

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

IN RE:

EMERGENCY FINAL ORDER DECLARING
A CONTINUING EMERGENCY RELATING
TO PERMITTING OF ACTIVITIES UNDER
CHAPTERS 373, 403 AND 120, FLORIDA
STATUTES IN RESPONSE TO HURRICANES
CHARLEY, FRANCES, IVAN AND JEANNE
AND PROVISION OF DISTRICT RESOURCES
TO AID IN RECOVERY EFFORTS FROM
HURRICANE IVAN AND JEANNE

EXECUTIVE DIRECTOR ORDER NO. SWF 04-077

Under sections 373.119, 120.569(2)(n) and 252.36 of the Florida Statutes, and upon consideration of the State of Florida Executive Order Nos 04-206 and 04-217, the FEMA Orders issued for Tropical Storm Bonnie and Hurricanes Charley, and Hurricanes Frances, Ivan, and Jeanne and the following findings of fact, David L. Moore, Executive Director of the Southwest Florida Water Management District (District), at District Headquarters, 2379 Broad Street, Brooksville, Florida, enters this Emergency Final Order (the "Order"). This action is in response to the continuing immediate danger to the public health, safety, and welfare of residents within the District to aid in the delivery of emergency assistance to private persons and governmental entities affected by the devastation wrought by Hurricanes Charley, Frances, Ivan and Jeanne. (hereinafter the "Hurricanes").

FINDINGS OF FACT

1. On August 10, 2004, Governor Bush issued Executive Order No. 04-182, declaring a state of emergency for the State of Florida in anticipation of the pending landfall of Hurricane Charley.
2. On September 1, 2004, Governor Bush issued Executive Order No. 04-192, declaring a state of emergency for the State of Florida in anticipation of the pending landfall of Hurricane Frances. Order No. 04-192 incorporated, ratified and extended Order No. 04-182 and all mission assignments and orders issued by the State Coordinating Officer and Deputy State Coordinating Officers in connection with Hurricane Charley as if issued on September 1, 2004, so that Order No. 04-182 and Order No. 04-192 are effective through October 31, 2004.

3. On September 10, 2004 Governor Bush issued Executive Order No. 04-206, declaring a state of emergency for the State of Florida in anticipation of the pending landfall of Hurricane Ivan. Order No. 04-206 incorporated, ratified and extended Orders No. 04-182 and 04-192 and all mission assignments and orders issued by the State Coordinating Officer and Deputy State Coordinating Officers in connection with Hurricanes Charley and Frances as if issued on September 10, 2004, so that Orders No. 04-182, 04-192 and 04-206 are effective through November 9, 2004.

4. On September 24, 2004 Governor Bush issued Executive Order No. 04-217, declaring a state of emergency for the State of Florida in anticipation of the pending landfall of Hurricane Jeanne. Order No. 04-217 incorporated, ratified and extended Orders No. 04-206 all mission assignments and orders issued by the State Coordinating Officer and Deputy State Coordinating Officers in connection with Hurricanes Charley and Frances as if issued on September 24, 2004, so that Orders No. 04-182, 04-192 and 04-206 are effective through November 23, 2004.

5. On August 24, 2004 the District's Executive Director issued Order No. 04-070 relating to Hurricane Charley and on September 10, issued 04-076 relating to Hurricane Frances (the "Orders"). The Orders declare an emergency within the District and set forth modified permitting and compliance procedures for Chapters 40D-2, 40D-4, 40D-40 and 40D-400 FAC to facilitate and expedite hurricane recovery activities for those affected by the hurricanes.

6. A great deal of activity remains to be accomplished to recover from the destruction caused by Hurricanes Charley and Frances and those activities will be compounded by the devastation resulting from Hurricanes Ivan and Jeanne and the further demand anticipated to be made on state and District resources.

CONCLUSIONS OF LAW

7. Based on the findings recited above, it is hereby concluded that Hurricanes Charley, Frances, Ivan and Jeanne have caused an emergency and there continues to be an immediate danger to the public health, safety or welfare requiring immediate action.

8. The Executive Director of the District is duly authorized by Section 373.119(2), Florida Statutes to declare that an emergency exists requiring immediate action to protect the public health, safety or welfare and authorizing such action as the Executive Director deems necessary to meet the emergency.

9. The Governor's Executive Order No. 04-217 continues the suspension of compliance with Chapters 120, 253, 373, and Chapter 403, Florida Statutes and rules in chapters 18-20, 18-21, 40D-1, 40D-2, 40D-4, 40D-40, 40D-400 and 62-40, F.A.C. through November 23, 2004.

ORDER

In light of the Governor's Executive Order Nos. 04-182, 04-192, 04-206 and 04-217, and that a great deal of recovery activity remains to be accomplished it is ordered that:

10. An emergency continues to exist for those entities affected by Hurricane Charley and Frances.

11. The staff and equipment of the Southwest Florida Water Management District are placed on emergency standby to assist any state, county, municipal or local government in managing any emergency resulting from the Hurricanes.

12. Executive Director Orders No. 04-070 and 04-076, as amended herein, are incorporated by reference into this Executive Director Order and all emergency authorizations issued by the Orders or Authorized Representatives under the authority of the Orders are hereby ratified and extended as provided herein.

13. All deadlines referred to in Executive Director Orders Nos. 04-070 and 04-076 relating to provisions titled "Applications", "Expiration Dates", "Deferral of Existing Permit Conditions", and "Notices and Deadlines" are deferred through December 31, 2004; provided however, the provisions within the section titled "Notices and Deadlines" regarding the deadlines imposed by any state or rule governing permitting are tolled through November 23, 2004 pursuant to the Governor's Executive Order No 04-217.

DONE AND ORDERED in Hernando County, Florida, as of October 4, 2004.

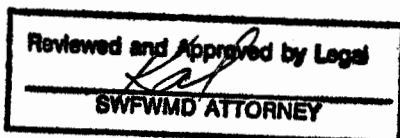
Southwest Florida Water
Management District

Filed this 4th day
of October 2004.

William M. Lee
AGENCY CLERK

By: David L. Mobre
David L. Mobre
Executive Director

(SEAL)



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 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 Brooksville address, 2379 Broad Street, Brooksville, FL 34604-6899 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.