

B.W.O.P.
APR - 1 2015
RECEIVED

RECEIVED
APR 01 2015
ENVIRONMENTAL PROTECTION

Humboldt River Basin Water Authority
c/o Intertech Services Corporation
P.O. Box 2008
Carson City, Nevada 89702

Elko County
Eureka County
Humboldt County
Lander County
Pershing County

March 27, 2015

Mr. John Heggeness
Nevada Division of environmental Protection
Bureau of Water Quality Planning
901 Stewart Street, Suite 4001
Carson City, Nevada 89701

SENT VIA EMAIL TO: jheggene@ndep.nv.gov

RE: Comments on Aspects of Nevada's Surface Water Quality Standards That NDEP Should Consider for Potential Revision

Dear Mr. Heggeness:

On behalf of the five-county Humboldt River Basin Water Authority (HRBWA) I am pleased to provide the following comments on aspects of Nevada's Surface Water Quality Standards which the Nevada Division of Environmental Protection (NDEP) should consider for potential revision. You will recognize some of the following comments as representing recurring concerns which have been raised previously by HRBWA. The Authority would ask NDEP to give serious consideration to addressing these recurring concerns as it undertakes its triennial review of Nevada surface water quality standards. Issues which HRBWA believe should be addressed by NDEP include:

1. A comprehensive re-evaluation of the designated beneficial uses throughout the Humboldt River system is needed. HRBWA is convinced that many of the designated beneficial uses are inappropriate and do not fairly represent historic, existing and potential uses; desired potential uses or public concerns. In many cases, inappropriate designated beneficial uses have resulted in inappropriately rigorous water quality standards being applied to manage water quality for said inappropriate beneficial use. Of particular concern is the presumption of many segments of the Humboldt River and/or its tributaries being used for municipal or domestic supply, or both, For most, if not all, of the Humboldt River and its tributaries this is simply not the case, .has not been the case, nor is this use of said surface water contemplated now or in the foreseeable future. Until such time as there is a realistic demonstrated need or plan for use of the Humboldt River and/or its tributaries for municipal or domestic supply these surface water segments should not be managed to maintain water quality

consistent with municipal or domestic use, or both. HRBWA understands that reevaluation of the Humboldt River and its tributaries for the purpose of reconsidering the appropriateness of Municipal as a designated beneficial use is time consuming and difficult. However, that is not a reason why NDEP should not seek to correct this mis-designation of surface water use within the Humboldt River system.

2. HRBWA understands that NDEP is already undertaking work to re-evaluate its temperature standards as they apply to surface water quality within the Humboldt River Basin. The Authority commends this action by NDEP. The Authority would encourage NDEP to suspend further listing of stream segments as impaired based upon non-compliance with existing temperature standards until such time as the review and possible revision of said temperature standards is completed.
3. HRBWA believes the scientific evidence supports greater frequency and duration of drought for the Humboldt River Basin in the future. In addition, higher temperatures in the future will result in a lower percentage of precipitation following as snow in the higher elevations of the Basin. These factors will combine to significantly alter the base flows of the Humboldt River and its tributaries. Resulting reduced flows, and in many cases seasonal no flow, will render maintenance of drought impacted stream segments for existing water quality standards more difficult if not impossible for certain existing water quality standards. It is suggested that NDEP seek to adapt its water quality standards to account for climate induced changes in Humboldt River system flow patterns.
4. HRBWA has expressed its concern with the assumption made by NDEP that the entire Humboldt River and its tributaries are waters of the U.S. for purposes of evaluation and possible 303(d) listing. In fact, only one formal designation of jurisdiction has been made by the Corps of Engineers on the system and this is for Rye Patch Reservoir at its upstream confluence with the Humboldt River. No other formal determinations of jurisdiction have been made by the Corps for any other segment of the Humboldt River and its tributaries. Consequently, while under the Corps Tributary Rule the Corps might presume that the balance of the Humboldt River and its tributaries is jurisdictional as a Water of the U.S., the Corps itself has not actually made any such determinations. The fact that NDEP also assumes that the entire Humboldt River and its tributaries are jurisdictional and Water of the U.S. for purposes of water quality evaluation and possible listing as impaired under the 303(d) process does not serve the public interest and welfare of Nevada and her citizens. To the contrary, this assumption made by NDEP has and continues to result in hundreds of miles of stream segments and other water bodies within the Humboldt River Basin being listed as "impaired". Through its assumption of jurisdiction as Waters of the U.S., NDEP is needlessly causing the stigmatization of many high quality and publicly important stream segments and water bodies. NDEP's assumption and the resultant growing list of 303(d) listed stream segments and water bodies within the Humboldt River Basin and elsewhere in Nevada is harmful to the State and her citizens in that it invites legal challenges to the inaction by NDEP to establish TMDLs on said stream segments and water bodies. Successful legal challenges would result in adverse fiscal impact to the State from costs to develop and

implement said TMDLs and economic impacts from the higher level of management standard which would result from establishment of said TMDLs. It is simply not in Nevada's best interest for NDEP to continue to assume that the entire Humboldt River and its tributaries are Waters of the U.S. for purposes of water quality evaluation and 303(d) listing. NDEP is encouraged to end the use of said assumption.

Your consideration of these comments and suggestions is greatly appreciated.

Sincerely,



Mike Baughman, Ph.D

Executive Director

(775) 315-2544

mikebaughman@charter.net