

**STATE OF FLORIDA
NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT**

In re:

EMERGENCY FINAL ORDER
RELATING TO PERMITTING
OF ACTIVITIES UNDER
CHAPTERS 373, 403 AND 120,
FLORIDA STATUTES, AND
CERTAIN OTHER MEASURES
IN RESPONSE TO THE EFFECTS
OF COVID-19

**NINTH AMENDED AND RESTATED
EMERGENCY ORDER NO. NFWFMD 20-030**

Under the authority of State of Florida Executive Order No. 20-52, and Sections 120.569(2)(n), 252.32(1)(b), 252.36, 252.363, 252.46, 373.439, and 373.119(2), Florida Statutes (“F.S.”), Brett Cyphers, Executive Director of the Northwest Florida Water Management District (“District”), enters this Ninth Amended and Restated Emergency Order (“Order”) in response to the imminent and immediate danger to the public health, safety, and welfare of the citizens of the State of Florida caused by the Novel Coronavirus Disease 2019 (hereinafter “COVID-19”).

FINDINGS OF FACT

1. COVID-19 is a severe acute respiratory illness that can spread among humans through respiratory transmission.
2. In late 2019, a new and significant outbreak of COVID-19 emerged and has been detected in more than 100 locations internationally and all of the United States, including Florida. The World Health Organization declared COVID-19 a pandemic.
3. On March 1, 2020, pursuant to the Governor’s Executive Order number 20-51, the State of Florida’s Surgeon General and State Health Officer declared a Public Health

Emergency exists in the State of Florida as a result of COVID-19. The Governor also directed the Director of the Division of Emergency Management to activate the State Emergency Operations Center to Level 1 to provide coordination and response to the COVID-19 emergency.

4. By State of Florida Executive Order No. 20-52, the Governor declared that a state of emergency exists throughout the state of Florida, including all areas within the geographic boundaries of the District (Emergency Area). Through Executive Order Nos. 20-114, 20-166, 20-213, 20-276, 20-316, and 2021-45 Governor DeSantis has extended Executive Order No. 20-52 until April 27, 2021.

5. The District finds that the effects of COVID-19 continue to create a state of emergency posing an imminent danger to the public health, safety, welfare, and property throughout the Emergency Area. As a result of the emergency, immediate action is necessary to cope with the emergency. The District issued Emergency Order No. NFWFMD 20-030 on April 2, 2020, extended same via eight Amended and Restated Emergency Orders, and now finds that said Order should be once again extended as set forth herein.

6. While social distancing, avoiding large groups, and avoiding nonessential travel are critical components to reducing the transmission of COVID-19, they have impacted, and continue to impact, the District's ability to carry out some of its duties, such as, holding in-person public meetings and hearings and meeting certain regulatory timeframes. The regulated community's ability to meet certain regulatory deadlines has likewise been, and continues to be, impacted.

7. COVID-19 has caused, and continues to cause, disruption in supply chains and the labor force, thereby impacting the ability of many regulated entities to meet certain regulatory deadlines. Therefore, the District finds that it is appropriate to extend certain regulatory deadlines by thirty (30) days to accommodate disruptions. This Order does not provide relief from any other

regulatory requirements including those of other federal, state or local agencies. This Order likewise does not provide relief from the District's compliance and enforcement activities. The District will continue to carry out all inspections, testing, data and file reviews and other compliance verification activities to ensure full compliance with regulatory and pollution prevention requirements, including the pollution notification requirement under Section 403.077, Florida Statutes. In the event of noncompliance with any such requirements, the District will continue to fully execute its compliance and enforcement duties.

8. State of Florida Executive Order No. 20-52, as extended, finds that the special duties and responsibilities resting upon the District in responding to the emergency may require the District to suspend the application of the statutes, rules and orders it administers.

9. State of Florida Executive Order No. 20-52, as extended, finds that the District may suspend the provision of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of the District, if strict compliance with the provisions of any such statute, order or rule would in any way prevent, hinder or delay necessary action in coping with the emergency. The requirements of Sections 252.46 and 120.54, Florida Statutes, shall not apply to any such suspension; however, no such suspension shall remain in effect beyond April 27, 2021, unless otherwise extended.

10. The nature of the District's procurement process is such that the statutory, rule or policy requirements relating to procurement may impede the District's ability to protect the health, safety and welfare of the public and District employees during the public health emergency.

11. Executive Order 20-52, as extended, gave the District the authority to waive procedures and formalities otherwise required of the District by law pertaining to procurements.

12. The District finds that immediate, strict compliance with the provisions of the statutes, rules, or orders noted within this Order would prevent, hinder, or delay necessary action in coping with the emergency, and that the actions authorized under this Order are narrowly tailored to address the immediate need for action and are procedurally appropriate under the circumstances.

CONCLUSIONS OF LAW

1. Based on the findings recited above, it is hereby concluded that the emergency caused by COVID-19 continues to pose an immediate danger to the public health, safety, or welfare and requires an immediate order of the District.

2. Under State of Florida Executive Order No. 20-52, as extended, and Sections 120.569(2)(n), 252.36, 252.46, 373.119 and 373.439, Florida Statutes, the Executive Director of the District is authorized to issue this Order.

3. Suspension of statutes and rules as noted within this Order is required so as not to prevent, hinder, or delay necessary action in coping with the emergency. However, this Order is limited to the items specified below and does not provide relief from the District's compliance and enforcement activities. The District will continue to carry out all inspections, testing, data and file reviews and other compliance verification activities to ensure full compliance with regulatory and pollution prevention requirements, including the pollution notification requirement under Section 403.077, Florida Statutes. In the event of noncompliance with any such requirements, the District will continue to fully execute its compliance and enforcement duties.

THEREFORE, IT IS ORDERED:

Within the Emergency Area, the requirements and effects of statutes and rules which conflict with the provisions of this Order are suspended to the extent necessary to implement this Order.

Extension of time to comply with specified deadlines

For facilities and activities regulated by the District in the Emergency Area, this Order extends by thirty (30) days the time to comply with the following specified deadlines that occur between the date of issuance of this Order and the expiration of this Order. However, as specified above, this Order does not provide relief from any other regulatory requirements including those of federal, state or local agencies. This Order likewise does not provide relief from the District's compliance and enforcement activities. The District will continue to carry out all inspections, testing, data and file reviews and other compliance verification activities to ensure full compliance with regulatory and pollution prevention requirements, including the pollution notification requirement under Section 403.077, Florida Statutes. In the event of noncompliance with any such requirements, the District will continue to fully execute its compliance and enforcement duties.

a. The time deadlines required by an application, permit, lease, easement, consent of use, letter of consent, consent order, consent agreement, administrative order, or other authorization under Chapters 373 or 403, Florida Statutes, and rules adopted thereunder, except for public notices of pollution under Section 403.077, Florida Statutes;

b. The time deadlines to file an application for an extension of permit duration or renewal of an existing permit, lease, easement, consent of use, letter of consent, or other authorization under Chapters 373 or 403, Florida Statutes, and rules adopted thereunder;

- c. The time deadlines to file an application for an operation permit under Chapters 373 or 403, Florida Statutes, and rules adopted thereunder;
- d. The expiration date for an existing permit, lease, consent of use, or other authorization under Chapters 373 or 403, Florida Statutes, and rules adopted thereunder; and
- e. The time deadlines to obtain a permit for and commence construction of the initial phase of a system for which a conceptual permit was issued pursuant to Part IV of Chapter 373, Florida Statutes, or Chapter 403, Florida Statutes, and rules adopted thereunder.

Public Meetings and Hearings

The District may conduct public meetings or hearings during the term of this Order in person or by electronic means, including, but not limited to, the use of webinar or telephone to encourage public engagement while protecting public health. This Order waives the policy and procedural requirements in District Policy and Procedures Manual Section 1.5, entitled Public Meetings, when and as may be necessary so as not to prevent, hinder, or delay necessary action while coping with the COVID -19 emergency. The District may adopt interim policies to continue to provide remote public access to meetings while continuing to fulfill the duties of the District.

Expiration Date

This Order shall take effect immediately upon execution by the Executive Director of the District, or designee, and shall expire on April 27, 2021, unless modified or extended by further order.


NOTICE OF RIGHTS

Any person, who is not a party to this Order, whose substantial interests are affected by the District's action in this Order may request an administrative hearing in accordance with Sections 120.569 and 120.57, F.S., and Chapter 28-106, F.A.C. A request for hearing that disputes the material facts on which the District's action is based must contain all elements required by Rule 28-106.201(2), F.A.C., including but not limited to: (1) an explanation of how the substantial interests of each person requesting the hearing will be affected by the District's action; (2) a statement of all disputed issues of material fact; (3) the Order number; (4) the name, address and telephone number of the person requesting the hearing and, if applicable, of the person's representative; (5) a statement of when and how the person requesting the hearing received notice of the District's action; (6) a concise statement of the ultimate facts alleged, including the specific facts warranting reversal or modification of the District's action; and (7) the relief sought, including precisely what action the requestor wishes the agency to take. A request for hearing that does not dispute the material facts on which the District's action is based shall state that no material facts are in dispute, contain the same information set forth above (with the exception of item (2)), and otherwise comply with Rule 28-106.301(2), F.A.C. A request for hearing must be filed with (received by) the Agency Clerk of the District at the District's Headquarters, 81 Water Management Drive, Havana, FL 32333 within twenty-one (21) days of receipt of this notice. Any person who is not a party to this Order whose substantial interests will be affected by any such final action of the District has the right to request a hearing in accordance with the requirements set forth above. Further pursuant to Section 120.569(2)(n), F.S., any party adversely affected by this Order has the right to seek an injunction of this Order in circuit court or judicial review pursuant to Section 120.68, F.S., in appellate court by filing a notice of appeal under Florida Rule

of Appellate Procedure 9.110, within thirty (30) days after the effective date of this Order. Failure to file a request for hearing, relief, or review within the specified time period shall constitute a waiver of any right of any such person may have to request a hearing under Sections 120.569 and 120.57, F.S. Mediation pursuant to Section 120.573, F.S., 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.

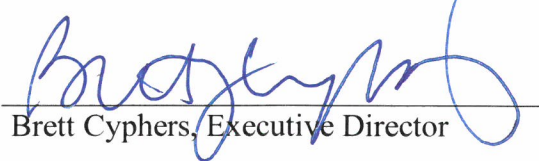
DONE AND ORDERED in Gadsden County, Florida, on this 26th day of February, 2021.

NORTHWEST FLORIDA WATER
MANAGEMENT DISTRICT



Witness


By:



Brett Cyphers, Executive Director

Date: 02/26/2021

Filed this 26th day of
February, 2021.



Agency Clerk