

BEFORE THE GOVERNING BOARD OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO.: 2016-017-DAO-WU

IN THE MATTER OF:

Approval of the 2016
Upper East Coast
Water Supply Plan Update
_____ /

**FINAL ORDER APPROVING THE 2016 UPPER EAST
COAST WATER SUPPLY PLAN UPDATE**

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SOUTH FLORIDA
WATER MANAGEMENT DISTRICT

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 Section 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 Upper East Coast ("UEC") is one of five regional planning areas in the District. The planning area covers approximately 1,200 square miles and includes all of Martin and St. Lucie counties and a small portion of northeastern Okeechobee County.
2. The UEC Planning Area generally reflects the watersheds of the C-23, C-24, C-25, and C-44 canals.
3. The UEC Planning Area includes natural systems such as the Indian River Lagoon, the St. Lucie River and Estuary, Allapattah Flats, the Savannas, Pal-Mar, Atlantic Coastal Ridge, DuPuis Reserve, Jonathan Dickinson Park and portions of the Loxahatchee River.
4. In 1998, the District's Governing Board approved the first Upper East Coast Water Supply Plan ("UEC Plan"). The Governing Board subsequently updated the UEC

Plan in 2004 and amended the UEC Plan in 2006. The 2006 UEC Plan Amendment covered the 2005-2025 planning period. In addition, the Governing Board approved the 2011 UEC Plan Update covering the 2010-2030 planning period.

5. The purpose of this effort is to update the UEC Plan approved in 2011 to establish a framework for future District actions to meet the water supply and associated natural resource protection requirements of Chapter 373, Fla. Stat.

6. The 2016 UEC Plan Update is based on a planning period of 2013-2040 and 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 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.

7. Population is expected to increase from 434,015 people in 2013 to approximately 683,319 by 2040. This growth will create additional water demands for potable and irrigation water.

8. Irrigated agricultural acreage is projected to increase from about 122,068 acres in 2013 to approximately 138,292 acres in 2040.

9. Total water use is projected to increase by 97.2 MGD over the 2013 water demands to 354.7 MGD by 2040.

10. Agricultural water supply remains the UEC Planning Area's single largest water use category, representing 52.6% percent of the planning area's total water demand in 2040, or 186.7 MGD.

11. Based on the existing population data, population projections, and a decline in per capita water use rates, the 2016 UEC Plan concludes that in aggregate, the UEC

Planning Area PWS utilities have adequate permitted water allocations and potable water treatment capacity to meet 2040 demands. However, two PWS utilities need to address the following to have sufficient water capacity to meet their anticipated 2040 potable water demands: construction of 2.5 MGD of the proposed potable water supply development projects and complete the process of a water use permit modification.

12. The 2016 UEC Plan Update was developed based upon the best available information, but recognizes the uncertainty in projecting Agricultural demand in the UEC Planning Area. Recently, citrus acreage has declined dramatically as a result of disease. There is potential for fallow citrus land to convert to other crops that may require irrigation water with lower levels of total dissolved solids than citrus. Staff will continue to work with agricultural stakeholders to refine anticipated needs for future updates of the plan.

13. The 2016 UEC Plan 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 through the year 2040.

14. The UEC Update includes recommendations for water resource development projects and specific water supply development projects from which local water users may choose. The UEC Update contains recommendations and implementation strategies regarding these potential solutions.

15. The UEC Plan recommends continued coordination with agricultural stakeholders, utilities, and other water users; natural resource protection; and continued monitoring to identify changes in water levels and water quality in surface water and groundwater.

16. The UEC Plan concludes that, with appropriate management and diversification of water supply sources, there is sufficient water to meet the needs of this region during a 1-in-10 year drought condition through 2040. In addition to the recommendations in the Plan, 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 and potentially increase availability of surface water for human water use.

17. Development of the 2016 UEC Plan Update occurred in conjunction with an open public participation effort. Public participation was facilitated through the District's Water Resource Advisory Commission ("WRAC"). The WRAC is an advisory body to the Governing Board which provides a forum for improving public participation and decision-making on water resource issues affecting south Florida.

18. The District held two UEC Plan WRAC Issues Workshops in the planning area from June 2015 through December 2015. The primary role of the WRAC Issues Workshops was to receive public input, contribute local knowledge and expertise, and reflect the collective concerns of the various stakeholders in the planning region.

19. The 2016 UEC Plan Update is not a self-executing document. Implementation of the 2016 UEC Plan will occur through a variety of future Governing Board actions. A flexible course of action is proposed. However, future decisions concerning contracts, research, budgetary appropriations, cost-sharing arrangements, rulemaking, permitting, operational protocol, local agreements, inter-governmental coordination, and study efforts will commit the District to a specific direction. When such final decisions are made, affected persons will be offered appropriate public input opportunities and rights.

20. The 2016 UEC Plan Update, including the associated appendices, dated March 2016 is attached to this Order as Exhibit A. Staff advised the Governing Board that interested parties may provide Staff with outstanding, minor comments associated with the 2016 UEC Plan Update.

21. Further, this planning document may be updated as appropriate in light of new technical information and analysis. Such updates are required to occur at no later than at five year intervals.

CONCLUSIONS OF LAW

22. Section 373.709, Fla. Stat., authorizes the governing boards of the water management districts to undertake regional water supply planning efforts, including the updating of existing plans such as this UEC Plan Update.

23. Section 373.709, Fla. Stat., also 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.

24. Water supply plans are required to include intermediate water use projections for each 5 year interval. 62-40.531(1)(a), Fla. Admin. Code. Additionally, Fla. Admin. Code R. 62-40.531(8) requires water management districts to update each regional water supply plan every five years.

25. Specific water resource development and water supply development projects must be included in regional water supply plans. Section 373.709, Fla. Stat. (2015).

26. The Governing Board concludes that the 2016 UEC Plan Update meets the requirements of Section 373.709, Fla. Stat., and Rule 62-40.531, Fla. Admin. Code.

27. Section 373.709(5), Fla. Stat., establishes the opportunity for administrative review of District approval of a regional water supply plan. This provision states:

Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of Chapter 120. However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569, Fla. Stat.

28. Section 120.569, Fla. Stat., details the legal provisions that apply in all proceedings in which the substantial interests of a party are determined by an agency. The attached Notice of Rights which describes the potential remedies which may exist is attached hereto as Exhibit B.

29. The Notice of Rights shall not cover actions taken by the Governing Board in the future to implement the UEC Plan. When implementing action is taken, the Governing Board shall offer an appropriate point of entry to substantially affected parties. To the extent the 2016 UEC Plan Update, or anything in the 2016 UEC Plan Update, 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 UEC Plan.

30. The 2016 UEC Plan Update may be updated or amended as new technical information and analysis becomes available. Such updates shall occur in accordance with Section 373.709, Fla. Stat., at intervals no later than five years from the date of entry of this order.

31. The Governing Board authorizes staff to make minor changes to the 2016 UEC Plan Update in response to stakeholder comments submitted to staff that do not alter the substance of the 2016 UEC Plan Update.

ORDER

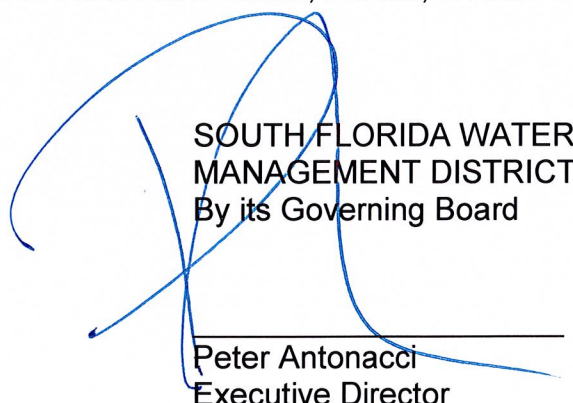
Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED:

32. The 2016 Upper East Coast Water Supply Plan Update is hereby approved in accordance with Section 373.709, Fla. Stat.

33. District staff is authorized to make minor changes to the 2016 UEC Plan Update that do not alter the substance of the UEC Plan in response to stakeholder comments submitted to staff. Such changes must occur no later than 30 days after the March 10, 2016 Governing Board meeting.

34. District staff is authorized to 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 10th day of March, 2016.



SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
By its Governing Board

Peter Antonacci
Executive Director