**ERNIE FLETCHER**
**GOVERNOR**

# EXECUTIVE ORDER

**2007-298**
**April 13, 2007**

**Secretary of State**
**Frankfort**
**Kentucky**

## STATE OF EMERGENCY AND EXIGENT SITUATION

WHEREAS, Lake Cumberland was created by the Wolf Creek Dam on the Cumberland River near Jamestown, Kentucky, is the largest man-made reservoir east of the Mississippi River, provides over 40 percent of the total flood storage in the Cumberland River basin and, through the Wolf Creek Dam, produces 22 percent of the hydropower generated on the Cumberland River; and

WHEREAS, the U.S. Army Corps of Engineers (hereinafter, "the Corps") recently identified Wolf Creek Dam as "one of the highest risk dams in the Corps Inventory," observing distribution of stress indicators on the dam sufficient to justify construction of a modern "grout curtain" and a new permanent concrete wall that will be longer and deeper than the current wall; and

WHEREAS, to reduce the likelihood of dam failure and to accommodate the construction of these remedial facilities, the Corps decided in January 2007 to lower significantly the elevation of the lake, thereby increasing the risk of interruption, reductions or complications in the delivery of utilities services; and

WHEREAS, as a result of the threat of failure of the Wolf Creek Dam and the lowering of the lake elevation, communities located near and within the Cumberland River basin are experiencing or could potentially experience some or all of the major hazards, disasters and destruction within the scope of the emergency management responsibilities undertaken by agencies of the Commonwealth under KRS Chapter 39A including, but not limited to, flooding, flash flooding, drought, landslides, mudslides, power failure, energy shortages, major utility system failure, dam failure, building collapse, water and wastewater infrastructure failures, agricultural damage, transportation-related emergencies, and interruption of communications; and

WHEREAS, these emergency conditions constitute a present and future threat to public health, safety and economic security and could potentially result in loss of life and personal injury, and damages to public and private property; and

WHEREAS, these circumstances may require individuals, businesses, organizations and communities located near and within the Cumberland River basin to take extraordinary actions, exhaust local resources, incur extraordinary and unforeseeable expenses, and request financial assistance from the Commonwealth to meet public utility needs and to eliminate associated threats to public health, safety and economic security; and

WHEREAS, state and local governments share responsibility for the protection of public health, safety and economic security as well as for the protection of public and private property and to take appropriate actions to ensure the provision and continuation of essential public services; and

WHEREAS, the General Assembly, in KRS Chapter 39A, has authorized the Governor, during the threatened or impending happening of a disaster or emergency, to use public employees, equipment, supplies, materials, funds or any other publicly owned or supported resources to assist in the mitigation of the potential effects of the disaster or emergency, regardless of whether the use is on public or private property; and

WHEREAS, the General Assembly, in KRS Chapter 39A, has authorized the Governor, during the actual happening of and any part of the response phase of a disaster or emergency, to use public employees, equipment, supplies, materials, funds or any other publicly owned or supported resources to assist in the operations of government, or the private sector, necessary to deal with the disaster or emergency, regardless of whether the use is on public or private property; and

**ERNIE FLETCHER**
**GOVERNOR**

**EXECUTIVE ORDER**

**2007-298**
**April 13, 2007**

## Secretary of State
**Frankfort**
**Kentucky**

WHEREAS, Part I of HB 380, enacted by the 2006 General Assembly, provides: "There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705)";

NOW, THEREFORE, I, ERNIE FLETCHER, Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by the Constitution of Kentucky, HB 380 and Chapter 39A of the Kentucky Revised Statutes, do hereby

FIND and DECLARE that a State of Emergency and Exigent Situation exists in Caldwell, Christian, Clinton, Cumberland, Logan, Lyon, McCreary, Monroe, Pulaski, Russell, Simpson, Todd, Trigg and Wayne counties (hereinafter, the "affected region") and do further hereby

ORDER and DIRECT as follows:

1. The Adjutant General is authorized to issue active duty orders for the mobilization of such National Guard personnel and equipment as he may determine necessary solely within his discretion to protect life and safety, to continue essential public services and to prevent undue loss and suffering.

2. All state agencies shall coordinate any and all public information and emergency information activities and releases related to this emergency and the response efforts of state agencies with the Division of Emergency Management.

3. All state agencies shall provide any personnel required for the staffing of the Kentucky Emergency Operations Center or other command, control, and coordination points as may be designated by the Division of Emergency Management and shall provide such personnel, equipment and other resources needed to protect life and property and to ensure continuation of essential public services.

4. The Finance and Administration Cabinet and any other appropriate state agency, subject to the approval of the State Budget Director, is directed to fund the urgent operational or response costs of the Division of Emergency Management and the unbudgeted expenditures and obligations of other state agencies that are incurred in response to this emergency and in executing the provisions of this Executive Order.

5. As used in this Order, the term "disaster and emergency response" shall have the meaning attributed to it in KRS 39A.020(8) and "local agencies" shall mean counties, cities, special districts and any other eligible governmental entities and the agencies thereof within the affected region.

    a. In accordance with KRS Chapter 39A and HB 380, Part I, Section A, subsection 8, paragraph 1, the Commonwealth shall make available to local agencies funds from the General Fund Surplus Account or the Budget Reserve Trust Fund on the condition that such funds be used by local agencies to provide disaster and emergency responses.

    b. The Commissioner of the Governor's Office of Local Development is authorized to receive written requests for such funds. The Commissioner of the Governor's Office of Local Development and the State Budget Director are hereby authorized to approve the distribution of such funds.

    c. Under the authority of KRS 39A.070(19), with the approval of the Adjutant General, the authority of the Director of the Division of Emergency Management is hereby delegated to the Commissioner of the Governor's Office for Local Development and the State Budget Director

**ERNIE FLETCHER**
**GOVERNOR**

**EXECUTIVE ORDER**

**2007-298**
**April 13, 2007**

**Secretary of State**
**Frankfort**
**Kentucky**

to the extent reasonably necessary for the distribution of funds to local agencies for disaster and emergency responses in accordance with this Paragraph; provided, however, that nothing in this Paragraph shall be deemed to limit the authority of the Director of the Division of Emergency Management.

d. Pending further orders of the Governor of the Commonwealth, funds distributed to local agencies for disaster and emergency responses by approval of the Commissioner of the Governor's Office of Local Development and the State Budget Director under the authority of this Paragraph shall be limited to $25 million.

6. The Division of Emergency Management is authorized to request such federal assistance as may be available to minimize human suffering, prevent the loss of essential services and/or restore essential services to the public through local governments resulting from this emergency.

7. Transportation on and access to any and all public roadways in the affected region may be restricted or prohibited in the interest of public health and safety.

8. The Department of Military Affairs, the Division of Emergency Management, the Governor's Office for Local Development, the Finance and Administration Cabinet, the Office of State Budget Director and all other appropriate state agencies are directed to initiate all such actions as are necessary to effectuate the provisions of this Order.

9. This Order shall remain in full force and effect until terminated by subsequent Order or by Operation of Law.

ERNIE FLETCHER, Governor

TREY GRAYSON, Secretary of State