

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**In re:**

**EMERGENCY AUTHORIZATION FOR  
REPAIRS, REPLACEMENT,  
RESTORATION, AND CERTAIN  
OTHER MEASURES MADE NECESSARY  
BY HURRICANE IRMA**

**OGC NO. 17-0989**

**FOURTH AMENDED  
EMERGENCY FINAL ORDER**

Under Sections 120.569(2)(n), 252.36, and 252.46, Florida Statutes, and upon consideration of the State of Florida Executive Order No. 17-235 and 17-287, the State of Florida Department of Environmental Protection (Department) enters this Fourth Amended Emergency Final Order (Order), amending and extending Emergency Final Order 17-0989, issued on September 5, 2017, and amended on September 10, 2017, September 15, 2017 and October 4, 2017, in response to the imminent or immediate danger to the public health, safety, and welfare of the citizens of the State of Florida caused by Hurricane Irma (hereinafter "the Hurricane"). This Fourth Amended Emergency Final Order hereby adopts and incorporates the Findings of Fact and Conclusions of Law made in the Third Amended and Restated Emergency Final Order 17-0989, issued on October 4, 2017, and finds that those conditions caused by the Hurricane continue to exist. This Order amends the Third Amended and Restated Emergency Final Order 17-0989, issued on October 4, 2017, as specified below, and all other terms remain the same.

***THEREFORE, IT IS ORDERED THAT THE THIRD RESTATED AND AMENDED EMERGENCY FINAL ORDER ISSUED ON OCTOBER 4, 2017, IS AMENDED AS FOLLOWS:***

**C. WATER RESOURCE MANAGEMENT**

**2. Environmental Resource, Dredge and Fill, and Surface Water Management Activities**

**a. No Notice Required**

(2) The restoration (regrading, dredging, or filling) by local, regional, state and federal governments of upland surfaces, wetlands, and submerged land contours to the conditions and configurations that were authorized or otherwise legally existing immediately prior to the Hurricane, provided the restoration does not result in any expansion or addition of land or deepening of waters beyond that which existed immediately prior to the Hurricane, subject to the following limits:

(a) The removal or deepening of plugs formerly separating canals from other waters is specifically not authorized by this Order;

(b) In the case of dredging, all excavated material shall either be deposited on uplands that are diked or otherwise sloped or designed to prevent any discharge into wetlands or other surface waters, or shall be used to restore bottom contours and shorelines to the conditions existing immediately prior to the Hurricane, subject to (c), below;

(c) In the case where upland or dredged material is placed in water to restore pre-existing conditions, only clean material (free from debris and pollutants) from the uplands that existed prior to the Hurricane may be used in the restoration, and no change (from the conditions that legally existed immediately prior to the Hurricane) in the slope of the land or the type, nature, or configuration of any pre-existing shoreline stabilization materials is authorized (e.g., sloping revetments cannot be replaced with vertical seawalls, and rock riprap cannot be replaced with interlocking blocks);

(d) Best management practices and devices such as hay bales, mulch, and floating turbidity screens shall be used to prevent violations of state water quality standards for turbidity during the performance of restoration activities, in accordance with the guidelines and specifications in The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual (Florida Department of Environmental Protection and Florida Department of Transportation, Sixth Impression, July 2008) <http://www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf>,

and the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007) [http://www.dot.state.fl.us/construction/Engineers/Environment/PagesErosionSedimentManual\\_0309.pdf](http://www.dot.state.fl.us/construction/Engineers/Environment/PagesErosionSedimentManual_0309.pdf). Best management practices also shall be used to prevent erosion and retain sediment of all newly established or restored exposed shorelines during and after the restoration activities, which may include methods such as planting of temporary and permanent vegetation and placing of clean natural rock or concrete rubble riprap;

(e) Any fill that is deposited to restore a former shoreline, and any riprap that is used to stabilize a shoreline, must not be placed any farther waterward than the toe of slope of the shoreline that legally existed immediately prior to the Hurricane. If the pre-Hurricane shoreline was stabilized with a functioning seawall or riprap, the seawall or riprap may be restored at its former location or within 18 inches waterward of the location where the seawall or riprap legally existed immediately prior to the Hurricane, as measured from the face of the existing seawall slab to the face of restored seawall slab or from the front slope of the existing riprap to the front slope of the restored riprap; and

(f) This section shall not constitute authorization to fill submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund, except as provided above.

**b. Field and Individual Authorization Required**

(3) Field authorizations may be requested by providing a notice to the local office of the Department or water management district containing a description of the work requested, the location of the work, and the name, address, and telephone number of the owner or representative of the owner who may be contacted concerning the work. Field authorizations also may be issued by Department or water management district staff without prior notice. Field authorizations may not be issued unless requested on or before December 3, 2017. Written records of all field authorizations shall be created and maintained by Department and water management district staff. Field authorizations may include specific conditions for the construction, operation, and maintenance of the authorized activities. Field authorizations issued prior to the effective date of this Order remain in effect for the duration specified in the field authorization, but may be extended through written modification by the Department or water management district in accordance with the provisions of paragraph C.6.h. of this Order. Failure to comply with the conditions of the field authorization may result in enforcement actions by the Department or water management district.

**D. GENERAL PROVISIONS**

**7. Deadlines for Agency Actions**

For each of the following offices, any deadlines specified in statutes, rules, agreements, or Department orders, under which the Department is required by law to take action within a specified time period, and under which failure by the Department to

timely take such action could result in any type of default binding on the Department (including the time to request additional information on permit applications), are hereby suspended and tolled until December 3, 2017, provided such deadline had not expired as of September 5, 2017 (the date the Emergency Final Order was issued):

a. Each Department office and delegated local program that sustains within its geographic boundaries any significant physical damage occurring as a direct result of the Hurricane. This includes Department offices located outside the impacted area that perform any of their duties in the impacted area.

b. Any office of the Department not directly impacted by the Hurricane if that office has deployed staff to any Department district office or delegated local program specified above, or to any Water Management District office in an impacted area, to assist in Hurricane relief efforts or to supplement the normal staff in those impacted offices.

**8. Expiration Date**

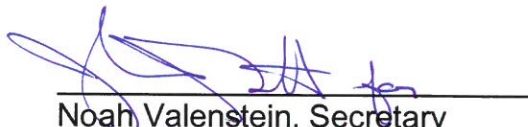
This Emergency Final Order shall take effect immediately upon execution by the Secretary of the Department, or designee, and shall expire on December 3, 2017, unless modified or extended by further order.

**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 of it 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 Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, 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 Department.

**DONE AND ORDERED** on this 3rd day of November 2017, in Tallahassee, Florida.

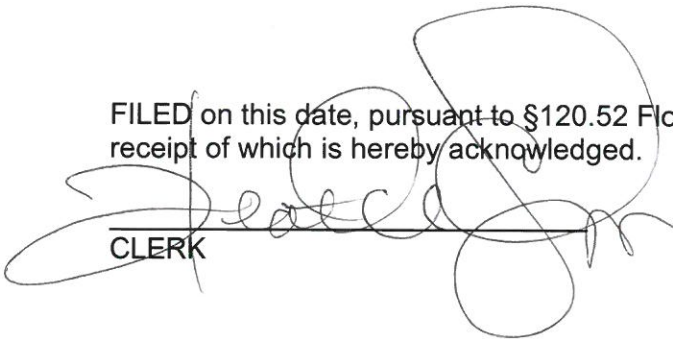
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Noah Valenstein, Secretary

3900 Commonwealth Blvd  
Tallahassee, FL 32399-3000

FILED on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.



CLERK

DATE 11/03/2017