

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 16-155

(Emergency Management – Lake Okeechobee Discharge)

WHEREAS, there has been an increased number of algae blooms in the month of June 2016 in Martin and St. Lucie Counties; and

WHEREAS, the discharges from Lake Okeechobee to the St. Lucie River and Estuary have increased by 1200 cubic feet per second since May 27, 2016; and

WHEREAS, the Federal Government, as the owner and sole operator of the Herbert Hoover Dike, has a responsibility to the State of Florida and its residents to maintain the dike; and

WHEREAS, the Obama Administration unreasonably failed to budget for adequate maintenance and speedy rehabilitation of the Herbert Hoover Dike, resulting in frequent discharges of harmful water from Lake Okeechobee to the St. Lucie and Caloosahatchee Rivers and estuaries; and

WHEREAS, the United States Army Corps of Engineers analytic studies predict there is a limited potential for dike failure with lake elevations below 18 feet, but because of inadequate maintenance (as a result of inadequate funding by the federal government), the Corps typically operates the lake at substantially lower elevations of 12.5 to 15.5 feet. If the Obama administration had properly budgeted the necessary funding to maintain the dike to operate at its higher potential capacity of 18 feet, the Corps would not have been required to discharge approximately 30 billion gallons of flood waters from Lake Okeechobee to the St. Lucie and Caloosahatchee Rivers and estuaries; and

WHEREAS, I recognize the importance of participation by residents and local governments in the affected areas to support efforts to improve water quality in the region; and

WHEREAS, the release of these waters and increase in algae blooms that have been dominated by *Myrosystis*, an algae that can produce toxins, has unreasonably interfered with the health, safety, and welfare of the State of Florida and its residents; and

WHEREAS, the release of these waters and the toxic algae blooms has resulted in environmental harm to the aquatic ecosystem, by lowering oxygen levels needed by aquatic species such as fish; and

WHEREAS, the release of these waters and the algae blooms has increased the potential of harm to the health of our citizens; by producing harmful toxins that can cause adverse health effects; and

WHEREAS, the release of these waters, the algae blooms, and the issuance of health advisories including the closures of recreational areas has caused economic losses in the adjacent communities, including Martin, and St. Lucie Counties; and

WHEREAS, the Department of Environmental Protection and the South Florida Water Management District have identified additional water storage projects to reduce the pressure increased releases are putting on the affected waterbodies; and

WHEREAS, Florida has invested more than \$688 million in Everglades restoration over the past five years and will continue to invest up to \$200 million a year under the Legacy Florida bill which Governor Scott signed into law this year. The State of Florida has invested nearly \$2 billion in the Comprehensive Everglades Restoration Plan (CERP) and \$1.8 billion in providing clean water to the Everglades. To date, the federal government is \$880 million behind in its share of CERP funding; and

WHEREAS, the State of Florida is waiting on the federal government to invest \$800 million to repair the Herbert Hoover Dike. Due to the inadequate maintenance of the Herbert Hoover Dike by the federal government, the United States Army Corps of Engineers is unable to maintain water levels within Lake Okeechobee at its designed or reasonable heights; and

WHEREAS, with the State's commitment to CERP and in addition to the federal government's responsibility to maintain the Herbert Hoover Dike, the federal government needs to invest \$6.7 billion over the next 20 years to keep up with Florida's commitment to the greater Everglades ecosystem.

NOW, THEREFORE, I, RICK SCOTT, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, I declare that a state of emergency exists in Martin and St. Lucie Counties.

Section 2. I designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency and direct him to execute the State's Comprehensive Emergency Management Plan and other response, recovery, and mitigation plans necessary to cope with the emergency.

I designate the Florida Department of Environmental Protection as the lead agency for all crisis management responsibilities related to this emergency. The Department of Environmental Protection shall advise the State Coordinating Officer on all emergency response activities.

Pursuant to section 252.36(1)(a), Florida Statutes, I delegate to the State Coordinating Officer the authority to exercise those powers delineated in sections 252.36(5)–(10), Florida Statutes, which he shall exercise as needed to meet this emergency, subject to the limitations of section 252.33, Florida Statutes. In exercising the powers delegated by this Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. The State Coordinating Officer shall also have the authority to:

A. Invoke and administer the Emergency Management Assistance Compact ("EMAC") (sections 252.921-.933, Florida Statutes) and other compacts and agreements existing between the State of Florida and other states, and the further authority to coordinate the allocation of resources from such other

states that are made available to Florida under such compacts and agreements so as best to meet this emergency.

B. Seek direct assistance and enter into agreements with any and all agencies of the United States Government as may be needed to meet the emergency.

C. Direct all state, regional and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the needs created by this emergency, and to place all such personnel under the direct command and coordination of the State Coordinating Officer to meet this emergency.

D. Designate Deputy State Coordinating Officers.

E. Suspend the effect of any statute, rule, or order that would in any way prevent, hinder, or delay any mitigation, response, or recovery action necessary to cope with this emergency.

F. Enter orders as may be needed to implement any of the foregoing powers; however, the requirements of sections 252.46 and 120.54(4), Florida Statutes, do not apply to any such orders issued by the State Coordinating Officer.

Section 3. I find that the special duties and responsibilities resting upon some State, regional, and local agencies and other governmental bodies in responding to the emergency may require them to waive or deviate from the statutes, rules, ordinances, and orders they administer. Therefore, I issue the following authorizations:

A. Each State agency may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of that agency, 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. This includes, but is not limited to, the authority to suspend any and all statutes, rules, ordinances, or orders which affect leasing, printing, procurement, purchasing, travel, and the condition of employment and the compensation of employees. For the purposes of this Executive Order, "necessary action in coping with the emergency" means any emergency mitigation, response, or recovery

action: (1) prescribed in the State Comprehensive Emergency Management Plan (“CEMP”); or, (2) directed by the State Coordinating Officer. Any waiver of statutes, rules, ordinances, or orders shall be by emergency rule or order in accordance with sections 120.54(4) and 252.46, Florida Statutes, and shall expire thirty days from the date of this Executive Order, unless extended in increments of no more than thirty days by the agency, and in no event shall remain in effect beyond the earlier of the date of expiration of this Order, as extended, or ninety (90) days from the date of issuance of this Order.

B. In accordance with section 252.38, Florida Statutes, each political subdivision within the State of Florida may waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:


- 1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- 2) Entering into contracts;
- 3) Incurring obligations;
- 4) Employment of permanent and temporary workers;
- 5) Utilization of volunteer workers;
- 6) Rental of equipment;
- 7) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and,
- 8) Appropriation and expenditure of public funds.

Section 4. All State agencies entering emergency final orders or other final actions in response to this emergency shall advise the State Coordinating Officer contemporaneously or as soon as practicable.

Section 5. All actions taken by the Director of the Division of Emergency Management with respect to this emergency before the issuance of this Executive Order are ratified. This Executive Order shall expire 60 days from this date unless extended.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 29th day of June, 2016.


GOVERNOR

ATTEST:


SECRETARY OF STATE

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA