



**RICK SCOTT**  
GOVERNOR

July 6, 2016

The Honorable Barack H. Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Through: Gracia Szczech, Regional Administrator  
FEMA Region IV  
Atlanta, GA 30341

RE: Request for Federal Emergency Declaration  
Lake Okeechobee Discharges

Dear Mr. President:

As a result of the increased water levels in Lake Okeechobee, the U.S. Army Corps of Engineers ("USACE") has been pumping billions of gallons of water east into the Indian River Lagoon and west into the Caloosahatchee River since earlier this year. These water releases are a contributing factor in the development of toxic algae blooms in the St. Lucie Estuary at the southern end of the Indian River Lagoon and potential algae blooms in the Caloosahatchee River in the future.

On June 29, 2016, after an increased presence of toxic algae blooms in the Indian River Lagoon, I issued Executive Order 16-155, which declared a state of emergency in Martin and St. Lucie Counties.

On June 30, 2016, with the potential of toxic algae blooms to spread, I issued Executive Order 16-156, which expanded Executive Order 16-155 to include Lee and Palm Beach Counties.

It is the federal government's sole responsibility to maintain and repair the federally operated Herbert Hoover Dike. Consequently, any damage caused by the unnecessary water releases due to the federal government's lack of appropriate maintenance of the Dike is the federal government's responsibility. If the federal government would have properly funded the maintenance and repair of the Dike

then the USACE could have properly maintained and repaired the Dike and ensured the Dike was structurally sufficient to the USACE own standards; thus, the USACE could have better managed the release of billions of gallons of water. The USACE predicts they have the ability to hold lake elevations up to 18 feet, yet because of inadequate maintenance and repair of the Dike, as a result of inadequate federal funding, the lake has been holding water at substantially lower elevations of 12.5 to 15.5 feet. Now, as a result of their releases, there is toxic algae which has caused environmental and economic devastation. The federal government has ignored proper maintenance and repair to this structure for more than a decade and has put our state in this vulnerable position.

Therefore, under the provisions of Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), as implemented by 44 C.F.R. § 206.35, I request that you declare a federal emergency due to the public health and safety threats associated with the unnatural discharges of nutrient-laden freshwater from Lake Okeechobee into the canals that flow east into the Indian River Lagoon and west into the Caloosahatchee River.

Because I make this request under 44 CFR §206.35(d), the requirements of 44 CFR §206.35(a) through (c) should not apply.

### **Federal Emergency Declaration**

An Emergency Declaration is appropriate when federal emergency assistance is needed to:

- Protect public health and safety;
- Save lives;
- Protect property; and/or,
- Lessen or avert the threat of a disaster or catastrophe.

### **Federal Responsibility**

44 C.F.R. § 206.35(d) allows the President to declare a federal emergency under the Stafford Act when "an emergency exists for which the primary responsibility rests in the federal government because the emergency involves a subject area for which,

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under the Constitution or laws of the United States, the federal government exercises exclusive or pre-eminent responsibility and authority.”

### **No Other Meaningful or Effective Federal Assistance**

To the extent that the authority to respond to the current emergency lies with the USACE, and to the extent that the USACE does not need a Presidential declaration in order to respond to the threat, I assert that “there are significant unmet needs of sufficient severity and magnitude, not addressed by other assistance, which could appropriately be addressed under the Stafford Act.” 44 CFR §206.37(d).

Put simply, the USACE’s hands are tied. Without adequate funding to maintain and repair the Herbert Hoover Dike, the USACE has no choice but to discharge water from Lake Okeechobee. Unfortunately, this situation fails to provide any meaningful assistance to the millions of Floridians currently coping with the ongoing public health and safety emergency.

### **Conclusion**

Based on the foregoing, I request that you declare a federal emergency and use the full resources of the federal government to eliminate the public health and safety threats associated with the unnatural discharge of nutrient-laden freshwater from Lake Okeechobee into the canals that flow east into the Indian River Lagoon and west into the Caloosahatchee River.

I have designated the Director of the Florida Division of Emergency Management as the State Coordinating Officer for this emergency. He is authorized to provide any further information, assurances, requests, or justification on my behalf.

Sincerely,



Rick Scott  
Governor

cc: Senator Bill Nelson  
Senator Marco Rubio  
Congressman Patrick Murphy