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John W. Hickenlooper
Governor

D 2013-022

EXECUTIVE ORDER

Reauthorizing and Amending the Declaration of Disaster Emergency for the West Fork Fire Complex in Mineral, Rio Grande, and Hinsdale Counties

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, C.R.S. § 24-33.5-701, *et seq.*, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order reauthorizing and amending Executive Order D 2013-017 declaring a disaster emergency due to the West Fork Fire Complex in Mineral, Rio Grande, and Hinsdale Counties, Colorado.

I. Background and Purpose

The Governor is responsible for meeting the dangers to the state and people presented by disasters. C.R.S. § 24-33.5-704(1). The Colorado Disaster Emergency Act defines a disaster as "the occurrence or imminent threat of widespread or severe damages, injury or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood [and] water contamination . . . ." C.R.S. § 24-33.5-703(3).

On June 5, 2013, lightning started the West Fork Fire in the San Juan National Forest in Mineral County. By June 21, 2013, the West Fork Fire Complex had grown to over 29,000 acres and the Governor verbally declared a disaster emergency. By July 23, 2013, the West Fork Complex Fire had grown to 109,615 acres and was 66% contained. The fire continues to burn inside its perimeter and the large amount of beetle kill trees and forecasted hot and dry weather exacerbate the likelihood of continued extreme fire behavior.

Emergency medical providers from outside Colorado continue to support firefighters on the West Fork Fire Complex and other large wildfires in Colorado, especially in northwest Colorado. In non-emergency circumstances, an individual providing emergency medical services in Colorado must possess a certification issued by the Colorado Department of Public Health and Environment. C.R.S. § 25-3.5-203(1)(b). During a disaster emergency, the Governor is

authorized to suspend the provisions of any regulatory statute or the regulations of any state agency if strict compliance with the provisions of the statute or regulation would in any way "prevent, hinder, or delay necessary action in coping with the emergency." C.R.S. § 24-33.5-704(7)(a).

The West Fork Complex Fire severely damaged critical watersheds and forest soils, resulting in threats to water supplies and increasing the likelihood of severe flooding. Rainfall runoff in wildfire burn areas is significantly increased from pre-fire conditions due to loss of vegetation and changed soil conditions. As a result, lands within and downstream of burn areas will experience an increased threat of flooding for a number of years after the fire. Until burned watersheds recover, effective flood damage reduction tools include local preparedness, risk awareness, flood insurance policies, and mitigation. Further, the West Fork Fire Complex is located in an area of the state known to experience gaps in available weather radar due to terrain blockage of radar beams.

These conditions create an immediate need for financial relief in the West Fork Fire Complex burn area. Installations of weather radar infrastructure (either temporary or permanent), along with rain gauges and stream gauges at key locations, are needed to help develop a fully functioning flood alert system for the endangered watersheds and communities.

However, federal funds that normally help in post-fire flood mitigation and watershed management have been impaired due to federal sequestration. In light of these exceptional circumstances, on July 17, 2013, the Colorado Water Conservation Board unanimously elected to release $2,500,000 from the Colorado Water Conservation Board's Severance Tax Trust Fund Perpetual Base Account to Hinsdale County to help in post-fire mitigation, emergency preparedness and flood mitigation – including rain gauges and radar equipment to provide early warnings for flooding.

This Executive Order reauthorizes the state of disaster emergency for the West Fork Fire Complex, and orders that $2,500,000 from the Colorado Water Conservation Board's Severance Tax Trust Fund Perpetual Base Account be utilized to help protect communities and natural resources in the West Fork Fire Complex burn area from post-wildfire dangers.

II. Declaration and Directives

A. The West Fork Fire Complex continues to constitute a disaster emergency for purposes of C.R.S. § 24-33.5-701, *et seq.*

B. Due to the extent of the West Fork Fire Complex and other wildfires burning in Colorado, C.R.S. § 25-3.5-203(1)(b) is suspended for providers directly in support of wildfire suppression operations who hold current emergency medical services provider licensure or certification in good standing from the National Registry of Emergency Medical Technicians or any state or territory in the United States until this Executive Order expires. C.R.S. § 24-33.5-704(7)(a).

I declare and direct that Executive Order D 2013-017 is hereby amended to add the following sections:

J. Pursuant to C.R.S. § 24-33.5-706(4)(b), the funds in the Disaster Emergency Fund are found to be insufficient to pay for emergency preparedness, high flow alert systems and post-fire mitigation in the West Fork Fire Complex burn areas. Therefore, it is ordered that $2,500,000 be transferred from the Colorado Water Conservation Board's Severance Tax Trust Fund Perpetual Base Account to the Disaster Emergency Fund. It is further ordered that this $2,500,000 be encumbered to pay for emergency preparedness, high flow alert systems and post-fire mitigation in the West Fork Fire Complex burn areas.

K. The Colorado Water Conservation Board is directed to administer the funds described in paragraph II (J). The Colorado Water Conservation Board shall contract exclusively with Hinsdale County, who shall be the fiscal agent for the purposes of these funds. Hinsdale County will disburse these funds to contractors or entities performing the work through a separate contract, pursuant to the approval process described in paragraph II (L).

L. The Executive Director of Department of Natural Resources or his designee shall have authority to approve projects submitted by Hinsdale County for funding. The Executive Director of Department of Natural Resources or his designee shall use the Colorado Water Conservation Board's Watershed Restoration program guidelines as a template to review and consider all projects submitted by Hinsdale County for funding. At each Board meeting of the Colorado Water Conservation Board, the Director of the Colorado Water Conservation Board shall update the Board about projects completed, remaining balance of the fund, and projects under consideration.

M. The funds described in paragraph II (J) shall be available for five years from the date of this Executive Order. The Executive Director of Department of Natural Resources or his designee shall have the authority to determine when relief efforts have been completed. Upon this determination, or at the expiration of five years, any remaining funds shall be returned to the Colorado Water Conservation Board's Severance Tax Trust Fund Perpetual Base Account.

N. Upon the completion of the relief efforts, as described in paragraph II (M), Hinsdale County shall submit to the Colorado Water Conservation Board a final report that summarizes the work completed. This report shall include field documentation, photos, description of funds leveraged, lessons learned and any other information which would assist other entities or organizations in addressing post-fire mitigation. Hinsdale County, or its designated representative, shall formally present this report to the Colorado Water Conservation Board no later than 120 days after completion of the relief efforts.

III. Duration

Executive Order D 2013-017 remains in full force and effect as originally promulgated and as amended herein. This Executive Order shall expire thirty days from its date of signature, unless extended further by Executive Order, except that the funds described in paragraph II (J) shall remain available for the described purposes for five years from the date of June 21, 2013.

GIVEN under my hand and the Executive Seal of the State of Colorado this twenty-fifth day of July, 2013.

John W. Hickenlooper
Governor