

**BEFORE THE GOVERNING BOARD OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

ORDER NO. SFWMD 2006

IN THE MATTER OF:

**APPROVAL OF
2005-2006 UPDATE TO THE
LOWER WEST COAST
WATER SUPPLY PLAN**

_____ /

**FINAL ORDER ON 2005-2006 UPDATE TO THE LOWER WEST COAST WATER
SUPPLY PLAN**

This matter, having come before the Governing Board of the South Florida Water Management District ("SFWMD"), at its regular meeting of July 12, 2006, for entry of a Final Order, upon hearing staff's presentation, and being otherwise fully informed, the Governing Board issues this Final Order containing the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. In April 2000, the Governing Board of the SFWMD approved the Lower West Coast Regional Water Supply Plan, 2000 – 2025 ("LWC Plan").
2. In 2005, the Florida Legislature revised Chapter 373, F.S., to require the inclusion of specific water resource development and water supply development projects in regional water supply plans.

3. The District's development of the 2005-2006 Update to the Lower West Coast Water Supply Plan (LWC UPDATE") pursuant to Section 373.0361, F.S., was initiated in June 2004. The LWC UPDATE supersedes and replaces the LWC Plan previously approved.

4. The LWC planning area encompasses Lee County, most of Collier and Hendry counties, and portions of Glades, Charlotte, and mainland Monroe counties.

5. The purpose of this planning effort is to update the LWC Plan approved in 2000 to comply with the amendments to Chapter 373, F.S., and to establish a framework for future District actions to meet the water supply and associated natural resource protection requirements of Chapter 373, F.S. The LWC UPDATE takes into account cumulative impacts on water resources and guides future management of those resources to ensure adequate water supply for existing and projected reasonable-beneficial uses and to sustain the water resources and related natural systems through the year 2025.

6. The LWC UPDATE is based on a 20-year planning period and includes: (1) a water supply development component, (2) a water resource development component, (3) a strategy related to minimum flows and levels, (4) a funding strategy, (5) consideration of how the water supply and resource development components serve the public interest or save costs, (6) technical data, and (7) minimum flows and levels established and proposed for establishment within the region.

7. The LWC region is expected to experience substantial shift in land use and growth between now and the year 2025. Population is expected to increase from 908,500 people in 2005 to approximately 1.6 million by 2025. This growth will create

additional water demands for potable and irrigation water. Agricultural land use primarily located in the interior portion of the region, is projected to shift from Collier and Lee counties to Hendry and Glades counties with a slight increase in demand by 2025. Additionally, there are numerous coastal and inland environmental resources within this region.

8. Overall, the LWC UPDATE concludes that, with appropriate management and diversification of water supply sources, there is sufficient water to meet the needs of this region during a 1-in-10 year drought condition through 2025. In addition to the recommendations in this Plan, the Comprehensive Everglades Restoration Plan and the Acceler8 programs will maximize water resources by addressing issues of timing, retention and freshwater flow regimes to the coastal environmental resources in the planning area and potentially increase availability of surface water for human water use.

9. The LWC UPDATE includes recommendations for water resource development projects and specific water supply development projects from which local water users may choose. The LWC UPDATE contains recommendations and implementation strategies regarding these potential solutions.

10. Development of the LWC UPDATE occurred in conjunction with an open public participation effort with District Governing Board leadership provided by Alice Carlson. Specifically, public participation was facilitated through the District's Water Resource Advisory Commission ("WRAC"). The WRAC was established by the Governing Board as an advisory body to the Governing Board to provide a forum for improving public participation and decision-making on water resource issues affecting south Florida. Membership of the WRAC includes representatives of federal, state, and

local governments and agencies; public water supply utilities; local business interests; environmental concerns; community leadership; and agricultural interests. The SFWMD held nine LWC UPDATE WRAC Regional Workshops in the planning area from June 2004 through June 2006. The primary role of the WRAC Regional Workshops was to receive public input at each stage of the planning process, contribute local knowledge and expertise, as well as to reflect the collective concerns of the various stakeholders in the planning region.

11. Implementation of the LWC UPDATE will occur through a variety of future Governing Board actions. A flexible “course of action” is proposed; however, future decisions concerning contracts, research, budgetary appropriations, cost-sharing arrangements, rulemaking, operational protocol, local agreements, inter-governmental coordination and study efforts will commit the District to a specific direction. When such final decisions are made, affected persons will be offered appropriate public input opportunities and rights.

12. The LWC UPDATE is not a self-executing document. It is not intended to affect the substantial interest of a party. Future Governing Board action will be required to implement the LWC UPDATE. When implementing action is taken, the Governing Board shall offer an appropriate point of entry to substantially affected parties, including Section 120.569, F.S., rights. Issues regarding underlying analyses, findings, conclusions or any other portions of the LWC UPDATE relied upon to support a future Governing Board action may also be raised in challenges of such action.

13. The LWC UPDATE dated July 2006 is attached as Exhibit A and is incorporated into this Order. Staff has advised the Governing Board that interested

parties may provide staff with outstanding, minor comments associated with Exhibit A. The Governing Board directed staff to address such minor comments prior to finalization of this Order. Further, this planning document may be amended or updated as appropriate in light of new technical information and analysis. Updates are required to occur at no later than at five year intervals.

14. Notice of this Final Agency Action will be distributed by certified mail to persons who have participated in plan development process. Additional notice will be published in the *Florida Administrative Weekly* and newspapers of general circulation within the planning region.

15. Notice of this Final Agency Action also will be distributed by certified mail to each entity identified in the LWC Update responsible to implement a project, in accordance with section 373.0361 (7)(a), F.S.

CONCLUSIONS OF LAW

16. Section 373.0361, Fla. Stat., adopted in 1997, authorizes the governing boards of the water management districts to undertake regional water supply planning efforts, including the updating of existing plans such as the LWC UPDATE. Section 373.0361, Fla. Stat., also establishes a framework for the regional water supply plan's scope, analysis, implementation, and process.

17. The Governing Board concludes that the LWC UPDATE meets the requirements of Section 373.0361, F.S.

18. Sub-section 373.0361(4), Fla. Stat., establishes the opportunity for administrative review of District approval of a regional water supply plan. This provision states:

Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of Chapter 120. *However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569. (Emphasis added.)*

Section 120.569, Fla. Stat., details the legal provisions that apply in all proceedings in which the substantial interests of a party are determined by an agency. The Notice of Rights included in this Order describes these and other potential remedies which may exist. However, the Notice of Rights shall not cover actions taken by the Governing Board in the future to implement the LWC UPDATE. When implementing action is taken, the Governing Board shall offer an appropriate point of entry to substantially affected parties. To the extent the LWC UPDATE or anything in the LWC UPDATE is relied upon to support a future Governing Board action, a challenge to the implementation action may also challenge the supporting material contained in the LWC UPDATE.

19. The LWC UPDATE may be updated or amended as new technical information and analysis becomes available. Updates shall occur in accordance with Section 373.0361, F.S., at intervals no later than five years from the date of entry of this order.

20. The Governing Board authorizes staff to make minor changes to the LWC UPDATE which do not alter the substance of the LWC UPDATE, in response to comments submitted to staff.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby

ORDERED:

1. The 2005-2006 Update to the Lower West Coast Water Supply Plan, 2000 – 2025 is hereby approved in accordance with section 373.0361, Fla. Stat.

2. Staff is authorized to make changes to the LWC UPDATE, which do not alter the substance of the LWC UPDATE, in response to comments submitted to staff. Such changes must occur prior to rendering of this Final Order and no later than 30 days after the July 12, 2006 Governing Board meeting.

3. Staff is authorized to distribute notice of this Final Agency Action by certified mail to persons who have participated in plan development process as well as those entities identified as appropriate for implementing water supply development project options. Additional notice shall be published in the *Florida Administrative Weekly* and newspapers of general circulation within the planning region.

NOTICE OF RIGHTS

Section 120.569(1), Florida Statutes (1997), requires that “each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply.” Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Florida Administrative Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes or for mediation pursuant to Section 120.573, Florida Statutes within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Florida Administrative Code, a copy of which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Florida Statutes or for mediation pursuant to Section 120.573, Florida Statutes within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Florida Administrative Code, a copy of which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent(s) objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Florida Statutes (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Florida Statutes, and Rule 40E-1.511(3), Florida Administrative Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Florida Statutes, as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Florida Administrative Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Florida Statutes, for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Florida Statutes, within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially

comply with the requirements of Rule 28-107.004(3), Florida Administrative Code, a copy of which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Florida Administrative Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Florida Administrative Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Florida Statutes, may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Florida Statutes, which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Florida Administrative Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

5. Pursuant to Section 373.617, Florida Statutes, any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Florida Statutes, any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Florida Statutes, and Title 40E, Florida Administrative Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Florida Statutes, a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Florida Statutes.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Florida Statutes, a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (LAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Florida Statutes. Pursuant to Section 373.114, Florida Statutes, and Rules 42-2.013 and 42-2.0132, Florida Administrative Code, a request for review of (a) an order or rule of the SFWMD must be filed with

LAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with LAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Florida Statutes, must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Florida Administrative Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Florida Statutes.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Florida Statutes to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Florida Statutes.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Florida Statutes. Pursuant to Rule 28-106.111(2), Florida Administrative Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not adversely affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Florida Administrative Code, the contents of the petition for mediation shall contain the following information:

- (1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (2) a statement of the preliminary agency action;
- (3) an explanation of how the person's substantial interests will be affected by the agency determination; and
- (4) a statement of relief sought.

As provided in Section 120.573, Florida Statutes (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Florida Statutes, and SFWMD Rule 28-106.201(2), Florida Administrative Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Florida Statutes) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Florida Administrative Code, the petition must include the following information:

- (a) The caption shall read:
Petition for (Variance from) or (Waiver of) Rule (Citation)
- (b) The name, address, telephone number and any facsimile number of the petitioner;
- (c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);
- (d) The applicable rule or portion of the rule;
- (e) The citation to the statute the rule is implementing;
- (f) The type of action requested;
- (g) The specific facts that demonstrate a substantial hardship or violation of principals of fairness that would justify a waiver or variance for the petitioner;
- (h) The reason why the variance or the waiver requested would serve the purposes of the underlying statute; and
- (i) A statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Florida Statutes pursuant to Rule 28-104.004(2), Florida Administrative Code, the petition must also include:

- a) The specific facts that make the situation an emergency; and
- b) The specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Florida Statutes.

WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

28-106.201 INITIATION OF PROCEEDINGS

(INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
 - (a) the name and address of each agency affected and each agency's file or identification number, if known;
 - (b) the name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) a statement of when and how the petitioner received notice of the agency decision;
 - (d) a statement of all disputed issues of material fact. If there are none, the petition must so indicate;
 - (e) a concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

- (f) a demand for relief.

28-106.301 INITIATION OF PROCEEDINGS

(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
 - (a) the name and address of each agency affected and each agency's file or identification number, if known;
 - (b) the name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) a statement of when and how the petitioner received notice of the agency decision;
 - (d) a concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (e) a demand for relief.

28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL

- (3) Requests for hearing filed in accordance with this rule shall include:
 - (a) the name and address of the party making the request, for purposes of service;
 - (b) a statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
 - (c) a reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217

- (1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.
- (2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:
 - (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;
 - (b) How the rule or order sought to be reviewed affects the interests of the party seeking review;
 - (c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, Florida Statutes, on the order for which review is sought;
 - (d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

- (e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

28-107.005 EMERGENCY ACTION

- (1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.
- (2) The 14-day notice requirement of Section 120.569(2)(b), Florida Statutes, does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.
- (3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57 and 120.60, Florida Statutes.

40E-1.611 EMERGENCY ACTION

- (1) 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.
- (2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

DONE AND SO ORDERED this 12th day of June, 2006, at a public meeting held
at 3301 Gun Club Road, West Palm Beach, FL 33406.

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT BY ITS GOVERNING BOARD

BY: _____
Kevin McCarty, Chair

LEGAL FORM APPROVED
SFWMD OFFICE OF COUNSEL

BY: _____ DATE: _____

(Corporate Seal)

ATTEST:

Secretary

Date: _____