

Humboldt River Basin Water Authority

April 16, 2021

Adam Sullivan, P.E.
Acting State Engineer
Nevada Division of Water Resources
901 South Stewart Street, Suite 2002
Carson City, Nevada 89701-5250

Re: Proposed Interim Order Within the Humboldt River Region

Dear Mr. Sullivan:

The Humboldt River Basin Water Authority (HRBWA) appreciates the opportunity to provide comments on the proposed interim order to establish procedures for the review of applications to appropriate groundwater in the Humboldt River Region with regard to the potential for capture of and conflict with decreed rights to the waters of the Humboldt River and tributaries. 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.

Authority for the Proposed Interim Order is Unclear

NRS 533.024(1)(e) declares that it is the policy of Nevada to manage conjunctively the appropriation, use and administration of all waters of this State, regardless of the source of the water. However, there is no express Legislative direction or regulation to support the proposed interim order raising questions about the authority of the State Engineer to adopt the proposed conjunctive management measures. Also, the proposed interim order indicates that the State Engineer is not restricted from adopting further conjunctive management measures necessary to address capture impacts. The proposed interim order should specify what additional management measures the State Engineer would adopt and his authority to do so.

Applications for New Groundwater Appropriations and to Change Existing Groundwater Appropriations Rely on Incomplete Capture Models

The proposed interim order states:

“Long-term management will rely on completion of the modeling effort and a process of public review and deliberation to determine best practices that satisfy legislative directives of prior appropriation, beneficial use and the public interest. Until then, interim management described herein must focus on avoiding increased capture caused by new appropriations or changes to existing groundwater permits.”

Completion of the modeling effort is necessary to implement the interim management described in the proposed interim order. Specifically, applications for new appropriations of groundwater will be based on capture and applications to change the point of diversion of an existing groundwater right will be considered based on net capture. As used in the proposed interim order, “capture” refers to modeled capture of surface water of the Humboldt River and its tributaries by groundwater pumping, as simulated by USGS and DRI groundwater models.

The capture analysis used to determine whether to approve a new appropriation of groundwater and a change to the point of diversion is for a period of 50 years, however, there is no provision for monitoring the capture or discussion of what measures would be taken if there is a future conflict with surface water.

The proposed interim order does not address applications to change the place of use or manner of use of an existing groundwater appropriation. What factors will the Division use to determine whether to approve these change applications?

Transfers from the Humboldt River Region Should be Prohibited

HRBWA strongly urges the State Engineer to include provisions that would prohibit water from leaving the Humboldt River Region i.e., no inter-basin transfers outside of the Humboldt River Basin. Most of the groundwater basins in the Humboldt River Basin are over-appropriated and removal of the water from the Region would exacerbate the conflict that the proposed interim order seeks to resolve.

Addressing Future Conflict Between Existing Valid Groundwater Rights and Decreed Humboldt River Surface Water Rights Requires Significant Stakeholder Engagement and Consideration of Local Groundwater Plans

We urge the Division to go through a robust process of soliciting broad public input and subjecting proposed approaches to addressing future conflict between existing valid groundwater rights and decreed Humboldt River surface water rights to public review and greater levels of engagement with stakeholders.

Also, we suggest the State Engineer add County groundwater plans required pursuant to NRS 278.0228 as a factor that he may consider before making any decision regarding curtailment pursuant to NRS 534.110.

Thank you for your consideration of our comments.

Respectfully submitted,



Jeff Fontaine

Executive Director

Humboldt River Basin Water Authority

Cc: HRBWA Board of Directors