

EXECUTIVE ORDER NO. 55

WHEREAS, the maintenance of an effective and efficient wastewater treatment and removal system represents a core responsibility of government that is vital to ensuring the health, safety, and welfare of those whose daily life activities depend on such a system; and

WHEREAS, the Passaic Valley Sewerage Commission ("PVSC") plays an important role in providing this essential service within the Passaic Valley Sewerage District, which is comprised of 48 municipalities in the Counties of Bergen, Essex, Hudson, and Passaic, serving approximately 1.3 million people within 380,000 residential units including 360 large apartment buildings, as well as 2,205 large commercial institutions and 380 major industrial sites located within its service area; and

WHEREAS, during the course of my administration, a number of troubling facts and allegations have emerged regarding the conduct of certain of the commissioners of the PVSC, which caused my Chief Counsel to issue letters dated January 18, 2011 to each sitting commissioner requesting specific employment-related information to be supplied by January 25, 2011; and

WHEREAS, the responses received from the commissioners have been carefully reviewed, in conjunction with other relevant information concerning the conduct of those individuals; and

WHEREAS, six of the involved commissioners have been suspended, consistent with current law, pending the conclusion of all appropriate proceedings; and

WHEREAS, the statutes and regulations governing the PVSC and its operations vest nearly all operational authority in its board of commissioners and do not expressly empower the

Executive Director to take necessary actions to ensure the continued operation of the facilities of the PVSC; and

WHEREAS, the PVSC has nonetheless made it a practice since 1977 to delegate a portion of the responsibility for day-to-day operations of its plant and assets to an Executive Director; and

WHEREAS, the suspensions of six commissioners as described above have resulted in the board's inability to constitute a quorum, as required to perform its duties; and

WHEREAS, in the absence of executive authorization by a quorum of the PVSC board of commissioners, basic functions of the sewerage treatment plant and its associated facilities would not be able to occur, including but not limited to purchasing, payroll, and other essential activities related to supporting the operations of these 24-hour facilities; and

WHEREAS, as Governor, I am entrusted with the responsibility to protect the health, safety, and welfare of the people of this State, as well as the responsibility to aid in the prevention of damage, loss, or destruction of property in the event of an emergency affecting the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, including but not limited to the provisions of N.J.S.A. App. A:9-33 et seq., and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

WHEREAS, the health and safety of the individuals visiting, living, and working in the Passaic Valley Sewerage District necessitate the ongoing management and operation of the sewerage treatment plant, its staff and assets, including but not limited to the performance of the activities authorized by N.J.S.A. 58:14-1 et seq.; and

WHEREAS, failure to ensure those continued operations would result in unacceptable threats to the health and safety of New Jersey's citizens, most immediately those in the Passaic Valley Sewerage District, which would be too large in scope to be handled by ordinary municipal and county operations;

NOW, THEREFORE, I, CHRIS CHRISTIE, Governor of the State of New Jersey, in order to protect the health, safety, and welfare of the people of the State of New Jersey, do hereby DECLARE and PROCLAIM that a State of Emergency exists within the Passaic Valley Sewerage District as a result of the above-referenced conditions; and I hereby ORDER AND DIRECT the following:

1. Except as otherwise provided in this Order, and continuing until such time as this state of emergency is amended or terminated by me, the Executive Director of the PVSC is hereby authorized and directed to take any steps he determines to be necessary and appropriate to ensure that continuity is maintained in the provision of sewerage and environmental services by the PVSC; that the duties and responsibilities of the PVSC to the public, its employees, and contractors are satisfied; that all actions are taken to insure the integrity of the operation of the PVSC and the expenditure of ratepayer funds; and that the assets of PVSC are safeguarded and maintained; that the lawful debts and obligations of the PVSC are paid; and that the health, safety, and welfare of the citizens of the State of New Jersey and Passaic Valley Sewerage District are maintained.

2. The Executive Director, for the duration of this state of emergency, shall perform all of the necessary and appropriate operational functions assigned by law, including by N.J.S.A. 58:14-1 et seq., to the "Commissioners," to the "Board of

Commissioners," and to the "Passaic Valley Sewerage Commissioners," unless otherwise specified in this Order. The Executive Director shall have the capacity to enter into contracts, execute instruments, set rates, hire, fire, manage, discipline, prescribe employee duties, reorganize, fix employee compensation, promote and demote employees, and any other similar powers necessary to ensure the continued and seamless operation of the facilities by its workforce. Provided, however, that the Executive Director shall not be authorized to exercise the following authority without obtaining advance written approval from the Governor's Authorities Unit:

- a. authority granted by N.J.S.A. 58:14-34.14, relating to the issuance of bonds;
- b. authority to authorize or make expenditures in excess of the limits established by N.J.S.A. 58:14-22 and memoranda from the New Jersey State Treasurer modifying that threshold;
- c. authority to commence litigation pursuant to, inter alia, N.J.S.A. 58:14-33; or
- d. authority to conduct real estate transactions of any value.

3. Within seven days of the issuance of this Order, the Executive Director shall report on any actions taken pursuant to paragraphs 1 and 2 of this Order to the Governor's Authorities Unit. Thereafter, and continuing for the duration of this state of emergency, the Executive Director shall provide a weekly report to the Authorities Unit. The Executive Director shall assume no personal liability for actions or inactions that are consistent with this Order.

4. In accordance with governing law, including but not limited to N.J.S.A. App. A:9-34 and N.J.S.A. App. A:9-51, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties, or instrumentalities, including the PVSC, necessary to avoid and protect against this emergency.

5. Consistent with current law, including but not limited to N.J.S.A. 58:14-34.24, nothing in this Order shall be construed in any way to limit or alter the rights vested in the PVSC to acquire, construct, maintain, reconstruct, and operate the sewerage system and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, and this Order shall not in any way impair the rights or remedies of such holders, and shall not modify in any way the exemptions from taxation provided for in N.J.S.A. 58:14-1 et seq.

6. All State officials and agencies and all officers, agents, and employees of every political subdivision of the State, including the PVSC, shall cooperate fully in the implementation of this Order. Until such time as the State of Emergency is terminated, I reserve the right to take such additional actions, invoke such additional emergency powers, and issue such emergency orders or directives as may be necessary to avert and meet the potentially devastating problems presented by this emergency, to protect the health, safety, and welfare of the people of this State, and to ensure the continued provision of essential public health services.

7. This Order shall take effect immediately and shall remain in full force and effect until rescinded, modified, or supplemented by me in response to the ongoing state of emergency.

GIVEN, under my hand and seal this
25th day of January
Two Thousand and Eleven, and
of the Independence of the
United States, the Two
Hundred and Thirty-Fifth.

/s/ Chris Christie
Governor

Attest:

/s/ Jeffrey S. Chiesa
Chief Counsel to the Governor