

BEFORE THE GOVERNING BOARD OF THE  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO.: 2019-004-DAO-WU

IN THE MATTER OF:

Approval of the 2018  
Lower East Coast  
Water Supply Plan Update  
\_\_\_\_\_ /

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DISTRICT CLERK'S OFFICE

2:51 pm Jan 14, 2019

SOUTH FLORIDA  
WATER MANAGEMENT DISTRICT



**FINAL ORDER APPROVING THE 2018 LOWER EAST  
COAST WATER SUPPLY PLAN UPDATE**

The Governing Board of the South Florida Water Management District ("District"), after considering recommendations of District staff and being otherwise fully apprised of the matter, issues this Final Order pursuant to Sections 373.036, 373.083, and 373.709, Florida Statutes, based on the following Findings of Fact and Ultimate Facts and Conclusions of Law.

**FINDINGS OF FACT**

1. The Lower East Coast ("LEC") is one of five regional planning areas in the District. The planning area covers approximately 6,500 square miles and includes all of Palm Beach, Broward and Miami-Dade counties, most of Monroe County, and parts of Collier and Hendry counties.

2. The LEC Planning Area includes large natural systems such as the Everglades, Lake Okeechobee, Florida Bay, Biscayne Bay, Loxahatchee River and five national wildlife refuges.

3. In 1998, the District's Governing Board approved the Interim Water Supply Plan ("Plan") for the LEC and the Final LEC Plan in 2000, which was updated in 2006 and 2013.

4. The purpose of this effort is to update the LEC Plan and establish a framework for future District actions to meet the water supply and natural resource protection requirements of Chapter 373, Florida Statutes.

5. The 2018 LEC Plan Update is based on a planning period of 2016-2040. It includes: 1) water demand projections for six water use categories; 2) a water supply development component; 3) a water resource development component; 4) adopted MFLs; 5) MFL prevention and recovery strategies; 6) a funding strategy; 7) consideration of how the water supply and resource development components serve the public interest or save costs; and, 8) technical data.

6. Total average water use is projected to be 2,007 million gallons per day (mgd) in 2040, which is 249 mgd more than the 2016 average water use.

7. Population is expected to increase from 6,027,190 people in 2016 to approximately 7,570,351 people in 2040. Drinking water supply is the largest water use category, representing 55 percent of the total 2040 average water demand, or 1,105 mgd.

8. Agricultural water supply is the LEC Planning Area's second largest water use category, representing 31 percent of total 2040 average water demand, or 625 mgd. Irrigated agricultural acreage is projected to decrease from about 581,470 acres in 2016 to approximately 550,080 acres in 2040.

9. The 2018 LEC Plan Update concludes there is sufficient water to meet the needs of the LEC Planning Area during a 1-in-10 year drought condition through 2040 with appropriate management and diversification of water supply sources, and construction of the projects identified in the Plan. Much of the planning area's 2040 net demand for PWS will be met through water conservation and by using alternative water sources.

10. LEC Planning Area public water supply (PWS) utilities are projected to have adequate water allocations and potable water treatment capacity to meet 2040 demands; however, nine PWS utilities must construct water supply projects, including treatment plant expansions, to have sufficient water capacity to meet their anticipated 2040 potable water demands.

11. The 2018 LEC Plan 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 during average and 1-in-10-year drought conditions through the year 2040.

12. The 2018 LEC Plan Update identifies water resource development projects and specific water supply development projects from which local water users may choose. The 2018 LEC Plan Update contains recommendations and implementation strategies regarding these projects.

13. The 2018 LEC Plan Update also recommends continued coordination with agricultural stakeholders, utilities, and other water users; natural resource protection; and water level and water quality monitoring.

14. In addition to the recommendations in the 2018 LEC Plan Update, the Comprehensive Everglades Restoration Plan and programs will maximize water resources by addressing issues of timing, retention, and freshwater flow regimes to the coastal environmental resources in the planning area. Once projects become operational, they will be re-evaluated to determine the potential availability of surface water to meet the demands of reasonable-beneficial uses.

15. The public participated in the development of the 2018 LEC Plan Update. The District's Water Resource Analysis Coalition ("WRAC") facilitated the public's participation. The WRAC provides a forum for improving public participation, fact-finding, and information-gathering on water resource issues affecting South Florida.

16. The District held three workshops in the planning area from November 2017 to August 2018. The role of the workshops was to receive public input, contribute local knowledge and expertise, and reflect the collective concerns of the various stakeholders in the planning region. In addition, an East Coast Floridan Model public meeting was held to present the results of model simulations and receive public input.

17. The 2018 LEC Plan Update is not a self-executing document. Implementation of the 2018 LEC Plan Update will occur through a variety of future Governing Board actions. A flexible course of action is proposed. Future decisions about contracts, research, budgetary appropriations, cost-sharing arrangements, rulemaking, permitting, operational protocol, local agreements, and inter-governmental coordination will commit the District to a specific direction.

18. The 2018 LEC Plan Update, including the associated appendices, is attached to this Order as Exhibit A. Staff advised the Governing Board that interested parties may provide Staff with minor comments to the 2018 LEC Plan Update.

#### **CONCLUSIONS OF LAW**

19. Water management districts governing boards are authorized to undertake regional water supply planning efforts, including updating existing plans, such as this 2018 LEC Plan Update. § 373.709, Fla. Stat. (2018).

20. Section 373.709, Florida Statutes, establishes a framework for the regional water supply plan's scope, analysis, implementation, and process. Specific water resource

development and water supply development projects must be included in regional water supply plans. Id.

21. Water supply plans must include intermediate water use projections for each 5-year interval. Fla. Admin. Code R. 62-40.531(1)(a). Water management districts shall update each regional water supply plan every five years. Fla. Admin. Code R. 62-40.531(8).

22. The Governing Board concludes that the 2018 LEC Plan Update meets the requirements of Section 373.709, Florida Statutes, and Rule 62-40.531, Florida Administrative Code.

23. While the Governing Board's approval of a water supply plan is not subject to rulemaking requirements, any portion of an approved water supply plan that affects the substantial interests of a party is subject to Section 120.569, Florida Statutes. § 373.709(5), Fla. Stat. (2018). A Notice of Rights is attached hereto as Exhibit B.

24. The Notice of Rights does not cover future Governing Board actions to implement the 2018 LEC Plan Update. When implementing action is taken, the Governing Board will provide an appropriate point of entry to substantially affected parties. To the extent the 2018 LEC Plan Update, or any portion thereof, 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 LEC Plan.

25. The 2018 LEC Plan Update may be updated or amended as new technical information and analysis becomes available. Such updates will occur in accordance with Section 373.709, Florida Statutes, no later than five years from the entry of this order.

26. The Governing Board delegated authority to execute this final order to the Executive Director and General Counsel.<sup>1</sup>

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<sup>1</sup> South Florida Water Management District Policies and Procedures, § 101-22(b).

**ORDER**

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

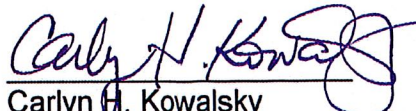
27. The 2018 LEC Water Supply Plan Update is hereby approved.

28. Staff is authorized to make minor changes to the 2018 LEC Plan Update that do not alter the substance of the LEC Plan in response to stakeholder comments submitted to staff. Such changes must occur within 30 days of the November 8, 2018 Governing Board meeting.

29. Staff may distribute notice of this Order by certified mail, regular mail, and/or electronic mail to persons who have participated in plan development process and those entities identified as appropriate for implementing water supply development projects. Notice shall also be published in the Florida Administrative Register and newspapers of general circulation within the planning region.

DONE AND SO ORDERED in West Palm Beach, Florida, on this 11<sup>th</sup> day of January 2019.

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT  
By its Governing Board

  
Carlyn H. Kowalsky  
General Counsel