



Nevada Farm Bureau Federation

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Nevada Division of Environmental Protection
901 S. Stewart St. – Suite 4001
Carson City, NV 89701
(sent via email to pcomba@ndep.nv.gov and dsimpson@ndep.nv.gov)

Re: Nevada Farm Bureau Comments to Proposed Regulations LCB File Number R 113-22

We appreciate this opportunity to share our input to the Nevada Division of Environmental Protection (NDEP) proposed regulations R 113-22. Thank you also for the August 31, 2022 workshop for these proposed regulations. The background provided and the discussions were very helpful in understanding the considerations being given to this latest proposal.

Based on our review of the July 26, 2022 draft of R 113-22 and also in response to the comments made during the August 31st workshop, we offer these public comments for inclusion in the public record...

The bulk of our concerns relate to the sections of the proposed regulations which relate to the systems for nominating and processing the nomination of *“water of extraordinary ecological, aesthetic or recreational value”* which we will refer from here going forward as *“EAW.”*

Nevada Farm Bureau insist that the entire section 3, **“A petition filed with the Commission pursuant to subsection 2 must include, without limitation:...”** We would like to see added to (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.”**

During the comments in the August 31 workshop there were advocates who complained about the required details that are covered in (a) through (i) as being too burdensome for those who wish to nominate and advance an EAW.

We strongly disagree with their assertions and maintain that the package of information for a submitted EAW should cover each of the points covered in section 3 (a) through (i).

We believe that this level of information, presented to the State Environmental Commission (SEC) as part of a nomination process, establishes a necessary public record on which the SEC can offer a solid decision. Short-cuts and less complete information will open wide the issue of the decision being arbitrary in nature, whatever decision is made.

We are in agreement with (e) and (f) of sub-7 on page 6, but have to wonder how the last sentence of sub-6 could apply or be accomplished, if (e) and (f) of sub-7 actually apply?

“A water classified as a water of extraordinary ecological, aesthetic or recreational value must have a designated tier level of antidegradation protection of 3 or 2.5.” seems to be outside of the possibilities if (e) and (f) of sub-7 are included? We believe they should be essential (as do all the points of sub-7) but we do not understand how a designated EAW, with basically no degradation allowed of the water quality, won’t run counter to protecting existing land uses or the impairment of a person’s property rights.

During the discussions of the regulation workshop on August 31st, there was a statement made that the priority was for the adoption of the antidegradation regulation and that if there were unresolved issues for the EAW process, the next steps might include moving forward without the EAW sections. We would support this regulatory package not including anything about *“a water of extraordinary ecological, aesthetic or recreational value.”*

Nevada Farm Bureau insist that any EAW process requires safeguards and protections for water rights, other property rights and existing land uses/practices which occur on the adjacent lands or within the reach of the water body being considered for an EAW designation. Promises that these protections will be available, without specific, adequate language in the regulation mean nothing. Future Commissions might not have the same sense of recognition for these protections without black and white language in the regulations which make it clear.

Thank you for taking our input into consideration moving forward.

Sincerely,



Doug Busselman
Nevada Farm Bureau