



# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION

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**June 29, 2010**

**Response to EPA Comments on the Proposed Changes to Select Water Quality Standards for Nevada Waters on Contact Recreation Assessment for Class D waters. [Comment letter dated June 10, 2010]**

**EPA Comment 1**

40 CFR 131.20(a) specifies that the State re-examine, every 3 years, any water body segment that does not include CWA 101(a)(2) uses to see if any new information indicates that those uses are attainable. If the uses are found to be attainable, the State is required to revise the water quality standards accordingly. Class D waters found in NAC 445A.124, 125, and 127 are not currently designated for contact recreation and the analysis used to make this initial determination is not available. NDEP has completed its review of the Class D waters and is proposing to change Lagomarsino Creek, Lower Steamboat Creek, the Humboldt River from Rogers Dam to the Humboldt Sink and Murray Creek to include contact recreation as a beneficial use and include the appropriate bacterial standards to protect that beneficial use. We support this revision.

***NDEP Response***

Comment Noted

**EPA Comment 2**

After completing the review of the Class D waters, NDEP has determined that Gleason Creek, Quinn River (the Slough), Stillwater Marsh, the Humboldt Sink and Murray Creek (downstream of Crawford Street) should remain as noncontact recreation beneficial uses and retain the associated bacterial standards. For those waters where NDEP wishes to retain the noncontact recreation designation, 40 CFR 131.10(g) requires a Use Attainability Analysis. This UAA is a structured scientific assessment of the factors affecting the attainment of uses specified in CWA Section 101(a)(2) (the fishable/swimmable uses). The factors to be considered in such an analysis include the physical, chemical, biological and economic use removal criteria described at 40 CFR 131.10(g)(1)-(6). Waters that are ephemeral can be fairly convincingly argued that they have a basis for noncontact recreation.

However, limited access has not been a very successful basis for the determination. An alternative that you might consider is to designate the waters as contact recreation and leave the current bacterial standards in place. This would then be protective of those water that are very infrequently/very unlikely to actually have contact recreation.

***NDEP Response***

NDEP strongly believes that waterbodies in Nevada should have appropriate beneficial uses. NDEP does not believe that it is appropriate to have contact recreation on the waterbodies Gleason Creek, Quinn River (the Slough), Stillwater Marsh, the Humboldt Sink and Murray Creek (downstream of Crawford Street).

EPA has recommended that for those waterbodies used for recreational activities where very little direct contact with the water occurs and where ingestion of water is unlikely, a criterion equal to five times that of the geometric mean proposed for water recreational uses be adopted. EPA has not recommended a non-contact recreational use single-sample maximum value for E. coli at this time. All of these waterbodies have a bacterial standard of an AGM of 630 No./100 ml.

**EPA Comment 3**

NDEP proposes to remove all sections of the Quinn River from the water quality standards regulations where the River is on the Ft. McDermitt Indian Reservation. EPA supports this revision.

***NDEP Response***

Comment Noted