

Resolution #2009-38



In The Matter Of: § In the Commissioners Court  
Declaration of Local Disaster  
For Comal County, Texas § Comal County, Texas

**Resolution Supporting County Judge Scheel's  
Declaration of Local Disaster for Comal County, Texas and  
Request for Extension by the Honorable Rick Perry**

WHEREAS, the Commissioners Court recognizes and supports the efforts and actions of County Judge Danny Scheel in his declaring a Local Disaster for Comal County because the County is experiencing the occurrence and imminent threat of widespread and severe damage, injury, and/or loss of life and property resulting from:

**WILDFIRES DUE TO DROUGHT, DRY VEGETATION, WIND, AND OTHER WEATHER RELATED CONDITIONS; and**

WHEREAS, the Comal County Declaration requires certain emergency measures be taken pursuant to Chapter 418 of the Texas Government Code, titled the Texas Disaster Act of 1975, relating to Emergency Management; and

WHEREAS, Section 418.108 of the Texas Government Code authorizes the County Judge to include in his declaration of disaster prohibitions that exceed the restrictions authorized by Section 352.051 of the Texas Local Government Code; and

WHEREAS, the County Judge of Comal County has determined that extraordinary measures must be taken to alleviate the suffering of people and to protect or rehabilitate property by evidence of affidavits provided by the Comal County Fire Marshal Wayne Ellington, Comal County Emergency Management Coordinator Carol Edgett, Bracken Fire Chief Donald Zipp, Bulverde Fire Department Lieutenant Wayne Schultze, Canyon Lake Fire Chief Shawn Wherry, New Braunfels Fire Department Fire Marshal Patrick O'Connell, and Spring Branch Fire Department Fire Chief Eran Denzler; and

WHEREAS, on July 1, 2009, the Keetch-Byram Drought Index (KBDI) mean reading for Comal County, Texas was 672 with the maximum reading in some areas of the county at 747 and the minimum reading at 559, and the fourteen (14) day outlook predicting the KBDI mean reading to register 734 with the maximum reading at 777 and the minimum reading 675, where the Index's maximum rating is 800; and

**WHEREAS, the National Weather Service forecasts 40 percent chance of precipitation during the daytime for July 1, 2009, and 20 percent chance of precipitation during the nighttime for July 1, 2009, in the unincorporated area of Comal County, and forecasts mostly sunny with highs in the upper 90s for July 2 and 3, 2009; and**

**WHEREAS, on June 30, 2009, County Judge Scheel's Executive Order No. 227 prohibited the sale, dispensing, transportation and use of restricted fireworks "skyrockets with sticks" and "missiles with fins" as defined in Sections 352.051(a)(1) of the Texas Local Government Code and 173.100(r)(2) of the Texas Occupations Code (10-1-86 edition).**

**WHEREAS, County Judge Scheel's Executive Order No. 228 mandates that, "pursuant to the authority granted in the Texas Disaster Act of Chapter 418 Texas Government Code and Section 352.051 of the Texas Local Government Code, the following regulations shall take effect immediately upon issuance of this Order and shall remain in effect until the state of disaster is terminated or extended:**

**THE SALE, DISPENSING, TRANSPORTATION, AND USE OF FIREWORKS WITH A 1.4G RATING AS DEFINED IN SECTION 2154.001(7) OF THE TEXAS OCCUPATIONS CODE IS PROHIBITED."**

**WHEREAS, County Judge Scheel's Executive Order No. 229 mandates that, "pursuant to the authority granted in the Texas Disaster Act of Chapter 418 Texas Government Code, the following regulations shall take effect immediately upon issuance of this Order and shall remain in effect until the state of disaster is terminated or extended:**

**THE EXERCISE AND USE OF OUTDOOR WELDING AND/OR OTHER ACTIVITIES UTILIZING EXPLOSIVES OR COMBUSTIBLE MATERIALS IS PROHIBITED UNLESS PRIOR APPROVAL OF THE FIRE SAFETY PLAN FOR THE SAID WELDING OR OTHER ACTIVITIES IS OBTAINED FROM THE COMAL COUNTY FIRE MARSHAL PRIOR TO ENGAGING IN SUCH ACTIVITY. SAID FIRE SAFETY PLAN MAY INCLUDE, BUT IS NOT LIMITED TO THE FOLLOWING FIRE SAFETY MEASURES: SATURATION OF THE SURROUNDING GROUND AREA WITH ADEQUATE MOISTURE, UTILIZATION OF ADEQUATE PERSONNEL TO OBSERVE AND HANDLE THE RESULTING EFFECTS FROM THE USE OF EXPLOSIVE OR COMBUSTIBLE MATERIAL, PREPARATION OF THE GROUND AREA TO PREVENT AND REMOVE LARGE AMOUNTS OF CURED GRASS, AND FIRE SUPPRESSION DEVICES. THE FIRE MARSHAL SHALL HAVE THE FINAL DETERMINATION AS TO THE NECESSARY FIRE SAFETY MEASURES FOR THE SAID WELDING OR OTHER ACTIVITIES."**

**WHEREAS, pursuant to Section 121.003(a) of the Texas Health and Safety Code the Commissioners Court may enforce any law that is reasonably necessary to protect the public health; and**

**WHEREAS, this Commissioners Court finds that the County Judge's Disaster Declaration and Executive Orders are absolutely necessary to protect the safety, health,**

and welfare of the public due to the EXCEPTIONAL drought conditions in Comal County, Texas; and

WHEREAS, pursuant to Section 418.108(i)(1) & (2) the Governor may extend restrictions pursuant to the County Judge's Declaration and Executive Order upon the Judge's request; and

WHEREAS, on July 1, 2009, County Judge Scheel requested the Governor to extend the restrictions made pursuant to County Judge Scheel's Declaration and Executive Order No. 228; and

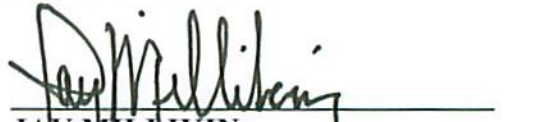
WHEREAS, the Commissioners Court finds that in an effort to carry out their duty of protecting the health, safety, and welfare of the public it is imperative the County Judge's restrictions in his Executive Order No. 228 made pursuant to his Declaration of a Local Disaster be extended until the drought conditions no longer exist or until midnight July 6, 2009.


NOW THEREFORE BE IT RESOLVED, that the Comal County Commissioners Court requests the Honorable Rick Perry extend the restrictions made pursuant to County Judge Scheel's Declaration of Local Disaster for Comal County, Texas issued on July 1, 2009 at 1:00 p.m. and Executive Order No. 228 until the Drought Conditions no longer exist or until midnight July 6, 2009.

APPROVED this 2nd day of July, 2009.

  
DANNY SCHEEL, COUNTY JUDGE

  
DONNA ECCLESTON,  
COUNTY COMMISSIONER PCT. #1

  
JAY MILLIKIN,  
COUNTY COMMISSIONER PCT. #2

  
GREGORY PARKER,  
COUNTY COMMISSIONER PCT. #3

  
JAN KENNADY,  
COUNTY COMMISSIONER PCT. #4



ATTEST:   
JOY STREATER, COUNTY CLERK

THE STATE OF TEXAS, COUNTY OF [illegible]

I, the undersigned, a Notary Public in and for the State of Texas, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in my records.

Witness my hand and the seal of my office at [illegible] this [illegible] day of [illegible] 19[illegible].

Notary Public in and for the State of Texas

My commission expires on [illegible]

Notary Public in and for the State of Texas

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

