

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

IN RE: EMERGENCY MEASURES DUE TO HIGH
WATER CONDITIONS IN THE NORTH WINTER
HAVEN CHAIN OF LAKES AREA

**SECOND AMENDED AND RESTATED
EMERGENCY FINAL ORDER NO. SWF 22-011**

The Southwest Florida Water Management District (District) enters this Second Amended and Restated Emergency Final Order (Order), including Findings of Fact and Conclusions of Law, in response to high rainfall and anticipated flooding in the North Winter Haven Chain of Lakes area that threatens the safety of surrounding property, structures, stormwater management systems, works, and impoundments and also poses immediate danger the public health, safety, and welfare.

FINDINGS OF FACT

1. In August 2022, the areas surrounding Lake Henry, Lake Smart, Lake Connie, Lake Rochelle, Lake Haines, Lake Fannie, and Lake Hamilton (the “North Winter Haven Chain of Lakes Area” or the “Area”) received a total of 16.54 inches of rainfall, well above the monthly average of 8 inches.

2. On September 2, 2022, the Area received an additional 1.3 inches of rainfall. The National Weather Service issued a flood warning on September 2, 2022 due to existing flooding and additional expected rainfall in portions of Polk County, including the North Winter Haven Chain of Lakes Area.

3. The District monitors water levels and manages water control structures P-5 (Lake Henry), P-6 (Lake Smart, Connie, Rochelle, Haines), P-7 (Lake Fannie), and P-8 (Lake Hamilton) in the Area. On September 3, 2022, lake levels in the Area rose

approximately 2 inches due to rainfall from the prior day, and water levels downstream from structure P-8 were recorded at the highest level since 2004.

4. On September 3, 2022, the Executive Director issued Emergency Order No. SWF 22-008 authorizing limited measures, including adjusting the operational schedule for water control structures in the Area, to reduce the risk of flooding to homes and roads in the Area. On September 16, 2022, the Executive Director issued Emergency Order No. SWF 22-009 to extend the duration of Emergency Order No. SWF 22-008 until October 8, 2022, unless modified or extended by the Executive Director.

5. On September 23 and 24, 2022, Governor DeSantis issued Executive Order Nos. 22-218 and 22-219 declaring a state of emergency throughout the State of Florida due to the anticipated effects of Hurricane Ian. The District's Executive Director issued Emergency Order No. SWF 22-010 on September 26, 2022, in response to the serious threat of additional rainfall, potential flooding, and hurricane-force winds posed by Hurricane Ian. Based on the most current information, water levels in the Area have been near or above flood-stage since Hurricane Ian made landfall.

6. The Executive Director finds that the rainfall and high-water levels described above, and the potential for additional rainfall and flooding, threaten the safety of surrounding property, structures, stormwater management systems, works, and impoundments in the Area. As a result, immediate action is necessary to protect the public health, safety, and welfare.

7. The Executive Director finds that it is appropriate for the District to continue monitoring water levels and operating water control structures in the Area in response to above-normal rainfall and storm events, and to immediately employ any remedial

measures necessary to safeguard life and property, including, but not limited to, lowering water levels by releasing water from any impoundment or reservoir, completely emptying any impoundment or reservoir, temporarily modifying structure operations, deviating from internal operational guidelines, diverting water to bypass lakes or water control structures, and moving significant volumes of flood water out of the Area.

CONCLUSIONS OF LAW

8. Based on the Findings of Fact described herein, it is hereby concluded that the emergency caused by rainfall and high-water levels poses an immediate danger to the public health, safety, and welfare requiring immediate action.

9. Pursuant to Sections 120.569(2)(n), 373.119(2), and 373.439(1)(b), Florida Statutes (F.S.), the Executive Director is authorized to issue this Order.

10. The actions required to protect the public health, safety, and welfare described in this Order are appropriate pursuant to section 373.439(2), F.S., and are required so as to not prevent, hinder, or delay any action necessary to meet the emergency.

11. The District's immunity from liability for any damages that might result from the activities authorized by this Order, as provided for by Section 373.443(4), F.S., shall not be diminished by the terms of this Order or any activities undertaken pursuant to this Order.


THEREFORE, it is hereby ORDERED:

12. Within the Area, the requirements and effects of statutes, rules, agreements, policies, procedures, or District orders which conflict with the provisions of this Order are suspended to the extent necessary to implement this Order. The District

shall immediately employ any remedial means necessary to safeguard life and property, including, but not limited to, lowering water levels by releasing water from any impoundment or reservoir, completely emptying any impoundment or reservoir, temporarily modifying structure operations, deviating from internal operational guidelines, diverting water to bypass lakes or water control structures, and moving significant volumes of flood water out of the Area.

13. This Order shall take effect immediately upon execution by the Executive Director or his designee, and shall expire on November 22, 2022, unless modified or extended by further order.

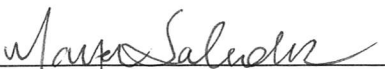
DONE AND ORDERED in Hillsborough County, Florida, on this 5th day of October, 2022.

Approved as to legal form and content

Chris Tumminia, General Counsel

**SOUTHWEST FLORIDA WATER
MANAGEMENT DISTRICT**

By: 
Brian J. Armstrong, P.G., Executive Director

Filed this 5th day of October 2022.


Deputy Agency Clerk

[SEAL]



NOTICE OF RIGHTS

Pursuant to Section 120.569(2)(n), Florida Statutes, any party adversely affected by this Order has the right to seek an injunction of this Order in circuit court or judicial review under Section 120.68, Florida Statutes. Judicial review must be sought by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the District at 7601 U.S. Highway 301 North, Tampa, Florida 33637-6759, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the District.