

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

In Re: Authorization to the Southwest Florida))
Water Management District to Admin-)
ister, Enforce and Defend Part IV)
of Chapter 373, Florida Statutes) Order No. 89-0766
(as amended in 1989))

ORDER OF DELEGATION

WHEREAS, Section 373.026, Florida Statutes, gives the Department of Environmental Regulation (Department) the primary responsibility for the administration of Chapter 373, Florida Statutes; and

WHEREAS, it is the policy of the Department to delegate to Water Management Districts programs related to or materially affecting the water resources of the state; and

WHEREAS, the 1989 Legislature amended, effective July 1, 1989, Chapter 373 Part IV (Management and Storage of Surface Waters) to transfer the regulation of stormwater management systems from Chapter 403 to Chapter 373; and

WHEREAS, the amendments included, at Section 15 of Chapter 89-279, Laws of Florida, continuation of all existing Department and Water Management District rules relating to stormwater management systems except for Florida Administrative Code Rule 17-25.090, which had used Chapter 403 as the legal authority for delegation of regulation of stormwater to Water Management Districts; and

WHEREAS, enactment of this legislation creates the opportunity to improve and strengthen Florida's water quality protection programs and, through this Order of Delegation, to ensure the continuing regulation of stormwater management systems and avoid uncertainties as to who is responsible for such regulation; and

WHEREAS, enactment of the legislation was intended to result in regulation of stormwater management systems in a more comprehensive and consistent manner, and to provide a greater degree of environmental protection from the impacts of stormwater; and

WHEREAS, the legislation also included revisions to the Surface Water Improvement and Management Act (SWIM) to improve its effectiveness; and

WHEREAS, a critical component to ensuring the effectiveness of both the stormwater and SWIM legislation is to have all stormwater discharges to state waters be within state regulation from the perspective of both water quantity and water quality; and

WHEREAS, to accomplish this the Department and the Southwest Florida Water Management District (District) must review carefully all discharges, including stormwater discharges from urban and agricultural water management systems, to ensure that they do not cause a violation of applicable Department rules established to protect state quality standards; and

WHEREAS, a reasonable period of time is needed for the District and the Department to develop strategies to accomplish full implementation of the legislation;

NOW THEREFORE, the Department hereby exercises its discretion to authorize the District to administer, enforce and defend, in the manner set forth herein, the stormwater provisions of Chapter 373, part IV, Florida Statutes; Florida Administrative Code Chapters 17-40 and 17-25; existing stormwater rules of the

District; and such further rules and policies that may be developed; and, to that end it is, therefore,

ORDERED:

1. Effective July 1, 1989, the District is delegated the authority to regulate stormwater management systems incorporating all of the existing requirements contained in or adopted pursuant to Chapter 373 and 403, Florida Statutes, relating to the regulation and protection of water quality and the water resources of the state.

2. This delegation shall include authority, except as set forth below, to review permit applications; to issue or deny permits; to establish requirements for the monitoring and maintenance of stormwater management systems; and to enforce and defend against action brought pursuant to the stormwater legislation, existing rules, and any rules adopted pursuant to this legislation.

3. This delegation shall not apply to the regulation of water control structures or stormwater management systems owned or operated by the District. Such authority shall be retained by the Department.

4. The Department and the District shall review and update their existing operating agreements to coordinate the review of applications for the construction of stormwater management systems that will require dredge and fill permits from the Department, and shall amend and reexecute such agreements as necessary.

5. In order that the Department may monitor and audit this delegation, information regarding the regulation of stormwater management systems shall be provided to the Department upon request.

6. The Department and the District shall execute by December 31, 1989, a new operating agreement, in accordance with Chapter 373.046, Florida Statutes, to supercede existing agreements. This agreement shall add:

a) methods for ensuring that stormwater discharges to waters of the state are regulated in a manner that does not cause a violation of applicable Department rules established to protect state water quality standards;

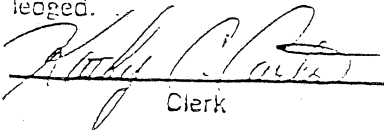
b) a schedule for ensuring that stormwater discharges from urban and agricultural water management systems have permits necessary to protect state water quality standards and the water resources of the state;

c) priority emphasis on discharges to state waters identified in approved SWIM plans.

DONE AND ORDERED this 20 day of July, 1989, in Tallahassee, Leon County, Florida.

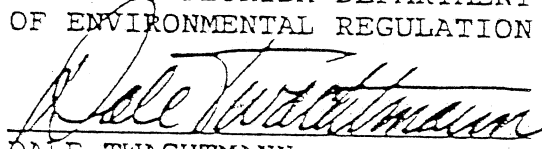
FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to S120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.


Clerk

7-30-89
Date

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION


DALE TWACHTMANN
Secretary

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ORDER OF DELEGATION was sent by U.S. Mail to Peter Hubbell, Executive Director, Southwest Florida Water Management District, 2739 Broad Street, Brooksville, FL 34609 on this 20th day of July, 1989.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

David A. Crowley for
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General Counsel

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