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Secretary of State
Tre Hargett

STATE OF TENNESSEE

EXECUTIVE ORDER

BY THE GOVERNOR

No. 108

AN ORDER TO CONSERVE THE DUCK RIVER WATERSHED

WHEREAS, this Administration recognizes the importance of balancing economic growth, water resource management, and environmental and habitat conservation to ensure the long-term sustainability of our waters; and

WHEREAS, Tennessee is home to some of the most ecologically diverse river systems in North America that serve as critical sources of drinking water, habitat, agricultural water supply, and recreation; and

WHEREAS, the Duck River is not only a scenic treasure winding 269 miles through Tennessee, but also it is North America's most biologically diverse freshwater river and is globally significant for its wildlife diversity; the Duck River is a critical part of Tennessee's outdoor recreation economy; and the Duck River is the sole water source for approximately 250,000 Tennesseans in an area of this State that is experiencing rapid growth and development; and

WHEREAS, this Administration is committed to enhancing water management and water conservation practices while supporting economic growth, and the ongoing partnership between the Tennessee Department of Environment & Conservation ("TDEC") and the Tennessee Wildlife Resources Agency ("TWRA") promotes these priorities in the following ways:

- Ongoing planning and management of the Duck River Watershed through holistic solutions to reduce water loss, prioritize regionalization, conserve endangered species' habitats, provide watershed protection education, promote responsible and sustainable recreation use;
- Identifying opportunities to implement holistic planning and management for all Tennessee watersheds; and
- Prioritizing regionalization and interconnection of water systems as part of TDEC's statewide water withdrawal permitting activities; and

WHEREAS, this Administration plans to bring budget initiatives for the General Assembly's consideration during the upcoming legislative session that will facilitate a

comprehensive plan for statewide water conservation and the conservation of the Duck River Watershed in particular; and

WHEREAS, this Administration affirms its commitment to the Tennessee Duck River Development Agency ("DRA") and its statutory mission of developing and implementing comprehensive plans and programs for the control, management, and development of the water resources in the Duck River Watershed, and this Administration intends to provide targeted support to the DRA by providing additional research, analytical support, and stakeholder feedback to DRA in furtherance of its mission.

NOW THEREFORE, I, Bill Lee, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and the laws of the State of Tennessee, do hereby order the following:

1. The Duck River Watershed Planning Partnership ("Partnership") is hereby established to support the DRA in furtherance of DRA's statutory mission by facilitating collaboration among stakeholders and developing strategies for the sustainable management of the Duck River Watershed.

    a. The Partnership shall consist of nineteen (19) members, who shall be appointed as follows:

        i. The Commissioner of TDEC, or the Commissioner's designee, who shall serve as the Chair of the Partnership;
        ii. The Commissioner of the Department of Agriculture, or the Commissioner's designee;
        iii. The Commissioner of the Department of Economic and Community Development, or the Commissioner's designee;
        iv. The Executive Director of the Tennessee Wildlife Resources Agency, or the Executive Director's designee;
        v. One (1) representative from the Tennessee Senate, appointed by the Speaker of the Senate;
        vi. One (1) representative from the Tennessee House of Representatives, appointed by Speaker of the House of Representatives;
        vii. One (1) representative from the Tennessee Valley Authority ("TVA"), appointed by the President/CEO of TVA;
        viii. One (1) representative from the U.S. Army Corps of Engineers, appointed by the District Commander;
        ix. One (1) representative from the U.S. Fish and Wildlife Service ("USFWS"), appointed by Field Supervisor for the Cookeville Field Office;
        x. One (1) representative from the DRA, appointed by the Board of the DRA;
        xi. One (1) representative from a university or academic institution with expertise in water resource management, appointed by the Governor;
        xii. Two (2) representatives from different water supplier utilities in the Duck River Watershed, appointed by the Governor;
        xiii. Two (2) representatives from different local governments within the Duck River Watershed, appointed by the Governor; and

xiv. Four (4) representatives from different conservation organizations active in the Duck River region, appointed by the Governor.

b. The Partnership shall be responsible for the following:

i. Developing comprehensive watershed management recommendations that balance the needs of water users and economic growth against the need to protect the environmental integrity of the Duck River;
ii. Advising and providing recommendations to the Governor, the DRA, TDEC, TWRA, and the Speakers of the Senate and House of Representatives on policies and actions to promote the sustainable use and conservation of water resources in the Duck River Watershed;
iii. Identifying opportunities for water system regionalization, drought resilience, habitat conservation, and water loss reduction; and
iv. Engaging with local communities, utilities, industries, and conservation organizations to ensure broad participation in watershed planning efforts.

c. The Partnership shall expire and cease to exist on December 31, 2026, and members of the Partnership shall serve until the Partnership's expiration. Any vacancy shall be filled in the same manner as the original appointment.

d. The Partnership shall meet at least quarterly or more frequently as deemed necessary by the Chair to accomplish its objectives.

e. The Partnership shall submit an annual report to the Governor outlining its activities, findings, and recommendations. The first report shall be submitted no later than twelve (12) months from the date of this Order.

f. TDEC shall provide administrative and technical support to the Partnership, including staff, data, and other resources necessary to carry out the Partnership's mission.

g. The Partnership is authorized to seek grants, contributions, and other funding to support its work, subject to applicable state laws and regulations.

h. Members of the Partnership shall not receive any compensation for their services.

2. To continually preserve the Duck River Watershed and promote Duck River Watershed Planning & Management:

a. *Withdrawal Permitting*. TDEC is directed to continue implementing its Comprehensive Permitting Pilot Program in the Duck River Watershed. This program takes a holistic approach to water withdrawal permitting through: (i) issuance of baseline withdrawal permits based upon currently available data and information; (ii) identification and development of additional research, data, reports, plans and other information during the 5-year term of baseline permits; and

(iii) issuance of renewal permits taking into account the information developed as part of (ii).

b. *Water Loss Reduction.* TDEC is authorized to establish water loss reduction goals of a rate of no more than 20% water loss as a provision of water withdrawal permits within the Duck River Watershed. Such permit provisions shall not be punitive in nature, and the purposes of a water loss goal provision are to incentivize reduction of leaks and wasted water and to promote the sustainable use of the Duck River.

c. *Regionalization.* TDEC is authorized to consider and prioritize regionalization and interconnection of water systems within the Duck River Watershed as part of TDEC's withdrawal permitting activities. The purpose of regionalization and interconnection is to reduce the number of withdrawals needed on ecologically sensitive portions of the Duck River, to enhance resiliency and the ability to weather drought impacts, and to ensure a sustainable water supply for communities and industries within the region.

d. *Habitat Conservation Plan.* TDEC is directed to continue leading the development of a Habitat Conservation Plan ("HCP") for the Duck River Watershed to ensure compliance with the Endangered Species Act of 1973 ("ESA") in connection with future withdrawal permitting activities in the Duck River Watershed. Development of the HCP shall follow the process established under Section 10 of the ESA and involve all pertinent stakeholders.

    i. TDEC is directed to partner with TWRA, as TWRA administers an Endangered Species Program for the conservation of Endangered and Threatened fish and wildlife pursuant to Section 6(c) of the ESA through a Cooperative Agreement with the USFWS. TWRA's Endangered Species program is designed to assist resident Endangered and Threatened fish and wildlife through coordination and collaboration with the USFWS on planning, developing, and conducting programs to protect, manage and enhance all resident Endangered and Threatened fish and wildlife in this State. TWRA is responsible for carrying out the activities identified in this program for the benefit of the Endangered and Threatened fish and wildlife which are resident in this State.
    ii. TDEC is further directed to partner with TWRA regarding TWRA's extensive freshwater mussel propagation program. A highlight of this program is the Cumberland River Aquatic Center located on the Cumberland River in Gallatin which propagates and rears at least 40,000 Endangered and Threatened freshwater mussels annually for reintroduction into Tennessee's rivers and streams.
    iii. The final HCP shall include measures to avoid, minimize, and mitigate impacts to endangered mussel species.
    iv. The final HCP should result in an "incidental take" permit issued by the USFWS, held by TDEC, and extended to permittees to facilitate future withdrawal permitting activities in compliance with the ESA.

e. *Duck River Development Agency.* The Administration affirms its commitment to the DRA and its statutory mission of developing and implementing comprehensive plans and programs for the control, management, and development of the water resources in the Duck River Watershed. This includes efforts to integrate water resource management with the overall economic development of the Duck River Watershed, ensuring a balanced approach that supports both environmental protection and regional growth. TDEC is hereby directed to collaborate with the DRA to achieve such objectives.

f. *Watershed Protection Education.* TDEC, in partnership with TWRA and other stakeholder partners, is directed to continue and expand efforts to educate the public about the importance of watershed protection. This should include education programs focused on elementary school students as well as interpretative programs for the general public, specifically within the Duck River Watershed. This effort should also include marketing and communication initiatives to promote water resource and watershed protection measures by residents within the Duck River Watershed.

g. *Recreational Use.* TDEC, in partnership with TWRA, and other stakeholder partners, is directed to improve responsible and sustainable recreational access and use of the Duck River. This objective should include improving current river access points and adding new access locations in strategic areas to minimize the impact of overuse and to support responsible and sustainable recreational activities while balancing protection of the resource and ensuring impacts to state and federally listed species are addressed. This objective should also include marketing and communication of these access points, as well as public education of responsible recreational use and river safety.

h. *Drought Planning.* TDEC, in collaboration with the DRA and with appropriate input from other stakeholders, is directed to develop a Comprehensive Regional Drought Management Plan for the Duck River Watershed. This plan shall provide clear guidance and strategies for water utilities within the region to enhance both drought resilience and water conservation efforts to protect existing uses in the Duck River. The plan shall undergo an iterative review every ten (10) years to ensure its effectiveness and adaptability to changing conditions and needs.

i. *Normandy Reservoir Planning.* TDEC is directed to collaborate with the TVA, TWRA, and other stakeholders to update and revise the Normandy Reservoir Management Plan. This plan should incorporate hydrologic modeling using the U.S. Army Corps of Engineers' Hydrologic Engineering Center's River Analysis System ("HEC-RAS") tool to improve flood control, drought management, and ecological protection. Further, the plan should incorporate available and relevant data from the TWRA-managed Normandy Hatchery, which is a facility on the Duck River propagating and rearing more than 1.8 million walleye, striped bass, crappie, hybrid striped bass, and Florida largemouth bass annually for the benefit of Tennessee sportsmen and sportswomen.

j. *Large Scale Engineering Projects.* TDEC is directed to evaluate large scale engineering projects for near-term drought mitigation and long-term sustainability of the Duck River. These projects should be evaluated on a cost and feasibility basis and presented to the Governor for further consideration.

3. To continually manage and preserve other watersheds and prioritize regionalization throughout Tennessee:

   a. *Other Priority Watersheds.* TDEC, in partnership with TWRA is directed to consider and identify other watersheds within this State where the activities in Section 1 of this Order could be replicated. TDEC shall consider opportunities for other watershed organizations to be developed and maintain the proper strategic planning and businesses practices necessary to be considered a viable state partner and a sound steward of state assets.

   b. *Regionalization.* TDEC is authorized to consider and prioritize regionalization and interconnection of water systems as part of TDEC's statewide water withdrawal permitting activities. TDEC should incorporate this layer of analysis into its antidegradation determinations associated with water withdrawal permitting. TDEC is further authorized to facilitate collaboration between various water utilities.

   c. *Tennessee Statewide Water Supply Planning.* TDEC is directed to continue its efforts to conduct statewide water supply planning. In addition to periodically updating the *TN H20* report to reflect current conditions, TDEC efforts should also focus on continued implementation of proposed recommendations in the original and subsequent versions of the *TN H20* report.

   d. *Nutrient Reduction Grant Program.* TDEC is directed to use its Nutrient Grant Reduction Program to support municipalities in optimizing their wastewater treatment operations to reduce nitrogen and phosphorus pollution that causes algal growth and impacts the ability of Tennesseans to use and enjoy water resources. TDEC should also offer financial and technical support for Preliminary Engineering Reports and capital improvement projects to sustain and enhance optimized operations.

   e. *Riparian Restoration Program.* TDEC is directed to collaborate with the Department of Agriculture, the University of Tennessee, TWRA, and the TVA to implement a Tennessee Riparian Incentive Program. This program will use prioritization tools to identify and restore critical riparian buffers, provide grants for protection, restoration, and tree planting to bolster water quality and ecosystem resilience.

   f. *Nature-Based Initiative for Stormwater Management and Agricultural Practices.* TDEC is directed to provide technical and financial assistance to urban stormwater communities for implementing nature-based stormwater control measures. These measures will integrate green infrastructure, floodplain management, and

innovative approaches to improve stormwater management, enhance flood protection, and provide for urban development. Additionally, this initiative will offer incentives for agricultural practices such as cover crops and conservation easements, which help reduce nutrient runoff and enhance water quality in rural areas. TDEC will also collaborate with other stakeholders to advance these efforts and provide technical and financial assistance to participants.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 20th day of November, 2024.

Bill Lee

GOVERNOR

ATTEST:

Tre Hargett

SECRETARY OF STATE

