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John W. Hickenlooper
Governor

D 2011-032

EXECUTIVE ORDER

Amending the Declaration of Disaster Emergency Due to Fourmile Fire in Boulder County and Extending Authorization of Debris Removal and Availability of Funds

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to relevant portions of the Colorado Disaster Emergency Act of 1992, C.R.S. § 24-32-2100, *et seq.*, and specifically C.R.S. § 24-32-2505, I, John W. Hickenlooper, hereby issue this Executive Order extending an earlier declaration of a state of disaster emergency due to the wildfire in Boulder County, Colorado and extending availability of funds and authorization to enter upon land to remove debris.

I. Background and Purpose

On Monday, September 6, 2010, a wildfire ("Fourmile Fire") broke out in Fourmile Canyon, approximately 12 miles northwest of Boulder, Colorado. The Fourmile Fire poses an imminent danger to human life and property and, therefore, constitutes a disaster. In response to this disaster, on September 7, 2010, Governor Ritter issued Executive Order D 2010-012 declaring a disaster emergency. Two days later, on September 9, 2010, Governor Ritter issued Executive Order D 2010-013, reaffirming his disaster declaration and making additional state resources available to support the State's response to the Fourmile Fire.

By the time the Fourmile Fire was extinguished on September 14, 2010, the fire had spread to more than 3,000 acres, forced the evacuation of more than 3,000 residents, and destroyed 169 homes. With the assistance of Boulder County Emergency Management, the residents have been diligently working to clear land of fire debris. However, the inability to identify, contact, or obtain the consent of some private landowners has hampered Boulder County's ability to remove some of the debris left by the fire. This remaining debris, some of which may contain hazardous materials, poses a threat to public health and safety if not removed and properly disposed of in the near-term.

Once a disaster declaration has been made, state law authorizes me to order the removal or clearance of debris or wreckage from public or private lands through the use of "any of the state's instrumentalities" when such debris "may threaten public health or safety or public or private property." *See* C.R.S. § 24-32-2505(1)(a). In order to invoke this

authority, the local government must "first present[] an unconditional authorization for the removal of such debris or wreckage from public or private property and, in the case of removal of debris or wreckage from private property, first agree [] to indemnify the state government against any claim arising from such removal." *See* C.R.S. § 24-32-2505(2). On October 7, 2010, Boulder County provided the state with the required authorization and indemnification. Therefore, on December 8, 2010, Governor Ritter issued Executive Order D 2010-019, authorizing Boulder County, as an instrumentality of the state, to remove debris from the Fourmile Fire from public and private property. I issued Executive Orders D 2011-013, D 2011-017, D 2011-025, D 2011-026, D 2011-27, and D 2011-029 which provided additional thirty-day extensions of authorization to remove debris. The debris removal efforts are still not complete. Indeed, such efforts are not expected to be complete until November 2011. I understand that after September 30, 2011, Boulder County will begin mandatory debris removal procedures on private properties that have not complied with previous debris removal requests and offers of assistance. Thus, I am extending the debris authorization removal authority again. By statute, however, in order to authorize debris removal I must also declare a disaster emergency, the duration of which is limited to thirty days unless extended further by executive order. Therefore, with this executive order, I will extend the disaster declaration and debris removal authorization by thirty days, but it is expected that further extensions will be necessary before the work is completed. This thirty day extension is effective November 1, 2011, upon the expiration of Executive Order D 2011-029.

Paragraph II(B) of Executive Order D 2010-013 made $200,000 available for response and recovery efforts. A portion of those funds are being used by Boulder County to fund a Boulder Fourmile Recovery Manager position. The County has determined that the position will be necessary and should continue through September 2012. The funds from Executive Order D 2010-013, however, are only available through September 9, 2011. In order to permit the County to effectively manage the recovery, I am extending the availability of the funds made available by Executive Order D 2010-013 through September 30, 2012.

II. Declaration and Directives

In addition to the declarations and directives contained in Executive Orders D 2010-012, D 2010-013, D 2010-019, D 2011-002, D 2011-006, D 2011-007, D 2011-012, 2011-013, D 2011-017, D 2011-025, D 2011-026, D 2011-027, and D 2011-029, I declare and direct, as follows:

A. I hereby declare that Fourmile Fire continues to constitute a disaster emergency for purposes of C.R.S. § 24-32-2103.

B. I continue to authorize Boulder County, as an instrumentality of the State, to remove and properly dispose of debris or wreckage from the Fourmile Fire from public or private property in Boulder County, Colorado. I acknowledge and find that on October 7, 2010, Boulder County

presented to me an unconditional authorization for the removal of such debris or wreckage from public or private property and, in the case of removal of debris or wreckage from private property, has agreed to indemnify the state government against any claim arising from such removal.

C. The $200,000 encumbered pursuant to paragraph II(B) of Executive Order D 2010-013 shall remain available through September 30, 2012, for the purposes of the original encumbrance. Specifically, these funds may be used to pay for resources as requested by Boulder County or appropriate state agencies and as approved by the Director of the Division of Emergency Management to assist with government costs incurred during the current disaster emergency by government entities, including costs incurred by non-profit organizations on behalf of government entities. The Director of the Colorado Division of Emergency Management is hereby authorized and directed to allocate the funding to the appropriate agencies. These funds shall remain available for this purpose through September 30, 2012, and any unexpended funds shall remain in the Disaster Emergency Fund.

III. Duration

Executive Order D 2010-012 remains in full force and effect as originally promulgated. The funds made available pursuant to paragraph II(B) of Executive Order D 2010-013 shall remain available until September 30, 2012, and in all other respects Executive Order D 2010-013 shall remain in full force and effect as originally promulgated. This Executive Order shall expire on December 1, 2011, unless extended further by Executive Order.

GIVEN under my hand and the Executive Seal of the State of Colorado this first day of November, 2011

John W. Hickenlooper
Governor