



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **WESTERN GOVERNORS**

#### **Texas/Instream Flows**

On September 8, Texas Governor Greg Abbott (R) appointed Brooke Paup, Chair of the Texas Water Development Board (TWDB), to serve with the Environmental Flows Advisory Group. The Advisory Group is composed of nine members from the Texas Legislature, the TWDB, the Texas Commission on Environmental Quality, and the Texas Parks and Wildlife Commission. The Advisory Group conducts public hearings and studies public policy implications “for balancing the demands on the water resources of the state resulting from a growing population and the requirements of the riverine, bay, and estuary systems. In the course of their study, this Advisory Group will look at items including granting permits for instream flows dedicated to environmental needs or bay and estuary inflows, use of the Texas Water Trust, and any other issues that the advisory group determines have importance and relevance to the protection of environmental flows.” See <https://gov.texas.gov/news> and [www.tceq.texas.gov/permitting/water\\_rights/wr\\_technical-resources/eflows/group.html](http://www.tceq.texas.gov/permitting/water_rights/wr_technical-resources/eflows/group.html).

### **WESTERN GOVERNORS/ADMINISTRATION**

#### **New Mexico/Wildfires/Flooding**

On September 13, New Mexico Governor Michelle Lujan Grisham (D) met with Department of Agriculture Secretary Tom Vilsack to advocate for additional resources related to wildfires and flooding, for the deployment of teams for forest restoration work and processing applications for federal assistance. In April, U.S. Forest Service prescribed burns led to the Calf Canyon-Hermit's Peak fire, which burned over 340,000 acres by July when it was 93% contained, and was not fully contained until September 14. In August, heavy monsoon rains brought flood waters that affected the watersheds in the burned areas, contaminated water supplies, and impacted the surrounding communities.

On September 6, the New Mexico Environment Department (NMED) made available free bacteria sample kits for private well owners to test their drinking water. NMED Ground Water Quality Bureau Chief Justin

Ball said: “The combination of fires and floods have put significant strain on residents who rely on private well water for their drinking needs. These tests provide needed assurance to residents that their private water well system is free from harmful bacteria.” The NMED news release noted that the public water systems were tested periodically, but that they have no jurisdiction over private wells.

On September 7, the City of Las Vegas, New Mexico held a town hall meeting to address the drinking water crisis and dwindling water supply precipitated by the fires and flooding. The city has been under Stage 6 or 7 water restrictions under the Drought Contingency and Emergency Response Plan since the end of July, prohibiting outdoor watering and new water connections, limiting water consumption, imposing higher fees for water use beyond conservation plan levels, directing fire departments to use foam or effluent in place of water where there is no imminent threat to life or property, and requesting commercial customers to delay projects requiring large quantities of water. Governor Grisham declared a State of Emergency for the city on July 29, making \$2.25M available for emergency measures and repairs. The Governor's press release said: “The burn scar created by the Hermit's Peak/Calf Canyon Fire has left thousands of acres of ash and debris along the Gallinas River watershed, which serves as the city's primary municipal water source. While Las Vegas currently retains an estimated two-month supply of safe drinking water, ongoing flooding in the burn scar threatens to contaminate the city's water supply with ash and debris, which could negatively affect the use of the municipal water supply. The emergency funding...will support the City of Las Vegas to establish and operate a temporary pre-treatment system that will allow the city to safely treat and draw water from Storrie Lake for municipal use.”

On September 13, Governor Grisham signed an executive order declaring a State of Emergency for Hidalgo County, providing an additional \$750,000 for infrastructure repair and emergency protective measures. The press release said: “The emergency declaration comes after monsoon rain events that began

in August have resulted in flooding that broke the all-time record water level for the Gila River water gage near the Village of Virden and resulted in damage to both private and public property.”

On September 14, Governor Grisham announced an extension of the registration period for Federal Emergency Management Agency (FEMA) assistance for individuals affected by burn scar flooding and debris flows. On September 15, local, state and federal partners began hosting a series of coordinated recovery response open house events to answer questions and provide community assistance in the recovery from the Calf Canyon and Hermits Peak Fires. See [www.governor.state.nm.us](http://www.governor.state.nm.us) and [www.lasvegasnm.gov/](http://www.lasvegasnm.gov/).

### **ADMINISTRATION/WATER QUALITY** **NOAA**

U.S. Secretary of Commerce Gina Raimondo has appointed Steve Thur, Ph.D., as the Assistant Administrator for Oceanic and Atmospheric Research (NOAA Research). In this capacity, Thur is primarily responsible for foundational research that is key to understanding our weather, climate and marine ecosystems. Thur will transition into the role in early October replacing Cisco Werner, who has been serving in the job as an Acting Assistant Administrator.

### **ADMINISTRATION/WATER RESOURCES** **Nevada/Walker River Paiute Tribe**

On September 13, the U.S. Secretary of Commerce announced a \$5.2M grant for water system infrastructure improvements to the Walker River Paiute Tribe. The grant was funded by the Indigenous Communities Program, authorized by the American Rescue Plan Act (ARPA). The press release said: “This project will support replacement and expansion of four water mains and installation of 45 fire hydrants, resolving water system capacity constraints that limit commercial development. This [Economic Development Administration] EDA investment will be matched with \$156,674 in local funds and is expected to create or retain 25 jobs, according to grantee estimates.”

Senator Catherine Cortez Masto (D-NV) said: “Tribes in Nevada and across the country were hit hard by the pandemic, and I supported this funding to make sure they were able to recover.” Senator Jacky Rosen (D-NV) said: “Water infrastructure can have a significant effect on the health and economy of a community, and it is critical that we protect access to clean water for all Nevadans.” Representative Steven Horsford (D-NV) said: “I recently visited the Walker River Paiute Tribe and listened to their concerns, top among them being their infrastructure issues.... This investment will allow for the commercial growth necessary for the Walker River

Paiute Tribe to thrive.” See: <https://eda.gov/news/press-releases/2022/09/13/walker-river-indian-reservation.htm>.

### **WATER QUALITY** **EPA/CWA §404(c) Veto**

On September 6, thirteen state attorneys general (AGs) and one environmental quality director sent a letter to the Environmental Protection Agency (EPA) opposing the proposed determination to pre-emptively veto the federal permitting of the Pebble Deposit Area project in Alaska. The letter was directed to EPA’s Region 10 Administrator, Casey Sixkiller, and was signed by the AGs in Alaska, Arkansas, Indiana, Kansas, Kentucky, Louisiana, Montana, Nebraska, South Carolina, Texas, Utah, West Virginia, and Wyoming, together with the Idaho Department of Environmental Quality.

Of particular note, the letter points out the uncertainties EPA introduces by using its Clean Water Act (CWA) §404(c) veto authority in inconsistent ways, without clear criteria, and without communicating with the states with regulatory authority of their own. Alaska objected in part to the failure to allow adequate time for the state “to issue, waive, or deny a §401 certification before acting.” The letter also notes that the Region 10 veto “considers factors that Congress, in enacting §404(c), clearly did not intend EPA to consider (including a hypothetical expanded mine scenario, secondary and indirect effects not resulting from point-source discharges, unlikely scenarios of spills and accidents, and previous commentor disapproval).”

The letter concluded: “We have abundant mineral resources in the United States. What we need is a federal government united in its preference for responsibly developing our resources, under our own environmentally protective laws, pursuant to a predictable permitting process.... EPA must act cooperatively with States, and consistent with national policy [e.g., the Inflation Reduction Act of 2022 and the March 2022 Memorandum on Presidential Determination Pursuant to Section 303 of the Defense Production Act of 1950], so that we can, as a Nation, build the secure and reliable mineral supply chains that we need....” See <https://dec.alaska.gov/>.

### **MEETINGS** **EPA/Water Reuse**

On September 21, EPA will host a webinar to introduce REUSExplorer, a new tool to explore water reuse regulations across different states for a variety of water sources and end-use applications. The tool is available at [www.epa.gov/reuseexplorer](http://www.epa.gov/reuseexplorer). To register, see: <https://www.epa.gov/waterreuse/recent-and-upcoming-water-reuse-activities>.

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**The WESTERN STATES WATER COUNCIL is a government entity of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.**