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Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION
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Summary of Minutes and Comments from the Nevada Division of Environmental Protections (NDEP) Public Workshops on Proposed Changes to Nevada's Administrative Code (P2014-05/R102-14) revising the water quality regulations for the former "Class Waters" located in the UHRB.

Workshop locations and dates: Carson City, NV, May 19, 2014
Elko, NV, May 21, 2014

Participants were notified that the workshop proceedings and comments would be recorded, and the intent of the workshop was to provide an informational overview of the proposed regulation changes to the attendees. It was explained that regulatory action on the proposed regulation changes would not occur until the proposed changes were presented to the State Environmental Commission (SEC) at the next scheduled hearing in the fall of 2014.

Summary overview provided by BWQP on regulation amendment P2014-05:

Nevada state law (NRS 445A.520) requires the state to establish water quality standards at a level necessary to protect beneficial uses of the surface waters of the state. Additionally, Section 303 of the Clean Water Act and 40 Code of Federal Regulations (40CFR) Part 131 require that States and authorized tribes routinely review and, as appropriate, modify surface water quality standards that protect the designated uses of a water body and provide a basis for controlling discharges or releases of pollutants. Water quality standards are composed of three parts: designated beneficial uses, water quality criteria to protect the uses and antidegradation considerations.

The NDEP has completed a review and an evaluation of the water quality standards for waterbodies located in the Upper Humboldt River Basin (UHRB) in Elko, Eureka and White Pine Counties. For this review, the UHRB includes the headwaters, tributaries, and main stem of the Humboldt River downstream to Palisade, Nevada. Changes are proposed to the Nevada Administrative Code (NAC) revising the Nevada water quality

regulations for the former “Class Waters” located in the UHRB. The proposed regulation would;

- Add Industrial supply to the former Class A waters;
- Correct reach descriptions for Toyn and Green Mountain Creeks; and
- Add water quality criteria for the protection of the designated uses for these Class waterbodies.

The proposed numeric criteria to be added to these waterbodies include nitrate, nitrite, chloride, sulfate, alkalinity, total suspended solids, turbidity and color. The proposed criteria are shown in the table below.

Parameter	Criterion	Applicability
Nitrate	S.V. ≤ 10.0 mg/l	Trout & Non-Trout Waters
Nitrite	S.V. ≤ 0.06 mg/l	Trout Waters
	S.V. ≤ 1.0 mg/l	Non-Trout Waters
Chloride	1-hr avg. ≤ 860 mg/l 96-hr avg. ≤ 230 mg/l	Trout & Non-Trout Waters
Sulfate	S.V. ≤ 250 mg/l	Trout & Non-Trout Waters
Alkalinity (as $CaCO_3$)	S.V. ≥ 20 mg/l	Trout & Non-Trout Waters
Total Suspended Solids	S.V. ≤ 25 mg/l	Trout Waters
	S.V. ≤ 80 mg/l	Non-Trout Waters
Turbidity	S.V. ≤ 10 NTU	Trout Waters
	S.V. ≤ 50 NTU	Non-Trout Waters
Color	S.V. ≤ 75 PCU	Trout & Non-Trout Waters

The waterbodies these criteria are proposed to be added to are shown below.

Water Body Name	Segment Description	Water Quality Standard NAC Reference
Humboldt River, North Fork and tributaries at the national forest boundary	From their origin in the Independence Mountain Range to the national forest boundary.	445A.1456
Humboldt River, North	From the national forest boundary to its	445A.1458

Water Body Name	Segment Description	Water Quality Standard NAC Reference
Fork at Beaver Creek	confluence with Beaver Creek.	
Humboldt River, North Fork at the Humboldt River	From its confluence with Beaver Creek to its confluence with the Humboldt River.	445A.1462
Humboldt River, South Fork and tributaries at Lee	From their origin to Lee, except for the lengths of the river and tributaries within the exterior borders of the South Fork Indian Reservation.	445A.1464
Humboldt River, South Fork at the Humboldt River	From Lee to its confluence with the Humboldt River, except for the lengths of the river and tributaries within the exterior borders of the South Fork Indian Reservation.	445A.1466
Marys River, upper	From its origin to the point where the river crosses the east line of T. 42 N., R. 59 E., M.D.B. & M.	445A.1482
Marys River at the Humboldt River	From the east line of T. 42 N., R. 59 E., M.D.B. & M., to its confluence with the Humboldt River.	445A.1484
Tabor Creek	From its origin to the east line of T. 40 N., R. 60 E., M.D.B. & M.	445A.1486
Maggie Creek Tributaries	From their origin to the point where they become Maggie Creek or the point of their confluence with Maggie Creek.	445A.1488
Maggie Creek at Jack Creek	From where it is formed by the Maggie Creek tributaries to its confluence with Jack Creek.	445A.1492
Maggie Creek at Soap Creek	From its confluence with Jack Creek to its confluence with Soap Creek.	445A.1494
Maggie Creek at the Humboldt River	From its confluence with Soap Creek to its confluence with the Humboldt River.	445A.1496
Secret Creek at the national forest boundary	From its origin to the national forest boundary.	445A.1498
Secret Creek at the Humboldt River	From the national forest boundary to its confluence with the Humboldt River.	445A.1502
Lamoille Creek at the gaging station	From its origin to gaging station number 10-316500, located in the NE 1/4 of section 6, T. 32 N., R. 58 E., M.D.B. & M.	445A.1504
Lamoille Creek at the	From gaging station number 10-316500,	445A.1506

Water Body Name	Segment Description	Water Quality Standard NAC Reference
Humboldt River	located in the NE 1/4 of section 6, T. 32 N., R. 58 E., M.D.B. & M., to its confluence with the Humboldt River.	
J.D. Ponds	The entire area.	445A.1508
Denay Creek at Tonkin Reservoir	From its origin to Tonkin Reservoir.	445A.1512
Tonkin Reservoir	The entire reservoir.	445A.1514
Denay Creek below Tonkin Reservoir	Below Tonkin Reservoir.	445A.1516
Huntington Creek at the White Pine-Elko county line	From its origin to the White Pine-Elko county line.	445A.1542
Huntington Creek at Smith Creek	From the White Pine-Elko county line to its confluence with Smith Creek.	445A.1544
Huntington Creek at the South Fork of the Humboldt River	From its confluence with Smith Creek to its confluence with the South Fork of the Humboldt River.	445A.1546
Green Mountain Creek at Toyn Creek	From its origin to its confluence with Toyn Creek.	445A.1548
Toyn Creek at Green Mountain Creek	From its origin to its confluence with Green Mountain Creek.	445A.1554
Toyn Creek at Corral Creek	From its confluence with Green Mountain Creek to its confluence with Corral Creek.	445A.15525
Starr Creek	From the confluence of Ackler and Herder Creeks to its confluence with the Humboldt River.	445A.1578

Workshop attendees were notified that the deadline for submission of comments, either electronically or in written format, to the Bureau of Water Quality Planning (BWQP) would be June 14, 2014. The comments submitted and BWQP's responses to the comments would be available on the SEC website prior to the hearing.

Comments and Responses from the Carson City Workshop:

Comment: Will water quality standards trump water rights?

BWQP Response: No, water rights trump water quality standards. We cannot force a water right holder to release water to meet water quality standards (in other words from South Fork Reservoir).

Comment: Why is Bishop Creek left out of these waters; it flows all the time?

BWQP Response: We do not know why the class standards were not placed on Bishop Creek. We have little documentation as to the reasoning behind which creeks were assigned to the Class waters in 1978.

Comment: Is there no standard on Corral Creek?

BWQP Response: There is no specific standard on Corral Creek, but the Tributary Rule would apply. The same standards from Toyn Creek would apply to Corral Creek.

Comment: What does the unit PCU mean?

BWQP Response: Platinum Cobalt Units

Comment: What is the source of your proposed standards?

BWQP Response: These proposed standards are from USEPA recommended criteria and are consistent with what we have on similar waterbodies.

Comment: Is the base line data available?

BWQP Response: Yes, but we would have to send it to you. Our data website is under construction.

Comment: Are any of your sample sites the same locations as USGS sample sites?

BWQP Response: We collect samples at USGS gaging sites whenever possible. We do sample at all the gaging stations on the main stem of the Humboldt.

Comments and Responses from the Elko Workshop

Comment: When you target a basin or an issue and propose standards is there monitoring that occurs that helps to define the standard before the area is targeted?

BWQP Response: That depends on what the study is about. For the Upper Humboldt Class waters, we sampled for a 2 to 3 year period. For a statewide standard we do not sample all waters in the state. Generally we sample quarterly. We may still set the recommended beneficial use standard even if that standard is being exceeded. When we present these proposed standards to the State Environmental Commission, they often ask if these proposed standards are being met.

Comment: Would that review of the main stem include the Upper Humboldt?

BWQP Response: Yes, we will review the main stem, to determine if the standards are appropriate.

Comment: When you talk about a tributary the Humboldt how do you designate it as a tributary? Is it based on what the Corp of Engineers claim? We [Elko County] have run into a tributary in Ruby Valley, Pole Creek, that does not enter into the Humboldt ever and they needed a permit from NDEP because the Corp classified the water as a Tributary. There a lot of creeks out there that are classified as a tributary by the Corp that never reach the Humboldt. Is your classification the same as the Corp of Engineers?

BWQP Response: Yes and no. If we are proposing standards for a water of the US, THEN NDEP does submit to EPA for their approval. If it is a non-jurisdictional water, not a water of the US, NDEP does have authority to set State standards on those waters and the state has their own permitting process not associated with EPA.

Comment: EPA and the Corp. are trying to change that process they have a new proposal out there.

BWQP Response: At this point we don't know where that process is going to go. NDEP has concerns with the proposal. At this time we assume everything is jurisdictional. If there is a non-jurisdictional determination by the Corp. we would not submit that to EPA either with the standards or the Integrated Report (303(d) list). Right now we have to rely on the Corp. They make the determination, so we have to follow that. If that changes we will change to the new determination.

Comment: Whole purpose is about whether one is above or under waters of the US

BWQP Response: We did receive a spread sheet from the Corp. showing all the determinations for the last five years and none of the waters we are talking about today were determined to be non-jurisdictional.

Comment: *So you used the traditional method of determination?*

BWQP Response: Let us clarify, we are only talking about a grouping of tributaries, and these tributaries were added to our NAC back in the 1970's. It doesn't cover all the tributaries; it only covers some of them. These are the waters that have been our regulations since 1978, so these are the tributaries that we are referring to in this regulation. We are not referring to Pole Creek.

Comment: No, that was a different subject.

Comment: So, you are talking about the North Fork tributaries and Marys River. Do these standards pertain to all the tributaries in these systems?

BWQP Response: No, the main stem itself, the N.F and Marys River. We have a provision in our standards that if it is a tributary, that does not have standards, but it is a tributary to a water that does have standards, those standards carry up that tributary or down that tributary.

Comment: I'm looking at the North Fork Humboldt and Tributaries. That's the only place that says and "tributaries." What is different there?

BWQP Response: We don't know why our predecessors set it up that way; but that is the way it reads and that is the way we interpret it. It is focused on the tributaries on Forest Service land that used to be Class A waters.

Comment: Could that also be the East and West Forks of Beaver Creek?

BWQP Response: No, it just applies to the very upper reach.

Comment: Where is Pine Creek?

BWQP Response: Pine Creek is (show on Map). It is in our study are, but it is not a Class Water.

Comment: Tonkin Reservoir, JD ponds and those that you call tributaries, would they drain into Pine Creek?

BWQP Response: Yes. Eventually we may add new waters, but not at this time.

Comment: So would these standards apply to the tributaries?

BWQP Response: Yes, for instance for Sherman Creek, the standards that would apply would be the standards on that segment of the Humboldt River. The same would apply to Susie Creek. The standards on that segment of the Humboldt River would apply.

Comment: So typically that water quality in the tributaries would be a better quality?

BWQP Response: Yes.

Comment: Industrial supply, can I get an example? Would that be a power plant?

BWQP Response: Yes, or manufacturing plant. For industrial supply as other uses we set standards to protect those uses by protecting the most restrictive use. For Industrial Supply it is never the most restrictive use.

Comment: Can you talk about the difference between Nitrate and Nitrite?

BWQP Response: The nitrate Standard (10 mg/l) is for the protection for Municipal and Domestic Supply, and the first number for Nitrite, 0.06 mg/l is for the protection of aquatic life (Coldwater Fish) and the 1.0mg/l nitrite standard is for the protection of Municipal and Domestic Supply. Warm water fish are less sensitive to Nitrite than cold-water fish. The 1.0 mg/l number is for protection against Blue Baby Syndrome. The Municipal and Domestic Supply use is the more restrictive use for the non-trout waters.