

TEXAS GENERAL LAND OFFICE

In Re: Hurricane Laura and § Before the Commissioner of the
Tropical Storm Beta § Texas General Land Office
§ State of Texas

**TEMPORARY ORDER SUSPENDING DETERMINATION OF THE LINE OF VEGETATION
AND SUSPENDING ENFORCEMENT ON CERTAIN ENCROACHMENTS
ON THE PUBLIC BEACH**

The Commissioner of the Texas General Land Office (Commissioner) makes the following Findings of Fact and Conclusions of Law in support of this Temporary Order to suspend determination of the line of vegetation (LOV) for two years and to suspend enforcement of the prohibition against certain encroachments on the public beach easement for three years pursuant to Texas Natural Resources Code (TNRC) §§ 61.0171 and 61.0185.

Findings of Fact

1. Hurricane Laura made landfall at 1:00 a.m. on August 27, 2020 near Cameron, Louisiana, impacting the upper Texas coast. Tropical Storm Beta made landfall at 10:00 p.m. on September 21, 2020 near Matagorda Peninsula. These two meteorological events resulted in a loss in elevation and a loss of vegetation and dunes in both Galveston and Brazoria Counties.
2. The line of vegetation (LOV) has been obliterated within the city limits of the Village of Surfside Beach and on Galveston Island from the western terminus of the seawall to Thirteen Mile Road by storm tidal surges and overwash from Hurricane Laura and Tropical Storm Beta.
3. A temporary suspension of determination of the line of vegetation and a determination of the boundary of the public beach, setting a line at 200 feet inland from mean low tide, is necessary so local governments can issue permits for beachfront construction in accordance with the local Beach Access and Dune Protection Plans, while preventing construction on the public beach easement.
4. A primary purpose of the temporary suspension of enforcement is to allow natural recovery and stabilization of the beach system prior to enforcing against encroachments on the public beach.
5. GLO staff reviewed the LOV in Brazoria and Galveston Counties multiple times between October 2020 and January 2021 and determined that the LOV had been obliterated as a result of meteorological events.
6. In some areas, a common law public beach easement or other easement exists that extends landward of the area that is 200 feet landward of mean low tide.

Conclusions of Law

1. The General Land Office has jurisdiction over this matter pursuant to the Open Beaches Act, TNRC Chapter 61, and the Dune Protection Act, TNRC Chapter 63.
2. Pursuant to TNRC § 61.0171, the Commissioner is authorized to issue a temporary order suspending action on conducting a line of vegetation determination for a period of up to three years from the date

the Order is issued since the Commissioner has determined that the line of vegetation was obliterated as a result of Hurricane Laura and Tropical Storm Beta. For the duration of the Order, the landward boundary of the public beach extends from the line of mean low tide (MLT) to a line 200 feet inland from MLT as established by a licensed state land surveyor.

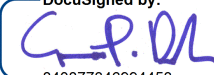
3. Pursuant to TNRC § 61.0185, the Commissioner is authorized to issue a temporary order suspending, for a period of three years from the date the order is issued, the submission of a request that the attorney general file a suit under TNRC § 61.018(a) to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove a house from a public beach if the Commissioner determines that the line of vegetation establishing the boundary of the public beach has moved as a result of a meteorological event, the house was located landward of the natural line of vegetation before the meteorological event, and the house does not present an imminent threat to public health and safety.
4. The boundary of the public beach easement established by this Order establishes a minimum landward boundary of the public beach and does not supersede all or any portions of an easement existing prior to the issuance of this Order to the extent such right of the public that has been established by prescription, dedication, presumption, or has retained a right by virtue of continuous right in the public since time immemorial, as recognized in law and custom. A public beach easement or other easement that extends beyond 200 feet landward of MLT cannot be ceded under common law.
5. No construction of habitable structures is allowed on the public beach easement, whether the portion from MLT to 200 feet landward or farther landward in places with a public beach easement or other easement that extends beyond the 200-foot line. Construction may be allowed as specified in 31 TAC §§ 15.7(e) and 15.11.

It is accordingly **ORDERED** that:

1. Action on conducting a line of vegetation determination is suspended for a period of two years from the date of this Order within the Village of Surfside Beach city limits and from the western terminus of the Seawall west to Thirteen Mile Road on Galveston Island. For the duration of the order, the public beach shall extend to a line 200 feet inland from the line of mean low tide (MLT) as established by a licensed state land surveyor.
2. The area from MLT to 200 feet landward shall be the minimum public beach easement. The public beach easement or another easement may extend further landward than the line established at 200 feet from MLT in some areas if a public beach easement as set forth in TNRC § 61.011 existed in those areas prior to the issuance of this Order.
3. For permitting purposes, local governments shall use 200 feet landward of mean low tide as the LOV, as applicable depending on the local government's plan, for two years.
4. Action on the submission of a request that the attorney general file a suit to obtain a court order to remove a house from a public beach is suspended for a period of three years from the date of this Order. For the duration of the Order, the authority of the GLO or other local government to submit a request that the attorney general file a suit under TNRC § 61.018(a) to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove a house from a public beach is suspended unless the Commissioner determines that the house presents an imminent threat to public health and safety or that the house was not located landward of the natural line of vegetation before Hurricane Laura or Tropical Storm Beta.

5. Notice of this Temporary Order shall be:
 - a. posted on the Internet website of the GLO;
 - b. published by the GLO as a miscellaneous document in the *Texas Register*;
 - c. filed for record by the land office in the real property records of the county in which the areas of beach subject to the order are located; and
 - d. sent to the governing body of each local government to which this order applies.
9. The Temporary Order suspending determination of the LOV will expire two years from the date the Order is issued. The Temporary Order suspending enforcement of the prohibition against certain encroachments on the public beach easement will expire three years from the date it is issued.
10. Should any part of this Temporary Order be determined by a court of competent jurisdiction to be invalid, the validity of the remaining parts of this Order shall remain unaffected.

SIGNED this 29th day of March, 2021, in Austin, Texas.

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GEORGE P. BUSH
Commissioner, General Land Office