

# Humboldt River Basin Water Authority

September 8, 2022

Dave Simpson  
Nevada Division of Environmental Protection  
Bureau of Water Quality Planning  
901 S. Stewart St., Suite 4001  
Carson City, NV 89701

Subject: Humboldt River Basin Water Authority Comments to Proposed Regulations LCB  
File Number R 113-22

Dear Mr. Simpson:

The Humboldt River Basin Water Authority (HRBWA) respectfully submits the following comments on the Legislative Council Bureau (LCB) Draft of Proposed Regulation R113-22. These comments are also based on our review of the Division's Response to Comments on LCB Draft of Proposed Regulation R119-20 as well as participation in the August 31<sup>st</sup> public workshop.

HRBWA appreciates the Division's willingness to consider changes to the proposed regulatory language and thoughtful responses to our previous comments on LCB R119-20. The comments in this letter are focused on the proposed language related to water of extraordinary ecological, aesthetic or recreational value or EAW.

In response to our previous comment that Proposed Regulation R119-20 lacks standards for evaluating EWA nominations (for example social and economic impacts), the Division responded:

“As written, the revised proposed rule puts the burden on the nominator to identify the criteria that serve as the justification for determining whether a nominated water should be designated as an EAW. It would be up to the nominating party to provide sufficient information to address the two examples noted in the comment. If the level of information related to social and economic impacts was not sufficient, or the outreach and communication was inadequate in the Commission's view to render a decision, the petition could be denied with the aforementioned reasons provided as to why the petition was not acted upon.”

We agree with the Division's response and strongly support keeping the requirements for nominators to provide the information listed in Section 2, Subsection 3 (a) through (i) in the regulation. This information is essential for establishing a complete administrative record for the public to review and upon which the State Environmental Commission can make an informed decision.

**Member Counties:** Elko • Eureka • Humboldt • Lander • Pershing

In response to our previous comment that the Proposed Regulation R119-20 EAW evaluation process lacks meaningful consultation with state agencies, local governments, and federal land managers and robust public outreach, the Division responded:

“Comment noted. The Division agrees that an EAW nomination package will need to include documentation of petitioner's public involvement activities with local government and state and federal agencies. If an EAW was to be located on federally owned lands, the expectation would be that a letter of support from the federal land management agency would need to be included in the nomination package.”

We appreciate the Division’s recognition of the need for public involvement with local government, and state and federal agencies.

In response to our comment that Proposed Regulation R119-20 must require an outreach plan to ensure that all potentially impacted parties have the opportunity to provide comment on a proposed EAW designation, the Division responded:

“An EAW nomination will require support at a local level. Identifying this level of support prior to submitting a nomination would be important in the Division's opinion, as it would provide an indication to the nominating party of the effort that will be required to attempt to classify the water as an EAW.”

We agree with the Division’s response.

Finally, in response to our comment about the impacts of an EAW designation on the use of federal and private lands and concern that there is no mention of how the expansion of existing land uses and future land uses would be impacted the Division responded:

“The proposed rule requires that the compatibility of a nominated EAW with preexisting and preauthorized land use activities be demonstrated. As part of this demonstration, the expansion of these preexisting and preauthorized land use activities would be evaluated. If a waterbody is determined to warrant protection as an EAW, the decision is being made that the designation will provide protection against new or increased sources of pollution in the future. If an EAW was to be located on federally owned lands, the expectation would be that a letter of support from the federal land management agency would need to be included in the nomination package.”

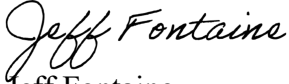
We would request that the Division add the following bolded language to Section 2, Sub. 7 to allow for the expansion of existing land uses and new land uses that do not degrade water quality:

The classification of a surface water or segment of a surface water as a water of extraordinary ecological, aesthetic or recreational value does not:

*(f) Prohibit or impair any property rights or any land use activities authorized under a state or federal permit occurring on any federally managed land adjacent to the water of extraordinary ecological, aesthetic or recreational value. **Designation as an EAW does not prohibit future activities when effective and responsible management practices adequately prevent water quality degradation.***

Thank you for your consideration of these comments.

Sincerely,



Jeff Fontaine  
Executive Director

Cc: HRBWA Board of Directors