

STATE OF FLORIDA

OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 21-82

(Emergency Management-Eastport Terminal Facility)

WHEREAS, on March 25, 2021, HRK Holdings L.L.C., who is the responsible entity for the operation of the phosphogypsum stacks at Eastport Terminal facility, reported increased flow and specific conductivity measurements indicating the presence of a leak from the Site's NGS-S lined compartment; and

WHEREAS, the Site's NGS-S Structure 1 lined compartment contains 480 million gallons of a mixture of seawater and remnant process water from the historical fertilizer manufacturing operations at the site; and

WHEREAS, as of March 28, 2021, the drain flow rates and conductivity measurements have continued to increase by an unidentified source, causing potential risks and system instability; and

WHEREAS, the Department of Environmental Protection has determined that the site is an imminent hazard pursuant to section 403.4154, Florida Statutes, which creates an immediate and substantial danger to human health, safety, welfare and the environment; and

WHEREAS, the Department of Environmental Protection has determined the potential risks caused by the conductivity measurements at Structure 1 create an imminent threat of potential loss of containment and the release of large amounts of seawater, mixed process water, and embankment materials if immediate action is not taken; and

WHEREAS, due to this danger it is vital that local disaster response agencies prepare for the evacuation of persons from communities at risk of flooding due to their close proximity to

the facility for the safety of the residents and law enforcement will need to take action as needed to divert traffic and clear waterways; and

WHEREAS, other emergency measures may be needed to protect the lives and property of the people in the threatened communities, and the general welfare of the State of Florida; and

WHEREAS, immediate emergency actions shall be taken to abate or substantially reduce the imminent hazard and stabilize all of the systems dikes, berms, and ditches to prevent a containment failure; and

WHEREAS, as Governor, I am responsible for meeting the dangers presented to this state and its people by this emergency.

NOW, THEREFORE, I, RON DESANTIS, 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 find that the prospect of one or more systems failures at the Eastport Terminal Facility threatens the State of Florida with a disaster and environmental emergency. I therefore declare that a state of emergency exists in Hillsborough, Manatee, and Pinellas Counties due to the proximity of these counties to the facility. I further find that in the event a dangerous release is imminent, central authority over the evacuation of these counties will be needed to coordinate the evacuation, because the evacuation will exceed the capabilities of the local governments in these communities.

Section 2. I designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency. In exercising the powers delegated by this Executive Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. In accordance with sections 252.36(1)(a) and 252.36(5), Florida

Statutes, I delegate to the State Coordinating Officer the following powers, which he shall exercise subject to the limitations of section 252.33, Florida Statutes, as needed to meet this emergency:

A. The authority to activate the Comprehensive Emergency Management Plan (“CEMP”);

B. The authority to invoke and administer the Statewide Mutual Aid Agreement (“SMAA”), and the further authority to coordinate the allocation of resources under that Agreement so as best to meet this emergency;

C. The authority to seek direct assistance from any and all agencies of the United States Government as may be needed to meet the emergency;

D. The authority to distribute any and all supplies stockpiled to meet the emergency;

E. The authority to suspend existing statutes, rules, ordinances, and orders for the duration of this emergency to the extent that literal compliance with such statutes, rules, ordinances, and orders may be inconsistent with the timely performance of disaster response functions;

F. The authority to suspend the effect of any statute or rule governing the conduct of state business, and the further authority to suspend the effect of any order or rule of any governmental entity, to include, without limiting the generality of the foregoing, any and all statutes and rules which affect budgeting, printing, purchasing, leasing, procurement, and the conditions of employment and the compensation of employees; provided, however, that the State Coordinating Officer shall have authority to suspend the effect of any statute, rule or order only to the extent necessary to ensure the timely performance of vital emergency response functions;

G. The authority to relieve any and all state agencies responsible for processing applications or petitions for any order, rule, or other final action subject to the Administrative

Procedure Act, as amended, from the deadlines specified in that Act and in other applicable laws for the duration of this emergency, if the State Coordinating Officer finds that such deadlines cannot be met because of this emergency;

H. The authority to 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 of the State Coordinating Officer to meet this emergency;

I. The authority to seize and utilize any and all real or personal property as needed to meet this emergency, subject always to the duty of the State to compensate the owner;

J. The authority to order evacuation, and the authority to direct the sequence of evacuation in which such evacuations shall be carried out, and the further authority to regulate the movement of persons and traffic to, from, or within the affected counties to the extent needed to cope with this emergency;

K. The authority to regulate the return of the evacuees to their home communities;

L. The authority to designate such Deputy State Coordinating Officers as the State Coordinating Officer may deem necessary to cope with the emergency; and

M. The authority to enter such orders as may be needed to implement any or all of the foregoing powers.

Section 3. I direct each of the counties named in Section 1 of this Executive Order to activate its County Emergency Management Plan to ensure an immediate state of operational readiness, and I further direct the remaining counties in the State of Florida, at the discretion of the State Coordinating Officer, to prepare to activate all shelters to accommodate the evacuees.

Section 4. I direct all state, regional, and local agencies to place any and all available resources under the direction of the State Coordinating Officer as needed to meet this

emergency. The Department of Law Enforcement shall have the operational authority to coordinate and direct law enforcement resources and other resources of any and all local, regional, and state governmental agencies that the Department may designate to take the precautions needed to protect the State of Florida from terrorist acts. I place all law enforcement resources under the operational authority of the Department of Law Enforcement while this Executive Order remains in effect. In exercising the powers delegated by this Executive Order, the State Coordinating Officer shall coordinate the response to this event by law enforcement resources of the State in consultation with the Department of Law Enforcement.

Section 5. I designate all state, regional, and local governmental facilities including, without limiting the generality of the foregoing, all public elementary and secondary schools, all Community Colleges, and all State Universities, at the discretion of the State Coordinating Officer for use as shelters to ensure the proper reception and care of all evacuees.

Section 6. In accordance with sections 252.36(5)(a) and 252.46(2), Florida Statutes, all statutes, rules, and orders are hereby suspended for the duration of this emergency to the extent that literal compliance with such statutes, rules, and orders may be inconsistent with the timely performance of emergency response functions. I also 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 deviate from the statutes and rules they administer. Without limiting the generality of the foregoing, I order the following:

- A. Pursuant to section 252.36(1)(a), Florida Statutes, the Executive Office of the Governor may suspend all statutes and rules affecting budgeting to the extent necessary to provide budget authority for state agencies to cope with this emergency.
- B. To the extent that the demands placed upon the funds appropriated to the agencies of the State of Florida and to local agencies are unreasonably great and the funds currently

available may be inadequate to pay the costs of coping with this emergency, I direct that sufficient funds be made available, as needed, by transferring and expending moneys appropriated for other purposes, moneys from unappropriated surplus funds, or from the Budget Stabilization Fund.

- C. I authorize the Department of Transportation to waive the size and weight restrictions for divisible loads on any vehicles transporting emergency equipment, services and supplies, allowing the establishment of alternate size and weight restrictions for all such vehicles for the duration of the emergency, to the extent such waivers are needed to meet this emergency. Commercial vehicles allowed to operate outside the normal restrictions for such vehicles under the authority of this Executive Order shall be issued permits by the Department of Transportation, and such vehicles shall be subject to such special conditions as the Department may endorse on any such permits. Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, nor shall anything in this Executive Order be construed to relieve any vehicle or the carrier, owner, or driver of any vehicle from compliance with any restrictions other than those specified in this Executive Order, or from any statute, rule, order or other legal requirement not specifically waived herein.
- D. At the request of the director of a county emergency management agency, I direct the Department of Health take over the operation of all shelters in that county that are intended for use by those evacuees with special personal, medical or psychological needs, and to station licensed medical professional and paraprofessional personnel at those shelters as needed to provide appropriate reception and care for such evacuees.
- E. I give the Department of Environmental Protection the authority to take any actions necessary to abate the imminent hazard and to minimize adverse environmental impacts,

including those specified in section 403.4154, Florida Statutes. Additionally, the Department of Environmental Protection has the authority to close state parks and other state recreational facilities under its jurisdiction in those counties of the State affected by the emergency, as needed to meet the emergency.

- F. I give all agencies of the State, including the collegial bodies within those agencies, the authority to suspend the effect of any statute, rule, ordinance, or order of any state, regional, or local government entity, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources, to include, without limiting the generality of the foregoing, any and all statutes, rules, ordinances, or orders which affect budgeting, leasing, printing, purchasing, travel and the condition of employment and the compensation of employees, but any statute, rule, ordinance, or order shall be suspended only to the extent necessary to ensure the timely performance of disaster response functions as prescribed in the State Comprehensive Emergency Plan (CEMP), or as directed by the State Coordinating Officer; however, any waiver of statutes, rules, or ordinances governing travel shall expire in fourteen (14) days from the date of this Executive Order unless extended (in increments of no more than fourteen days) by the agency.
- G. I give all agencies of the State the authority to allow overnight stays by employees of the State who travel a distance of less than fifty (50) miles for the performance of official duties in connection with the emergency, and the authority to allow employees of the State reimbursement for the cost of meals during Class C travel incurred in connection with this emergency.

- H. I give all agencies of the State responsible for the use of state buildings and facilities the authority to close such buildings and facilities in those portions of the State affected by this emergency, to the extent to meet this emergency; and
- I. I give all agencies of the State, including the collegial bodies within those agencies, the authority to abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such application are deemed to be approved unless disapproved in writing by specified deadlines, and all such time requirements that have not yet expired as of the date of this Executive Order are suspended and tolled to the extent needed to meet this emergency.

Section 7. Pursuant to section 376.121, Florida Statutes, to the extent permitted by law, state agencies responding to this emergency shall seek reimbursement from the responsible party.

Section 8. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by States other than the State of Florida may render such services in the State of Florida during this emergency for persons affected by this emergency with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross or the Department of Health.

Section 9. All state agencies that enter emergency final orders or take other final actions based on the existence of this emergency shall advise the State Coordinating Officer in writing of the action taken as soon as practicable, but in no event later than the expiration of sixty (60) days from the date of this Executive Order.

Section 10. 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 hereby ratified.

This Executive Order shall expire sixty (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 3rd day of April, 2021.



RON DESANTIS, GOVERNOR

ATTEST:



SECRETARY OF STATE

FILED
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DEPARTMENT OF STATE
TALLAHASSEE, FL