



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

STATE OF NEVADA
Department of Conservation & Natural Resources

Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
David Emme, Administrator

December 21, 2015

Mike L. Baughman, Ph.D.
Executive Director
Humboldt River Basin Water Authority
c/o Intertech Services Corporation
P.O. Box 2008
Carson City, NV 89702

Dear Dr. Baughman,

Thank you for the comments from the Humboldt River Basin Water Authority (HRBWA) on Nevada's Draft 2014 Integrated Report (IR). The Nevada Division of Environmental Protection (NDEP) appreciates the HRBWA's concerns; however, after careful consideration, NDEP determined that no changes to the draft IR are warranted. Specific responses to your comments are provided in the Enclosure to this letter.

Nevada's final 2014 IR has been submitted to the U.S. Environmental Protection Agency for approval and is available at <http://ndep.nv.gov/bwqp/303dlist.htm>. It is important to bear in mind that NDEP considers the Integrated Report to be a broad brush water quality planning tool that is only one of many factors used to prioritize activities and resources. Other actions including the development of water quality standards or total maximum daily loads require additional detailed monitoring and evaluation to verify the IR findings and ensure appropriate protection for waters of the State.

Please contact me at (775) 687-9449 if you have any questions or would like to further discuss these matters.

Sincerely,

John O. Heggeness, Supervisor
Water Quality Standards and Monitoring
Bureau of Water Quality Planning

Cc: David Emme, Administrator, NDEP
Jennifer Carr, P.E., CPM, CEM, Deputy Administrator, NDEP
Kathy Sertic, Chief, Bureau of Water Quality Planning, NDEP

Enclosure

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

November 24, 2015

Mr. John Heggeness
Nevada Division of Environmental Protection
Bureau of Water Quality Planning
901 S. Stewart Street
Carson City, Nevada 89701

RE: Comments to the Draft Nevada 2014 Water Quality Integrated Report

Dear Mr. Heggeness:

On behalf of the Humboldt River Basin Water Authority (HRBWA), I am pleased to submit these comments to the Draft Nevada 2014 Water Quality Integrated Report. First, let me note that HRBWA endorses comments contained in the January 29, 2014 Nevada Mining Association letter to NDEP providing comments to the Draft 2012 Integrated Report.

NDEP Response: Comment noted. Please see NDEP's response to the Nevada Mining Association's letter at <http://ndep.nv.gov/bwqp/303dlist2012.htm>

HRBWA is concerned that NDEP continues to inappropriately include numerous waters that do not meet the criteria for Clean Water Act ("CWA") jurisdiction in its reporting to the Environmental Protection Agency (EPA) required by CWA sections 305 and 303(d). HRBWA is further concerned that NDEP's continued inclusion of waters which have not been formally determined to be jurisdictional waters by the Corps of Engineers remains an inappropriate policy decision with the potential for adverse unanticipated consequences for Nevada and her taxpayers, local governments, land owners, land users and industries.

NDEP Response: The assumption that all waters in Nevada are jurisdictional unless specifically determined non-jurisdictional by the U.S. Army Corps of Engineers or the U.S. Environmental Protection Agency is a long standing NDEP practice that is implemented for all Clean Water Act programs including water quality standards, discharge permits and

303(d)/305(b) reporting. In the practical sense, NDEP does not have the staff or resources to do otherwise. NDEP is not aware of adverse impacts resulting from this practice. NDEP has the authority to establish water quality standards, issue discharge permits, evaluate the status and protect all waters of the State, regardless if waters have been determined to be jurisdictional or not. That said, however, NDEP Administration will review our practices in the context of State and Federal laws during the coming year.

In comments submitted to NDEP regarding previous years' Integrated Reports, the HRBWA has expressed concern with the extent to which determinations of impaired waters fully consider whether water quality data is collected during extreme events. NDEP's specific water quality standards are not considered violated when the natural conditions of the receiving water are outside the established limits, including periods of extreme high or low flow. Water quality data considered by NDEP in preparation of the Draft 2014 Integrated Report were obtained during the most intensive drought experienced by Nevada in the past 100 years.

NDEP Response: Data collected from October 1, 2007 – September 30, 2012 were used to develop the Draft 2014 Integrated Report. 2012 is considered to be the first year of the drought.

It is noted that, NAC 445.121(8) indicates that the specified standards are not considered violated when the natural conditions of the receiving water are outside the established limits, including periods of extreme high or low flow values as developed by USGS. Data from extreme high and low flow events are to be excluded from the data set used to determine listing. Yet there is no indication in the Draft Nevada 2014 Integrated Report that any water quality data were excluded from the data set used by NDEP to determine listing.

NDEP Response: Extreme flow conditions are characterized as 7Q10 high and low flow values. The 7Q10 flows are developed from historic streamflow data and are defined as a predicted high or low flow for a consecutive seven day period with an expected recurrence interval of ten years. NDEP calculated 7Q10 statistics for the active USGS gaging stations and evaluated the days that water quality samples were collected at or near the gage sites. No data were found to have been collected during 7Q10 high or low flows and therefore no data was excluded from the 2014 IR.

Specifically, the Authority is concerned that the following waterbodies may have been inappropriately added to the proposed 2014 303(d) list because of water temperature.

N. Fork of Humboldt River (Natl. Forest Boundary to Beaver Creek)	
N. Fork of Humboldt River (Confluence with Beaver Creek to Humboldt River)	
Little Humboldt River	Reese Creek
Little Susie Creek	Tenmile Creek
Little Sawmill Creek	Goosey Lake Creek
Mary's River	

NDEP Response: The above referenced waters are listed because the existing temperature standards are being exceeded. Please note that Susie Creek is not listed for temperature in the 2014 IR.

HRBWA notes that 10 waters within the Humboldt River Basin are proposed for delisting in the Draft Nevada 2014 Integrated Water Quality Report. However, none of these waters are proposed for delisting because they now meet temperature standards.

NDEP Response: The Humboldt River Basin waters proposed for delisting were not originally listed for temperature. A parameter is only delisted when the water quality standard for that particular parameter is being met.

Temperature continues to be the Achilles heel of an already egregious NDEP impaired waters reporting process. HRBWA appreciates the fact that NDEP agrees that its temperature standards warrant reconsideration and that said analysis is now underway. However, given that full reconsideration of Nevada's temperature standards is expected to take another year or two, HRBWA suggests that no water body be included as newly listed in the Nevada 2014 Integrated Report or future reports as not meeting the temperature standard until such time as the ongoing drought ends and the reconsideration of the appropriateness of Nevada's temperature standards is fully reconsidered.

NDEP Response: As noted by HRBWA, NDEP is in the process of evaluating the aquatic life temperature standards. As also stated by NDEP in previous responses to HRBWA comment letters, until the time that new temperature standards are adopted by the State Environmental Commission and officially included in the Nevada Administrative Code, NDEP must continue to use the existing standards for integrated reporting purposes.

Your consideration of these comments is greatly appreciated.

Sincerely,



Mike L. Baughman, PhD, CEcD.
Executive Director

Cc: Board Members and Alternates, Humboldt River Basin Water Authority