Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

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WITNESS:_____
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EXECUTIVE ORDER S-13-07

10/26/2007

EXECUTIVE ORDER S-13-07

WHEREAS on October 21, 2007, I proclaimed a State of Emergency to exist in the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura as a result of major wildfires fanned by extremely high winds; and

WHEREAS at least 13 out of more than 20 fires continue to burn in Southern California, which have already killed one person and injured dozens of others, including firefighters; and

WHEREAS the fires have displaced hundreds of thousands of persons in the largest evacuation in California history, including those taking refuge in more than 50 shelters, which have housed more than 20,000 people; and

WHEREAS these fires have burned over 450,000 acres of land and more than 1,600 structures, and caused the loss of valuable personal and business records; and

WHEREAS more than 10,000 firefighters are fighting the fires; and

WHEREAS the President of the United States declared that the conditions in the affected counties constitute a major disaster; and

WHEREAS the State Employment Development Department and my Office of Emergency Services estimate that thousands of workers are, or will be, unemployed as a result of the wildfire disaster and are in need of immediate financial assistance; and

WHEREAS the suspension of the statutory one-week waiting period for unemployment insurance applicants who are unemployed due to the wildfire disaster would provide these unemployed workers with immediate financial assistance; and

WHEREAS hospitals, mobile hospitals, temporary hospital annexes, mass care centers, first-aid stations, or other similar temporary facilities established by public entities in the affected areas to care for persons displaced by the fires may be subject to licensing requirements that may prevent, hinder or delay the establishment of those facilities or their ability to provide health care services; and

WHEREAS existing state law does not permit former health care professionals who retired in good standing, or inactive health care professionals in good standing, to practice their professions, even though these persons can play a helpful role in providing emergency health care services where insufficient licensed personnel are available; and

WHEREAS other statutes, regulations, rules or orders governing the delivery of medical care may prevent, hinder or delay the delivery of health care services to persons displaced by the fires; and

WHEREAS those who have lost family members, and those who have lost or sustained damage to their homes, property, businesses or places of employment, may need to obtain or replace important government records such as certificates of birth, death, fetal death, or marriage, as well as marriage dissolution records, driver's licenses, identification cards, vehicle registration certificates, and certificates of title, to obtain assistance from federal, state and local governmental agencies, make claims for and collect insurance, find new employment, and for other purposes related to losses suffered in the fire; and

WHEREAS those who need to obtain or replace important government records to mitigate their losses and rebuild

their lives as a consequence of the wildfire disaster require immediate assistance from state and local governmental agencies to replace those records; and

WHEREAS existing law requires the Office of Vital Records of the Department of Public Health, along with local registrars, county recorders and county clerks, to impose fees upon persons requesting copies of certificates of birth, death, fetal death, and marriage, and marriage dissolution records, and existing law requires the State Department of Motor Vehicles to impose fees upon persons requesting replacement driver's licenses, identification cards, vehicle registration certificates, and certificates of title; and

WHEREAS existing law requires the State Department of Motor Vehicles to impose late fees on persons who are late in renewing their vehicle registration or late in transferring ownership of a vehicle; and

WHEREAS existing law requires the State Department of Housing and Community Development to impose fees on persons who are late in renewing their manufactured home registration or late in transferring ownership of a manufactured home; and

WHEREAS the suspension of statutory requirements for imposition of fees would assist fire victims; and

WHEREAS my Office of Emergency Services has successfully used Local Assistance Centers during previous emergencies to coordinate and expedite disaster assistance by providing "one-stop" centers where those affected by an emergency may obtain all services provided by governmental and community organizations; and

WHEREAS the California Military Department, through the California National Guard, has the capability to protect the lives and property of the people of the state during periods of natural disaster and civil disturbances, and to perform other functions required by the California Military Department or as directed by the Governor.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, including the Emergency Services Act and in particular Government Code sections 8567 and 8571, do hereby issue the following orders to become effective immediately:

IT IS ORDERED THAT:

1. The California National Guard shall mobilize under California Military and Veterans Code section 146 (mobilization in case of catastrophic fires) to support disaster response and relief efforts and coordinate with all relevant state agencies, including my Office of Emergency Services, and all relevant state and local emergency responders and law enforcement within the impacted areas. Sections 147 and 188 of the Military and Veterans Code are applicable during the period of participation in this mission, exempting the California Military Department from applicable procurement rules for specified emergency purchases, and those rules are hereby suspended.

2. The provisions of Unemployment Insurance Code section 1253 imposing a one-week waiting period for unemployment insurance applicants are suspended as to all applicants who are unemployed as a result of the wildfire disaster in the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura, who apply for unemployment insurance benefits during the time period beginning October 21, 2007 and ending on the close of business on April 21, 2008, and who are otherwise eligible for unemployment insurance benefits in California.

3. Any hospital, mobile hospital, temporary hospital annex, mass care center, first-aid station, or other similar facility established in the affected area for disaster response shall be exempt from the requirements set forth in Health and Safety Code sections 1200 through 1799.207 (licensing provisions) and sections 127125 through 130070 (health policy planning, health professions development, health care demonstration projects, health data, facilities loan insurance and financing, facilities design review and construction). Such facilities shall be established and operated in accordance with the State Emergency Plan and local emergency plans. The Licensing and Certification Division of the State Department of Public Health shall, to the extent reasonably possible, advise public entities on reasonable and appropriate measures under the circumstances to protect the health and safety of persons in the facility.

4. Business & Professions Code sections 702 (inactive healing arts license) and 2439 (retired license) are suspended and without effect in the counties subject to the proclamation of emergency, provided that, at the time the practitioner retired or became inactive, his or her license was in good standing.

5. The provisions of Health and Safety Code sections 103525.5 and 103625, and the provisions of Penal Code section 14251, requiring the imposition of fees, are hereby suspended with regard to any request for copies of

certificates of birth, death, fetal death, and marriage, or marriage dissolution records by any resident of the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara or Ventura who suffered a loss of a family member, or who suffered loss or damage to property, business, or employment, due to the wildfire disaster. Copies of certificates of birth, death, fetal death, and marriage, and marriage dissolution records, shall be provided to such persons without charge.

6. Health and Safety Code section 18114, requiring the imposition of fees, is hereby suspended with regard to any late renewal of registration certificate or certificate of title for a manufactured home by any registered owner who lost these documents as a result of the wildfire disaster. Those documents shall be replaced without charge.

7. The provisions of Vehicle Code sections 9265(a), 9867, 14901, 14902 and 15255.2, requiring the imposition of fees, are hereby suspended with regard to any request for replacement of a driver's license, identification card, vehicle registration certificate or certificate of title by any resident of the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura who suffered a loss of such documents in the wildfire disaster. A replacement driver's license, identification card, vehicle registration certificate, or certificate of title shall be provided to such persons without charge.

8. The provisions of Vehicle Code sections 4602 and 5902, requiring the timely registration or transfer of title, are hereby suspended with regard to any registration or transfer of title by any resident of the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura who suffered a loss of such registration or title documents in the wildfire disaster. The time covered by this suspension shall not be included in calculating any late penalty pursuant to Vehicle Code section 9554.

9. My Office of Emergency Services shall immediately establish and support Local Assistance Centers where needed to provide "one-stop" emergency assistance services to those affected by the wildfires in the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura.

10. My Office of Emergency Services shall coordinate assistance programs offered by all relevant federal, state and local agencies and departments, including, but not limited to, the Federal Emergency Management Agency, the California Conservation Corps, the Department of Public Health, the Department of Health Care Services, the Department of Mental Health, the Department of Social Services, the Department of Consumer Affairs, the Employment Development Department, the Department of the Highway Patrol, the Department of Forestry and Fire Protection, the Department of Veterans Affairs, the Department of Aging, the Department of Transportation, the Department of Insurance, and the Franchise Tax Board.

11. All State agencies with responsibility, regulatory authority or expertise related to recovery efforts in connection with these fires shall cooperate fully and act expeditiously in coordination with the California Resources Agency and the California Environmental Protection Agency, to facilitate the mitigation of the effects of the fires and the environmental restoration of the affected areas.

12. State agencies shall expeditiously enter into contracts and arrange for the procurement of materials, goods, and services necessary to quickly remove dangerous debris, repair damaged resources, and restore and protect the impacted watershed. Because strict compliance with the provisions of the Government Code and the Public Contract Code applicable to state contracts would prevent, hinder, or delay these efforts, applicable provisions of those statutes, including, but not limited to, advertising and competitive bidding requirements, are suspended to the extent necessary to address the effects of this emergency.

13. Statutes, rules, regulations and requirements are hereby suspended to the extent they apply to the following activities: (a) removal, storage, transportation and disposal of hazardous and non-hazardous debris resulting from the disaster, (b) necessary restoration, and (c) related activities. Such statutes, rules, regulations and requirements are suspended only to the extent necessary for expediting the removal and cleanup of debris from the disaster, and for implementing any restoration plan. The Secretary for the California Environmental Protection Agency, and the Secretary for the California Resources Agency, shall use sound discretion in applying this suspension to ensure that the suspension serves the purpose of accelerating cleanup and recovery, while at the same time protecting public health and the environment. The Secretaries shall maintain a public list of all statutes, rules, regulations and requirements that are suspended, and shall post the list prominently on their websites. This order shall apply to, but is not necessarily limited to, solid waste facility permits, and waste discharge requirements for storage, disposal, emergency timber harvesting, stream environment zones, emergency construction activities, along with waste discharge requirements and/or Water Quality Certification for discharges of fill material or pollutants. To the extent it is within their administrative authority and discretion, the boards, departments and offices within the California Environmental Protection Agency shall expedite the granting of other authorizations, waivers or permits necessary for the removal, storage, transportation and disposal of hazardous and non-hazardous debris resulting from the fires, and for other actions necessary for the protection of public health and the environment.

14. My Office of Emergency Services and all affected State agencies and departments shall provide assistance to the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura. Support provided by the State for implementation of the California Disaster Assistance Act shall include, but shall not necessarily be limited to, the use of state personnel and state contractors to support recovery operations.

15. State agencies and departments shall work with local officials to put into place and implement a comprehensive structural debris removal plan that will treat the removal of structural debris as a single organized project.

16. The Department of Forestry and Fire Protection, the California Department of Corrections and Rehabilitation, and the California Conservation Corps, shall use inmate and ward labor, where appropriate, to protect public health, safety, and water quality on public lands or where otherwise requested by private property owners.

17. Standby order numbers one and three are invoked to allow sufficient state personnel to address disaster response and recovery, clean-up and restoration efforts. Standby order number one provides: "It is hereby ordered that the period of employment for State Personnel Board emergency appointments, as provided in Section 19120 of the Government Code and State Personnel Board Rules 301-303, be waived for positions required for involvement in emergency and/or recovery operations. The requirements and period of employment for such appointments will be determined by the Director, California Office of Emergency Services, but shall not extend beyond the termination date of said State of Emergency." Standby order number three provides: "It is hereby ordered that during the proclaimed State of Emergency appropriate parts of Sections 18020-18026 of the Government Code and State Personnel Board Rules 130-139 be waived to permit cash compensation to personnel whose work is designated by the Director, California Office of Emergency Services, as essential to expedite emergency and recovery operations for all time worked over the employee's regular workweek, at a rate of 1-1/2 times the regular rate of pay. The Director, Office of Emergency Services, will also designate the beginning and ending dates for such overtime for each individual involved. This waiver shall not extend beyond the termination date of said State of Emergency."

IT IS FURTHER REQUESTED THAT:

1. The Public Utilities Commission direct utility companies with transmission lines in the affected area to ensure that all dead and dying trees and vegetation are completely cleared from their utility right-of-ways to mitigate the potential threat to human health and safety and public property.

2. The Franchise Tax Board and the Board of Equalization consider using their administrative powers where appropriate to provide those individuals and/or businesses impacted by the wildfires extensions for filing, audits, billing, notices, assessments and relief from subsequent penalties.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT THAT, as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 25th day of October 2007.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:

DEBRA BOWEN
Secretary of State

Exhibit 3

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

ORDER NO. R9-2007-0211

A CONDITIONAL WAIVER OF STATUTORY REQUIREMENTS TO FILE A REPORT OF WASTE DISCHARGE AND FOR ADOPTION OF WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES TO NON-FEDERAL WATERS OF THE STATE ASSOCIATED WITH REPAIR AND PROTECTION ACTIVITIES IN EMERGENCY SITUATIONS IN THE SAN DIEGO REGION

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), finds that:

1. Section 13260(a)(1) of the California Water Code (Water Code) requires that any person discharging waste or proposing to discharge waste within the San Diego Region, other than to a community sewer system, which could affect the quality of the waters of the State,[1] file a report of waste discharge (ROWD) with the San Diego Water Board.

2. Section 13263(a) of the Water Code requires that the San Diego Water Board prescribe discharge requirements for any existing or proposed waste discharges within its area of jurisdiction, except discharges into a community sewer system, even if no ROWD has been filed.

3. Section 13264(a) of the Water Code, in part, prohibits the initiation of a new discharge of waste or any material change to any discharge prior to the filing of an ROWD.

4. Emergency situations, as defined by the California Environmental Quality Act (CEQA), can create extraordinary conditions within and beyond waters of the state that pose imminent threats to life, health, property, the delivery of public services, and beneficial uses of waters of the State. Under CEQA, California Public Resources Code section 21060.3, an "emergency" is defined to be:

   > *A sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.*

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[1] "Waters of the State" as defined in Water Code section 13050(e).

5. Discharges of dredged or fill material into non-federal waters of the State[2] may be necessary for repair and protection measures associated with an emergency situation to mitigate and abate threats caused by emergencies, as defined under CEQA.[3]

6. The discharge of dredged or fill material for emergency repair and protection measures may constitute discharge of waste that could affect the quality of waters of the State. Repair and protection activities that may result in such discharges can include, but are not limited to, the cleaning of culverts and associated concrete aprons, bank or slope stabilization, removal of debris (e.g., trash, dead vegetation, structural debris), repair of transportation routes, and the construction of check dams and sediment basins. Discharges that may occur during the conduct of emergency repair and protection activities can include, but are not limited to, earth, rock, or similar inert materials and discharges of pollutants associated with construction equipment or materials.

7. Water Code section 13269 gives the San Diego Water Board the authority to conditionally waive the provisions of sections 13260(a)(1), 13263(a), or 13264(a) for a specific discharge or specific type of discharge where it finds that such a waiver is consistent with the Water Quality Control Plan for the San Diego Region (Basin Plan), in the public interest and the following conditions are met:
    a. The waiver is conditional;
    b. Waiver conditions include performance of individual, group, or watershed monitoring, except for discharges that the State Water Board or Regional Water Board determines not to pose a significant threat to water quality;
    c. Compliance with waiver conditions by the discharger; and
    d. A necessary public meeting is held.

8. This conditional waiver of the requirements set forth in Water Code sections 13260(a) and (b), 13263(a), and 13264(a) for discharges of waste to non-federal waters of the State associated with repair and protection activities in emergency situations contains conditions which, if complied with, will not result in a violation of the Basin Plan.

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[2] Non-federal waters of the State include surface waters determined by the U.S. Army Corps of Engineers and / or the U.S. Environmental Protection Agency to be outside of federal jurisdiction (e.g., certain vernal pools, other isolated water bodies, and certain intermittent or ephemeral streambeds that lack a significant nexus to traditionally navigable waters).

[3] In addition, wildfires can exacerbate the risk of flooding, erosion, debris flows, and slope failures as a result of the loss of vegetated cover within a watershed. Likewise, damage from earthquakes/after shocks, and landslides can affect vital infrastructure and threaten beneficial uses of waters of the state.