

STATUTORY AUTHORITY FOR DROUGHT RESPONSE IN GEORGIA

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Vague onset, unpredictable duration and lingering impacts make managing and responding to drought difficult. To be effective, the state must act early, before it is an emergency situation when many of the drought mitigation responses are ineffective. However, undefined state agency authority and responsibility for drought management actions complicate early response.

Responding to Droughts

Drought is different from other catastrophic events (floods, hurricanes, tornadoes) that have a clear onset, duration and impact. The onset of a drought is slow and can best be determined retrospectively; therefore actions to avert drought impacts are often initiated too late. Likewise, droughts may continue for significant periods of time and it is impossible to predict the end of a drought cycle with accuracy. This uncertainty makes the decision to take mitigation actions risky. If actions, such as water use restrictions, are taken and precipitation begins, the mandates appear to be needless and intrusive. Conversely, if mitigation actions are not taken early enough, drought response may shift from contingency to emergency management and the state may be faulted for doing too little, too late.

Drought impacts vary spatially and temporally. While impacts from catastrophic events, including drought, vary over a broad land area (some localities are severely struck and others not at all), drought impacts also vary over time. Drought impacts do not necessarily reflect current weather patterns; the impacts accumulate and linger beyond what appears to be the end of the drought. Even after normal rainfall returns and streams and rivers flow at usual volumes, it may take several years of normal to above normal rain to refill the water level in lakes, reservoirs and aquifers. In addition, drought stressed soil actually prevents rain from seeping into the ground. Thus even with normal rainfall, the soil remains too dry to support agriculture and the replenishment of groundwater sources takes much longer (maybe several growing seasons) than it takes to restore streams and rivers.

Drought Conditions in Georgia

In its 2000 status report, the Georgia Environmental Protection Division (EPD) stated that the current

drought in Georgia has continued to intensify since May 1998, progressing through four stages: meteorological, agricultural, hydrological and socioeconomic. Precipitation levels are showing significant deficits since 1998 and groundwater, stream and lake levels have reached record lows across the state. Drought conditions have threatened community drinking water supplies and caused significant impacts in the agricultural sector. Watering restrictions to reduce demand have been imposed statewide and some communities have adopted more stringent restrictions than the state.²

State Actions

At the state level, a multi-agency Drought Response Task Force was initiated in 2000 to monitor and respond to drought conditions. In addition, the EPD began a stakeholder-oriented process to develop a state drought management plan. It is anticipated that the Georgia Drought Planning Group will provide its recommendation on a drought plan to the Board of Natural Resources and the Joint Comprehensive Water Plan Study Committee in 2002.

Legal Authority

Notwithstanding the current drought situation in Georgia and the activities of the various state agencies in response to the drought, Georgia presently has no law that specifically provides for response to general drought situations or that provides for the development of a drought management plan. The following summarizes pertinent sections of the Official Code of Georgia Annotated and materials obtained from the National Drought Policy Commission and the National Drought Mitigation Center as well as program information obtained from telephone surveys related to authority and responsibility for drought management in Georgia.³

Emergency Powers

The Georgia Emergency Management Act of 1981 [hereinafter referred to as "the Act"] provides for response operations during emergency situations and states of emergency.⁴ The Act includes drought in the list of hazards and events subject to emergency management actions and provides a general definition of "state of emergency" in which

case the Governor can authorize state-level assistance in response.⁵ The Act provides the Governor with powers and duties, including authority to prepare a comprehensive plan and program for emergency management,⁶ and provides additional powers to respond to a state of emergency.⁷

In addition to the authority contained in the Act, the Georgia Military Forces Reorganization Act of 1955 authorizes the Governor to order the National Guard into service in case of a state of emergency.⁸ The Governor also may request individual members of the National Guard to report for service without declaring the state of emergency.⁹ Various state agencies have general grants of powers and duties to perform their missions and/or specific statutory authority that may also be invoked during emergencies.

Georgia Emergency Management Agency

The Georgia Emergency Management Agency (GEMA) was established to assist in implementing the Act.¹⁰ In accomplishing its responsibilities, GEMA has prepared the Georgia Emergency Operations Plan (EOP), which “establishes guidelines for emergency management preparedness and response within the State of Georgia...”¹¹ The EOP also includes a “hazard profile” in appendix A, which lists drought as a hazard that is relatively likely to occur (score of 5 on a scale of 1 to 20). The EOP enlists cooperation and support from forty-six agencies, organizations and companies in its implementation of the twenty emergency support functions.

The January 27, 2000 Executive Order accompanying the EOP designates the Director of GEMA to “exercise overall direction and coordination of emergency and disaster planning and operations” in accordance with the Act. Pursuant to his authority, Governor Barnes declared on August 30, 2000 that a state of emergency existed in Carroll and Chattooga Counties as the result of drought conditions. His declaration directed GEMA to activate the EOP in providing assistance to those counties.¹²

Georgia Environmental Facilities Authority

In addition to the assistance provided through the EOP, the Georgia Environmental Facilities Authority can make loans from the state environmental emergency fund to address some drought-related situations. Loans can be made for threats to the public health and the environment. The maximum loan amount is \$100,000 with a two-percent interest rate and a ten-year payback period.¹³

Other State Drought Programs

In the results of a 1998-99 survey conducted for the National Drought Policy Commission, eight Georgia programs were identified as “Georgia State Drought Programs.” These included the (1) water withdrawal permitting program; (2) the drinking water permitting program; (3) water resources management program; (4) agriculture disaster declaration and damage assessment report program; (5) distribution of the farmers and consumer market bulletin; (6) Georgia Department of Agriculture (GDA) press services activities; (7) GDA farmers’ hotline; and (8) emergency livestock feeding project.¹⁴

Findings

- To be effective in responding to and managing drought, the state must act early, before a state of emergency exists.
- Statutory authority to respond to drought emergencies currently rests with GEMA.
- GEMA is only required to initiate drought response after the Governor issues an executive order, at which point the state has foregone options to prevent some drought impacts.
- Most of the eight State Drought Programs that can alleviate drought impacts rest within EPD and the Georgia Department of Agriculture.

Recommendations

- Statutory authority for drought management should be established that separates the need for a declaration of a “state of emergency” from initiation of drought response.
- The statute should clearly identify:
 1. the lead agency responsible for developing a drought management plan;
 2. the mechanism(s) that trigger various levels of drought response among agencies;
 3. a lead agency responsible for declaring those drought levels;
 4. the roles of the various agencies with water-related programs; and
 5. the mechanism to establish cooperative multi-agency coordination to plan, manage and respond to drought threats and impacts in Georgia.

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- ¹ Carl Vinson Institute of Government, Lucy Cobb Building, The University of Georgia, Athens, GA 30602.
- ² Environmental Protection Division, Georgia Department of Natural Resources. *1998-2000: Georgia Drought Report*. Atlanta: Environmental Protection Division, 2000.
- ³ This material should not be considered a legal opinion. Substantial supporting information regarding drought response planning was gathered as part of this unsolicited research and can be provided on request.
- ⁴ Ga. Code Ann. §38-3-1 *et seq.* (1995).
- ⁵ Ga. Code Ann. §38-3-3 (Supp. 2000).
- ⁶ Ga. Code Ann. 38-3-22 (1995).
- ⁷ Ga. Code Ann. §38-3-51 (1995).
- ⁸ Ga. Code Ann. § 38-2-6 (1995).
- ⁹ Ga. Code Ann. § 38-2-6.1 (1995).
- ¹⁰ Ga. Code Ann. §38-3-20 (Supp. 2000).
- ¹¹ Georgia Emergency Management Agency. *Georgia Emergency Operations Plan*. Atlanta: Georgia Emergency Management Agency, January 27, 2000.
- ¹² Office of the Governor, State of Georgia. "Governor Barnes declares a state of emergency for Carroll and Chattooga Counties due to drought conditions." Available online at <http://www.gagovernor.org/governor/orders/press.cgi?prfile=PR.20000830.01>
- ¹³ Georgia Environmental Facilities Authority. Water and Wastewater System Financing, Environmental Emergency Loans. Available online at http://www.gefa.org/water_and_sewer.html.
- ¹⁴ National Drought Policy Commission. *Preparing for Drought in the 21st Century* (Appendix C – Summary of State Drought-related Programs). Available online at <http://www.fsa.usda.gov/drought/finalreport/filec>.