

Humboldt River Basin Water Authority

November 30, 2020

Tim Wilson, P.E., State Engineer
Nevada Division of Water Resources
901 South Stewart Street, Suite 2002
Carson City, Nevada 89701

Re: Proposed Designation of 58 Groundwater Basins, 20 of Which Are Within Humboldt River Basin Water Authority Member Counties

Dear Mr. Wilson:

The Humboldt River Basin Water Authority (HRBWA) appreciates the opportunity to provide comments on the Nevada Department of Water Resources' (DWR's) proposed designation of 58 groundwater basins in Nevada. HRBWA is a five-county unit of local government established in 1995 by Elko, Eureka, Humboldt, Lander and Pershing Counties to ensure that a long-term supply of reasonably priced water is available to support future agricultural, municipal, recreation and industrial uses within the Humboldt River Basin while protecting existing decreed and certificated water rights. HRBWA has a number of significant concerns with DWR's proposal to designate these 58 hydrographic groundwater basins all at the same time without a clear indication as to the need for such urgency.

Normally HRBWA would be supportive of proposed orders that seek to protect existing water right holders and a means for supporting additional administration of basins where groundwater resources are being negatively impacted or in immediate threat of such impacts. However, HRBWA does not support the proposed designations under consideration because of a lack of due public process and information, incomplete data, and absence of a clear justification as to the need to designate basins and establish preferred uses.

To begin with no information or reason was provided for why designation of such a large number of basins needed to be held on short notice, or why designation of any of these basins was necessary at the present time, in the midst of the coronavirus pandemic. Holding hearings during a time when affected water rights owners and other local stakeholders are busy gathering livestock and preparing for the winter months as well as harvesting their crops deprived the people most directly affected by the proposed orders of a reasonable opportunity to participate meaningfully and to present their own testimony and evidence.

Furthermore, the backup material provided from your office to support these proposed orders is lacking any detailed analysis and does not include scientific data to show that these basins need additional resources and attention.

Member Counties: Elko · Eureka · Humboldt · Lander · Pershing

It appears that the only factual information regarding the justification for designation that was provided by the State Engineer is to be found at the database web pages on the DWR website for which the State Engineer provided one footnote in each proposed order. These links lead only to the most basic information concerning the historically estimated perennial yield of the basin and an inventory of existing water rights and pending applications in the basin which is not sufficient evidence to justify designation or additional administration of a basin. Evidence necessary to support a designation should also include well pumping rates, crop acreage surveys, and data from production and/or monitoring wells showing current levels and trends of the water table.

HRBWA is particularly concerned by the inclusion of language in several of the proposed orders of designation that effectively prohibits any future permitting of either new water rights for irrigation use or any change of an existing water right from another beneficial use to an irrigation use. The proposed orders that would prohibit irrigation as a manner of use do not include any discussion of the facts that might justify such a severe constraint on a traditionally permitted use which has been and continues to be vital to the continued economic viability of the basins themselves and the counties within which those basins are located. The economies and tax bases of these rural communities depend on irrigation water rights that have sustained them since before Nevada's statehood.

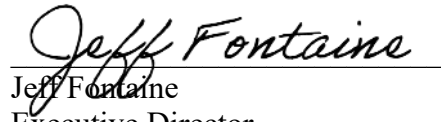
The State Engineer's authority to designate preferred uses in a designated basin is derived from NRS 534.120. While the proposed orders cite to this statutory provision, they do not actually comport with the language of NRS 534.120. Specifically, the provision that "the State Engineer is authorized and directed to designate preferred uses of water within the respective areas so designated by the State Engineer *and from which the groundwater is being depleted*," clearly implies that the State Engineer must first determine that groundwater is being depleted from a designated area before he is authorized to designate preferred uses of water in that designated area. DWR has not presented evidence that would support a finding, or judgment, that the groundwater of any basin presently is being depleted.

In many of the subject basins, irrigation has been the lifeblood of local communities and families for generations and is an integral part of local economy and way of life, as reflected in rural counties' Water Resource Plans. Further, in many of these basins irrigation uses have long coexisted with temporary mining uses, with irrigation being the only viable long-term or permanent use of water in the basins and therefore being essential to the continued existence of rural communities in and around these basins. Because the proposed blanket prohibitions against changes to irrigation use of existing water rights could prevent the beneficial use of available groundwater where irrigation is the only viable permanent use, they could result in takings of at least some existing water rights. While HRBWA understands and appreciates DWR's interest in ensuring that Nevada's water is managed so as to sustain future generations of Nevadans, it simply is unacceptable to sacrifice the economies and culture of rural Nevada communities to achieve that goal.

The Humboldt River Basin Water Authority urges DWR to withdraw the proposed designation orders, and if DWR believes the specific conditions in these basins necessitate designation, to follow a more deliberate, open and thorough process of investigating whether the conditions in each basin justify designation on an individual basis. HRBWA further urges the State Engineer to consult with counties and to utilize their water resource plans to provide for an individual case-by-case evaluation of what beneficial uses are viable and important to the economy of the communities in the basins themselves and the counties within which the basins are located.

If you should have any questions, please do not hesitate to contact me.

Respectfully submitted,

A handwritten signature in black ink that reads "Jeff Fontaine". The signature is written in a cursive style with a horizontal line underneath it.

Jeff Fontaine
Executive Director
Humboldt River Basin Water Authority

Cc: HRBWA Board of Directors