

BEFORE THE GOVERNING BOARD OF THE  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO.: 2017-088-DAO-WU

IN THE MATTER OF:

**RECEIVED**  
**DISTRICT CLERK'S OFFICE**

Approval of the 2017  
Lower West Coast  
Water Supply Plan Update  
\_\_\_\_\_ /

10:33 am Dec 21, 2017

**SOUTH FLORIDA**  
**WATER MANAGEMENT DISTRICT**

**FINAL ORDER APPROVING THE 2017 LOWER WEST**  
**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 West Coast ("LWC") is one of five regional planning areas in the District. The planning area covers approximately 5,130 square miles and includes all of Lee County, most of Collier County, and parts of Glades, Hendry, Monroe, and Charlotte counties.
2. The LWC Planning Area includes natural systems such as the Caloosahatchee River Estuary, Lake Trafford, Corkscrew Regional Ecosystem Watershed, Big Cypress Swamp, southern Charlotte Harbor, Estero Bay, Naples Bay, Ten Thousand Islands and Rookery Bay, and the Fakahatchee Estuary.
3. In 1994, the District's Governing Board approved the first Lower West Coast Water Supply Plan ("LWC Plan"). The LWC Plan was updated in 2000, 2006, and 2012.

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

5. The 2017 LWC Plan Update is based on a planning period of 2014-2040. It includes 1) water demand projections for six water use categories; 2) a water supply development component; 3) a water resource development component; 4) the adopted minimum flows and minimum water levels (“MFLs”); 5) a funding strategy; 6) consideration of how the water supply and resource development components serve the public interest or save costs; 7) technical data; and, 8) the MFL prevention and recovery strategies.

6. The planning area’s population is expected to increase from 1,031,924 people in 2014 to approximately 1,632,168 in 2040. Total average water use is projected to be 1,211 million gallons per day (mgd) in 2040, 240 mgd more than the 2014 average water use.

7. Agricultural water supply remains the LWC Planning Area’s largest water use category, representing 56 percent of total 2040 average water demand, or 679 mgd. Irrigated agricultural acreage is projected to increase from about 306,119 acres in 2014 to approximately 339,648 acres in 2040.

8. The 2017 LWC Plan Update concludes that LWC Planning Area public water supply (PWS) utilities have adequate water allocations and potable water treatment capacity to meet 2040 demands. However, two PWS utilities (Town and Country Utilities Company and Ave Maria Utilities Company) must construct water supply treatment plant expansions to have sufficient water capacity to meet their anticipated 2040 potable water demands.

9. There is sufficient water to meet the needs of the LWC Planning Area during a 1-in-10-year drought condition through 2040 with appropriate management, diversification

of water supply sources, and construction of the projects identified in the 2017 LWC Plan Update. Much of the planning area's 2040 net demand for PWS will be met by using alternative water sources, including water conservation.

10. The 2017 LWC Plan Update accounts for cumulative impacts on the water resources and guides future management of those resources to ensure adequate water supplies for existing and projected reasonable-beneficial uses as well as the water resources and related natural systems during average and 1-in-10-year drought conditions through 2040.

11. The 2017 LWC Plan Update identifies water resource development projects and specific water supply development projects from which local water users may choose. The 2017 LWC Plan Update contains recommendations and implementation strategies regarding these projects.

12. The 2017 LWC Plan Update also recommends continued coordination with agricultural stakeholders, utilities, and other water users; natural resource protection; and water level and water quality monitoring.

13. In addition to the recommendations in the 2017 LWC 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.

14. The public participated in the development of the 2017 LWC Plan Update. The District held three workshops in the planning area from June 2016 to August 2017. The role

of the workshops is to receive public input, contribute local knowledge and expertise, and reflect the collective concerns of the various stakeholders in the planning region.

15. The public reviewed and commented on the Draft 2017 LWC Plan Update. Additionally, the public had the opportunity to comment during presentations of the draft and final 2017 LWC Plan Update to the Governing Board.

16. The 2017 LWC Plan Update is not a self-executing document. Implementation of the 2017 LWC 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.

17. The 2017 LWC 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 2017 LWC Plan Update.

### **CONCLUSIONS OF LAW**

18. Water management district governing boards are authorized to undertake regional water supply planning efforts, including updating existing plans, such as this 2017 LWC Plan Update. § 373.709, Fla. Stat. (2017).

19. Section 373.709, Fla. Stat., 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.

20. 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 regional water supply plan every five years. Fla. Admin. Code R. 62-40.531(8).

21. The Governing Board concludes that the 2017 LWC Plan Update meets the requirements of Section 373.709, Fla. Stat., and Rule 62-40.531, Fla. Admin. Code.

22. 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, Fla. Stat. § 373.709(5), Fla. Stat. (2017). A Notice of Rights is attached hereto as Exhibit B.

23. The Notice of Rights does not cover future Governing Board actions to implement the 2017 LWC 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 2017 LWC 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 LWC Plan.

24. The 2017 LWC 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, Fla. Stat., no later than five years from the entry of this order.

**ORDER**

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

25. The 2017 Lower West Coast Water Supply Plan Update is hereby approved.

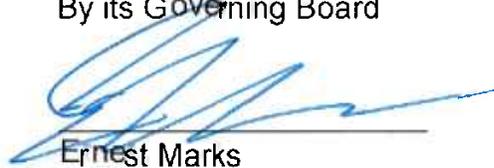
26. Staff is authorized to make minor changes to the 2017 LWC Plan Update that do not alter the substance of the LWC Plan in response to stakeholder comments submitted

to staff. Such changes must occur within 30 days of the December 14, 2017 Governing Board meeting.

27. Staff may distribute notice of this Order by certified mail, regular mail, and/or electronic mail to persons who have participated in the 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 20<sup>th</sup> day of December 2017.

SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT  
By its Governing Board



Ernest Marks  
Executive Director