



After the Long Dry Summer – Knowing Your Rights and Responsibilities as Water Appropriators

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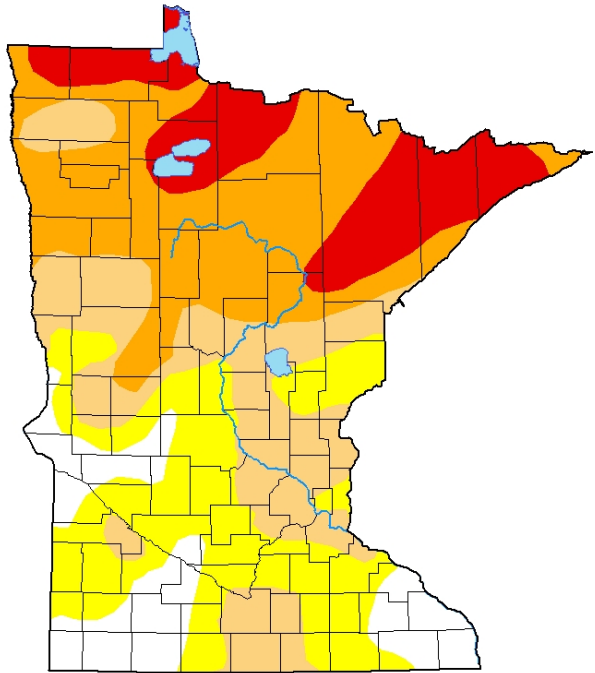
(contact info. at end)

Overview

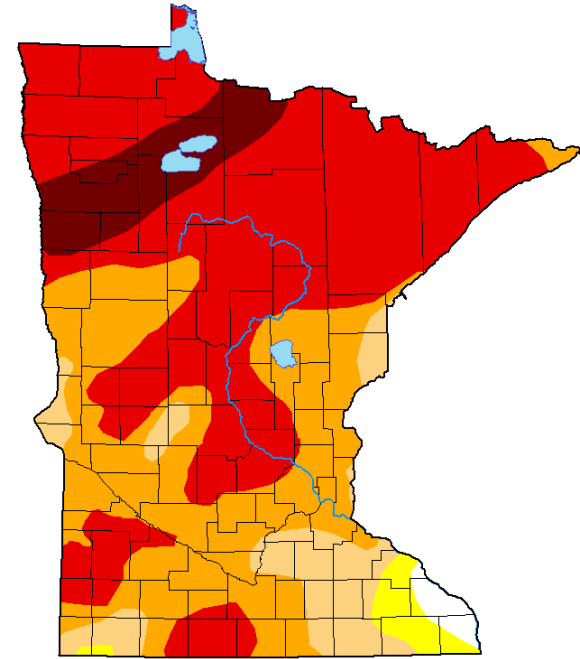
- **2021 Was First Significant Metropolitan Area Drought in a Decade**
- **Drought + Growth = Stress on Water Supplies**
- **The *White Bear Lake* Litigation**
- **What will communities be required to do?**
- **What can forward-thinking communities do on their own?**

2021 Drought

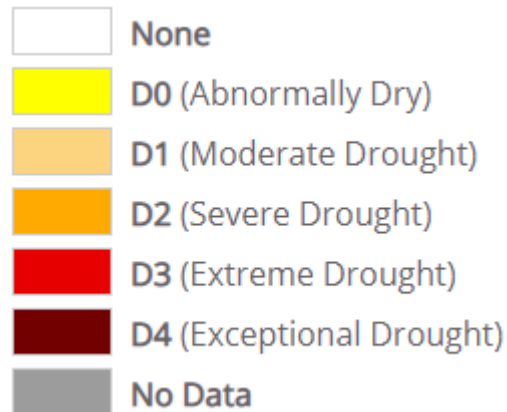
October 12, 2021



August 24, 2021



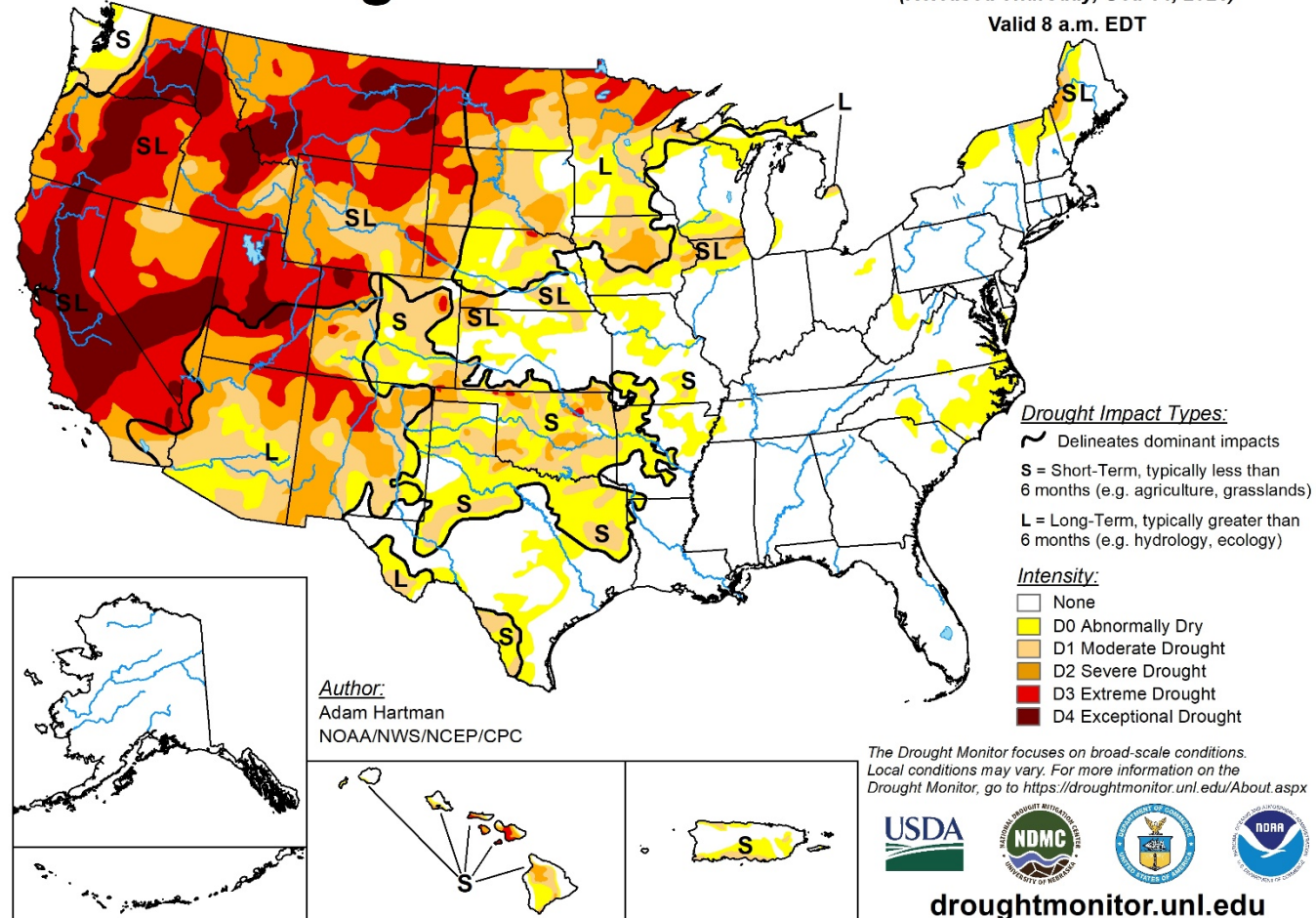
Drought Classification



Much Worse Out West

U.S. Drought Monitor

October 12, 2021
(Released Thursday, Oct. 14, 2021)
Valid 8 a.m. EDT



Basics of MN Water Appropriation

- **Department of Natural Resources Has Broad Permitting Authority**
- **Legislative Hierarchy**
 1. **Domestic Water Supply/Power production**
 2. **Small uses less than 10,000 gallons/day**
 3. **Agriculture**
 4. **Industry**
 5. **Non-essential Uses**
- **State Drought Plan**
- **Permit-holders' Rights**
 - **Limited rights if DNR invokes permit clause**
 - **Right to hearing if DNR changes permit**

State of Affairs

- **DNR has historically been liberal with municipal appropriations permits**
- **Few restrictions on consumption; limited tools for monitoring/regulating consumption**
- **All uses have gone up; especially lawn irrigation**
- **Even without drought, continued growth is putting pressure on supplies**
- **Met. Council targets (2015 Master Water Supply Plan)**
 - 75 gallons/day per capita residential use
 - 90 gallons/day per capita total municipal use

White Bear Lake litigation

- **Suit brought by lakeshore homeowners' groups under the Minnesota Environmental Rights Act**
 - Against DNR
 - For failing to protect White Bear Lake
- **After trial, judge ordered DNR to change all permits within 5 miles of W.B.L.**
 - Lawn irrigation restrictions
 - Total use restrictions – 75 per capita gpd/90 gpd
 - Contingency planning – focused on tying to Mississippi R.
 - Collective area withdrawal limit, modeling, permit revisions
- **Minnesota Supreme Court largely upheld decision on appeal**
- **Administrative Contested Cases Ongoing**

Where is This Going?

- **Expect More Active DNR Oversight**
 - Contingency Planning
 - Water Conservation Measures
 - Possible Permit Revisions (certain around White Bear Lake)
 - Limits on Appropriation Increases
 - Limits on New Permits
- **Potential Future *White Bear Lake*-type litigation**
 - Other Groundwater-Connected Lakes or Sensitive Aquifers?
 - Friends of Mississippi River?
- **Water Availability**
 - Could be a drag on future Metro growth, quality of life
 - Could be a major national competitive advantage

What Can Forward-Thinking Communities Do?

- **Self-diagnosis**
 - Test against Met. Council Goals
 - Identify upcoming needs
- **Contingency Planning**
 - Alternative supplies
 - Conservation measures
- **New Construction Standards**
- **Capital Projects**
 - Surface water, wastewater, stormwater management
- **Improved Monitoring Tools**
- **Targeted Restrictions and Enforcement**

Questions or Follow-up Info. Needed?

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