

**STATE OF NEW MEXICO  
OFFICE OF THE STATE ENGINEER**

<b>IN THE MATTER OF THE TEMPORARY</b>	)	
<b>RESTRICTION OF DIVERSIONS OF</b>	)	<b>Order No. 195</b>
<b>WATERS FROM THE</b>	)	
<b>GALLINAS RIVER BASIN,</b>	)	
<b>STATE OF NEW MEXICO)</b>	)	

**ORDER**

**WHEREAS**, pursuant to NMSA 1978, Section 72-2-1, the State Engineer has general supervision of waters of the state and of the measurement, appropriation, distribution thereof and such other duties as required; and

**WHEREAS**, pursuant to NMSA 1978, Section 72-2-8, the State Engineer may issue orders necessary to implement his decisions and to aid him in the accomplishment of his duties; and

**WHEREAS**, The United States District Court for the District of New Mexico issued a decree on May 9, 1933 entitled "The United States of America, Plaintiff, vs. Hope Community Ditch, et al., Defendants, No. 712 Equity," defining the rights of several parties to the use of water along the Pecos River in New Mexico and some of its tributaries, among which is the Gallinas River; and

**WHEREAS**, the Pecos River Water District was declared by State Engineer Order No. 55 on January 20, 1956; and

**WHEREAS**, by letter dated March 19, 2003, the Storrie Project Water Users' Association ("Storrie Project") requested that the State Engineer administer the water in the Gallinas River; and

**WHEREAS**, The State Engineer is authorized, if in his opinion it is in the interest of public safety or the best interest of water users in a water district, to appoint a Water Master who shall have control of the apportionment of waters in his district under the general supervision of the State Engineer, and shall so appropriate, regulate and control the waters of such water districts pursuant to NMSA 1978, Section 72-3-2; and

**WHEREAS**, the State Engineer declared the Gallinas River Water Sub-District of the Pecos River Stream System on August 29, 2003, in State Engineer Order No. 167, now codified in Section

19.26.11 NMAC, and therein decreed that in the interest of public safety and in the interest of water users, the Gallinas River Water Sub-District should be formed and a Water Master appointed on a permanent basis; and

**WHEREAS**, pursuant to Section 19.25.13.16 NMAC, the Water Master shall have immediate charge of the administration of waters within a water master district as necessary to protect the public safety, and may implement administration of the storage, diversion, and use of the waters of the water master district in accordance with the administrable water rights, and may administer the diversion of the waters of the water master district in priority or under an alternative administration; and

**WHEREAS**, Governor Michelle Lujan Grisham issued Declarations of Emergency due to ongoing wildfire activity in Colfax, Mora, and San Miguel Counties on April 22 and 23, 2022; and

**WHEREAS**, on June 21, 2022, the United States Department of Agriculture (“USDA”) published the *Gallinas – Las Dispensas Prescribed Fire Declared Wildfire Review*, wherein the USDA acknowledged that the aforementioned wildfire activity was the result of a prescribed burn operation that was planned, implemented, and controlled by USDA personnel; and

**WHEREAS**, the State Engineer will work with the Governor’s Office and all other relevant state and federal agencies to secure disaster relief for all water users affected by wildfires; and

**WHEREAS**, in light of the Governor’s Declarations of April 22 and 23, 2022, the State Engineer has determined that if necessary, all available water resources must be dedicated to addressing the ongoing wildfire activity; and

**WHEREAS**, The State Engineer finds that the Water Master has the authority to restrict diversions of water in accordance with principles of beneficial use and to protect public safety, pursuant to 19.25.13.16 NMAC and NMSA 1978, Sections 72-3-2 and 72-2-1; and

**WHEREAS**, on May 6, 2022 the State Engineer issued State Engineer Order No. 194, halting all diversions from the middle reach of the Gallinas River, Storrie Lake Canal, and Storrie Lake in the interest of public safety so that all resources could be made available to address the ongoing wildfire activity; and

**WHEREAS**, the State Engineer and the Water Master have determined that the effects of the ongoing wildfires have reduced and impaired the water available for necessary municipal uses in Las Vegas, New Mexico and surrounding communities; and

**WHEREAS**, Storrie Lake, which stores water for the City of Las Vegas, is supplied by the Gallinas River; and

**WHEREAS**, the City of Las Vegas currently lacks the ability to treat and remove suspended ash from its municipal water supply; and

**WHEREAS**, the State Engineer and the Water Master have determined that the City of Las Vegas will be severely restricted in its ability to replenish the supply in Storrie Lake due to the presence of ash in runoff from the Gallinas watershed; and

**WHEREAS**, The State Engineer and the Water Master have determined that the water stored in Storrie Lake is an essential source of clean water for municipal use in Las Vegas, New Mexico and surrounding communities.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. All diversions from the middle reach of the Gallinas River, including Storrie Canal and Storrie Lake shall cease with immediate effect, with the following exceptions:
  - a. Those diversions from Storrie Lake necessary to supply clean water for municipal use in Las Vegas, New Mexico and surrounding communities;
  - b. those diversions authorized by the Incident Command for the Hermits Peak & Calf Creek Fire in support of the wildfire response;
  - c. the opening of headgates, with the authorization of the Water Master, to prevent the destructive effect of heavy rain events;
  - d. *de minimis* diversions, with prior authorization from the Water Master, to protect human life.
2. This Order shall remain in effect until the State Engineer so orders;
3. State Engineer Order 194 is hereby rescinded.

Witness my hand and official seal of my office, this 27<sup>th</sup> day of June 2022.



Mike A. Hamman, P.E.  
State Engineer

Reviewed by:



Nathaniel Chakeres  
General Counsel

