve this item?

If SFWMD Order No. 2009-164 DAO rescinding the ban had not been issued, the public would not have been allowed to resume building fires on District lands open to the public as otherwise provided in the District's public use rules despite the fact that the threat to public safety, health and welfare, natural resources and recreational use no longer existed. Pursuant to Section 373.1391, Florida Statutes, the District has a statutory obligation to make its lands available for compatible recreational uses. This obligation is mirrored in the District's public access and recreational use policy. Allowing the ban to remain in place once the threat of wildfires had passed would have been inconsistent with the District's statutory obligation and recreational use policy.

If you have any questions, please do not hesitate to contact me at x6976, or call Holly Walter at x6272.

SGW/hyw/pm