



April 6, 2020

Adam Whitman
Meridian Rossi Corporation
4635 Longley Lane,
Reno, Nevada 89502

Subject: Responses to Comments on the Draft Nevada 2016-2018 Integrated Report

Dear Mr. Whitman:

The Nevada Division of Environmental Protection (NDEP) Bureau of Water Quality Planning (BWQP) received comments made by Meridian Rossi Corporation on the Draft Nevada 2016-2018 Water Quality Integrated Report. BWQP is committed to improving the accuracy of the Water Quality Integrated Report and appreciates your careful review.

BWQP has reviewed the areas of concern brought to our attention and have addressed them below. All changes have been incorporated into the final Integrated Report.

Meridian Rossi Corporation Comment:

Our predecessor company Meridian Rossi worked with ACOE to have jurisdictional determination completed on Birch Creek as described in the attached documentation. The ACOE concurred with the field report and responded with a letter validating the delineation report findings, which in part determined that Birch Creek is non-jurisdictional. The report and ACOE concurrence letter were submitted to Randy Pahl of NDEP in 2016, per the attached email from consultant Jill Southerland at Resource Concepts, Inc. to Mr. Pahl, with attachments. Also attached is a copy of RCI's delineation report and the concurrence letter from the ACOE specifically determining Birch Creek as non-jurisdictional. In part, the ACOE letter states:

"The waters identified as "Dump Creek and Birch Creek" on the above drawing are intrastate isolated waters with no apparent interstate or foreign commerce connection. As such, these waters are not currently regulated by the U.S. Army Corps of Engineers (Corps)."

We notice that Birch Creek remains on your 2019 draft 303d list in the Water Quality Integrated Report. Per the language in the Integrated report:

"Non-jurisdictional Waters

Non-jurisdictional waters need not be evaluated for 303(d) and 305(b) purposes, and NDEP does not have the authority to make jurisdictional determinations (JDs). JDs are issued by the U.S. Army Corps of Engineers (Corps) and the EPA and are usually valid for five years from the date of the

determination letter. NDEP accepts Corps- or EPA-approved JDs effective during the assessment period, on a case-by-case basis and did not include waters in the 2016-2018 Water Quality Integrated Report that were specifically determined to be non-jurisdictional. "

We believe that the status of Birch Creek and its tributaries as **"intrastate isolated waters with no apparent interstate or foreign commerce connection"** is a near permanent condition, and the provided information fully justifies the removal of Birch Creek from all consideration in the Integrated Report.

BWQP Response: Thank you for reviewing the draft Integrated Report. Stakeholder comments such as yours help ensure the accuracy and reliability as a tool for everyone interested in Nevada's surface water quality.

We have reviewed the materials you sent and agree that the jurisdictional determination by the U.S. Army Corps of Engineers means that all segments of Birch Creek and Dump Gulch are not "waters of the U.S" and are not covered under the Clean Water Act. These waterbodies have been excluded from the 2016-2018 Water Quality Integrated Report.

If you have any questions, please do not hesitate to contact me at (775) 687-9548.

Sincerely,



Dave Simpson, Supervisor
Water Quality Standards and Monitoring
Bureau of Water Quality Planning

cc: Greg Lovato, Administrator, NDEP
Jennifer Carr, P.E., CPM, CEM, Deputy Administrator, NDEP
Paul Comba, Chief, Bureau of Water Quality Planning, NDEP