

**NOTICE OF PUBLIC MEETING AND AGENDA FOR THE  
HUMBOLDT RIVER BASIN WATER AUTHORITY**

**December 12, 2025 at 10:00 a.m.**

**Humboldt County Courthouse Meeting Room 201  
50 West Fifth Street  
Winnemucca, NV 89445**

**FOR TELECONFERENCE OR VIDEO CONFERENCE ACCESS**

Click [here](#) to join the meeting:

**Meeting ID: 232 981 655 825 0**

**Passcode: kG3ng3VP**

**Dial in by phone:**

[\*\*+1 775-446-0241\*\*](tel:+17754460241)

**Phone conference ID: 371 603 525#**

Attendance to this meeting will also be available virtually. For this meeting, the Humboldt River Basin Water Authority (Authority) will be using Microsoft Teams, a third-party app, and does not control its technical specifications or requirements. Your ability to participate in the public comment portions of a meeting may be impacted by factors including but not limited to the type of device you use, the strength of your internet or cellular signal, and the company that provides your internet or cellular service. HRBWA is not responsible if you are not able to participate in a meeting through Microsoft Teams due to these or any other factors.

- Notes:** 1. Items on this agenda on which action may be taken are followed by the term "**For Possible Action.**"
2. Items on this agenda may be taken out of order, combined with other agenda items for consideration, removed from the agenda, or delayed for discussion at any time.
3. Notice to persons with disabilities: Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to call 775.443.7667 in advance so arrangements can be made.
4. This agenda was sent on December 3, 2025 for posting at the Humboldt County Court House (50 West Fifth Street, Winnemucca, Nevada 89445) and electronically posted on Nevada's Public Notice Website (<https://notice.nv.gov/>) and electronically posted on the Humboldt River Basin Water Authority's website (<https://hrbwa.com/meetings/>)
5. For further information or to obtain copies of board materials contact Jeff Fontaine (775-443-7667) or [ccjfontaine@gmail.com](mailto:ccjfontaine@gmail.com)

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**ITEM**

- 1. CALL TO ORDER** – Chairman's welcome, roll call, determination of quorum and pledge of allegiance.
- 2. PUBLIC COMMENT** – This time is devoted to comments by the general public, pursuant to NRS 241.020(2)(c)(3). No action will be taken on matters raised under public comment until the matter itself has been included on an agenda as an action item.
- 3. APPROVAL OF AGENDA** – Approval of the agenda for the Authority's meeting of December 12, 2025 including taking items out of sequence, deleting items and adding items which require action upon a finding that an emergency exists. (**For Possible Action**)
- 4. APPROVAL OF MINUTES** – Review and approval of minutes of the September 12, 2025 Authority meeting. (**For Possible Action**) ***TAB 1***

5. **FINANCIAL REPORT AND QUARTERLY EXPENDITURES** – Financial reports and recommendation to approve invoices submitted for payment to the Authority. **(For Possible Action)** *TABS 2A, 2B and 2C*
6. **APPROVAL TO EXTEND THE PERIOD OF SERVICE OF THE AGREEMENT WITH DAVID BERGER (INDEPENDENT CONTRACTOR) TO PROVIDE PROFESSIONAL SERVICES TO THE HUMBOLDT RIVER BASIN WATER AUTHORITY TO DECEMBER 31, 2026.** Approval to extend the period of service between HRBWA and David Berger for the review of hydrologic and hydrogeologic studies at a rate of \$100 per hour of satisfactory work. **(For Possible Action)** *TAB 3*
7. **APPROVAL TO RENEW THE AUTHORITY’S ORGANIZATIONAL MEMBERSHIP WITH THE NEVADA WATER RESOURCES ASSOCIATION FOR 2026.** **(For Possible Action)** *TAB 4*
8. **APPROVAL TO PAY THE REGISTRATION FEE AND REIMBURSEMENT OF TRAVEL EXPENSES NOT TOO EXCEED \$500 FOR ONE AUTHORITY BOARD MEMBER FROM EACH MEMBER COUNTY TO ATTEND THE 2026 NEVADA WATER RESOURCES ANNUAL CONFERENCE.** **(For Possible Action)** *TAB 5*
9. **NEVADA STATE ENGINEER UPDATE ON CONJUNCTIVE MANAGEMENT OF THE HUMBOLDT RIVER BASIN AND DISCUSSION REGARDING A CONJUNCTIVE MANAGEMENT TRANSITION PLAN.** **(For Possible Action)** *TAB 6*
10. **DISCUSSION AND POSSIBLE ACTION REGARDING A ROLE FOR THE AUTHORITY IN CONJUNCTIVE MANAGEMENT OF THE HUMBOLDT RIVER.** **(For Possible Action)** *TAB 7*
11. **DISCUSSION AND POSSIBLE APPROVAL FOR THE AUTHORITY TO SPEND \$10,000 AND ALSO RECOMMEND THAT THE STATE ENGINEER USE \$10,000 FROM HUMBOLDT RIVER BASIN ASSESSMENTS (NRS 534.040) TO PRODUCE EDUCATIONAL VIDEOS ON THE HUMBOLDT RIVER, AND POSSIBLE APPROVAL OF A CONTRACT WITH A PROFESSIONAL FILM COMPANY TO PRODUCE THE VIDEOS.** **(For Possible Action)**
12. **UPDATE AND POSSIBLE SUBMITTAL OF COMMENTS ON THE U.S. ARMY CORPS OF ENGINEERS AND ENVIRONMENTAL PROTECTION AGENCY PROPOSED RULE TO UPDATE THE DEFINITION OF WATERS OF THE UNITED STATES.** **(For Possible Action)** *TAB 8*
13. **DISCUSSION AND POSSIBLE ACTION REGARDING WATER RIGHT APPLICATIONS FILED WITH THE NEVADA STATE ENGINEER** – Discussion and possible action on September to December 2025 water right filings; previously and newly filed protests and comment letters by the Authority and State Engineer Rulings and Orders. **(For Possible Action)** *TAB 9*
14. **EXECUTIVE DIRECTOR REPORT TO THE HUMBOLDT RIVER BASIN WATER AUTHORITY BOARD OF DIRECTORS** – Executive Director’s report on water related issues, including but not limited to Legislative activities, legal cases and cloud seeding. **(Discussion)**
15. **BOARD MEMBER/EXECUTIVE DIRECTOR COMMENTS** – Board members and the Executive Director can make announcements, request information and discuss topics for future agendas. **(Discussion)**
16. **NEXT MEETING** – Set date, place and time for the Authority’s next meeting. **(For Possible Action)**
17. **PUBLIC COMMENT** – This time is devoted to comments by the general public, pursuant to NRS 241.020(2)(c)(3). No action will be taken on matters raised under public comment until the matter itself has been included on an agenda as an action item.

**ADJOURN**

**HUMBOLDT RIVER BASIN WATER AUTHORITY**  
**Director/Alternate Attendance List**  
**December 12, 2025**

<b><u>Directors</u></b>	<b><u>County</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>
Commissioner Rex Steninger	Elko	_____	_____
Commissioner Brian Gale	Elko	_____	_____
Mr. Craig Spratling	Elko	_____	_____
Commissioner Marty Plaskett	Eureka	_____	_____
Mr. Carl Slagowski	Eureka	_____	_____
Mr. Jake Tibbitts	Eureka	_____	_____
Commissioner Ron Cerri	Humboldt	_____	_____
Mr. Steve Delsoldato	Humboldt	_____	_____
Ms. Kris Stewart	Humboldt	_____	_____
Commissioner Alicia Price	Lander	_____	_____
Commissioner Lamont Edgar	Lander	_____	_____
Mr. J.R. Thomas	Lander	_____	_____
Commissioner Connie Gottschalk	Pershing	_____	_____
Mr. Bennie Hodges (Chairman)	Pershing	_____	_____
Mr. Ronnie Burrows	Pershing	_____	_____
 <b><u>Ex Officio Nevada Mining Assn.</u></b>			
Ms. Erica Gallegos	NV Gold Mines	_____	_____
 <b><u>Alternates</u></b>			
Mr. Mark Hooper	Elko	_____	_____
Ms. Sabrina Reed	Eureka	_____	_____
Commissioner Ken Tipton	Humboldt	_____	_____
Mr. Mike Neff	Lander	_____	_____
Mr. Phillip Schmith	Pershing	_____	_____
Mr. Kyle Davis	NV Mining Assoc.	_____	_____

**Tab 1**



**Minutes**  
**Humboldt River Basin Water Authority**  
**September 12, 2025**  
**Humboldt County Court House Meeting Room 201**  
**50 West Fifth Street**  
**Winnemucca, NV89445**

**CALL TO ORDER** – Chair Hodges called the meeting of the Humboldt River Basin Water Authority Board of Directors to order at 10:00 a.m. Video and teleconference services were available via Teams. Chair Hodges led the Board in the Pledge of Allegiance.

**Members of the Board, Present:**

Rex Steninger, Elko County	Brian Gail, Elko County
Craig Spratling, Elko County	Carl Slagowski, Eureka County
Jake Tibbitts, Eureka county	Ron Cerri, Humboldt County
Steve Delsoldato, Humboldt County	Wallace Thomas, Lander County
Lamont Edgar, Lander County	Bennie Hodges, Pershing County
Connie Gottschalk, Pershing County	

**Alternate Members, Present:**

Sabrina Reed, Eureka County	Ken Tipton, Humboldt County
Mike Neff, Lander County	Phillip Schmith, Pershing County

**Ex Officio Nevada Mining Association Members, Present:**

Erica Gallegos
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**Members of the Board, Absent:**

Marty Plaskett, Eureka County	Kris Stewart, Humboldt County
Alicia Price, Lander County	Ronnie Burrows, Pershing County

**Alternate Members, Absent:**

Mark Hooper, Elko County	Kyle Davis, NV Mining Association
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Chairman Hodges noted that a quorum of the Board was present. Also present was Jeff Fontaine, contract Executive Director for the Authority. **Other persons attending the meeting included:**

Adam Sullivan, NDWR	Gina Gilson, UNR
Leana Carey, Progressive Rancher Magazine	Jeanette Black, BLM
Laurel Saito, The Nature Conservancy	Chris Mahannah
Dawn Aragon	Loretta Singletary, UNR
Kelly McGowen	Rita Stitzel Miller
Jay Dixon	Steve Skidmore
Don Dwyer	Roger McGregor
Andrew Church	Kip Allander, NDWR

**PUBLIC COMMENT** – Chair Hodges commented that if anybody believes he is missing things or not following the discussion correctly due to his hearing impairment please speak up.

**APPROVAL OF AGENDA** – Chair Hodges asked if there were any changes to the September 12th meeting agenda. Hearing none;

**Rex Steninger motioned to approve the agenda moving item number nine after item three. Craig Spratling seconded the motion. Without objection, the members present approved the motion unanimously.**

**APPROVAL OF MINUTES** – Chair Hodges asked if there were any changes or comments regarding the meeting minutes from February 21, 2025; May 30, 2025; and August 1, 2025. Hearing none;

**Wallace Thomas motioned to approve the February, May and August minutes. Mike Neff seconded the motion. Without objection, the members present approved the motion Mr. Cerri and Mr. Tipton abstained from voting.**

## **DISCUSSION AND POSSIBLE ACTION REGARDING WATER RIGHT**

**APPLICATIONS FILED WITH THE NEVADA STATE ENGINEER** – Discussion on August and September 2025 water right filings; previously and newly filed protests and comment letters by the Humboldt River Basin Water Authority; protests approved by the Humboldt River Basin Water Authority but not yet filed; State Engineer Rulings and Orders.

ORLA representatives gave their presentation regarding applications 94309 and 94310. Mr. Fontaine suggested that any board members who met with ORLA outside of HRBWA should disclose that prior to voting on anything. Lamont Edgar, Alicia Price, Rex Steninger, Brian Gale, Ron Cerri, Steve Delsoldato, Jake Tibbitts, Marty Plaskett, Bennie Hodes, and Philip Schmith each met with Jay Dixon and other representatives prior to the meeting. ORLA provided a presentation outlining their company and addressing concerns that the board set forth pertaining to their original applications. ORLA also stated that they have draw down agreements with the users around them. **Rex**

**Steninger motioned to withdraw HRBWA's protests for applications 94309 and 94310. Brian Gale/Wallace Thomas seconded the motion. Without objection, the members present approved the motion unanimously.**

HRBWA previously discussed protesting application 94307 KSJS Investments LLC, at the May meeting and the application has been amended since then. The original issue was lack of specificity in the application. Dawn Aragon was present to discuss the application; however, her microphone was not working so Mr. Fontaine presented on her behalf. It is to be used as a gravel pit application, the season has been amended, and they acknowledged the consumptive use "hair cut" but did not know the amount. Mr. Delsoldato noted that even on a good year the right will be in priority for a very short time and it will be very difficult to regulate as decreed. Mr. Tibbitts stated he feels that the amended application addresses all of the issues in question, so there is no longer a need to protest.

**Jake Tibbitts motioned to withdraw the protest on application 94307. Wallace Thomas seconded the motion. Steve Delsoldato and Carl Slagowski opposed, the motion passed.**

Nothing of concern in the monthly reports.

**FINANCIAL REPORT AND QUARTERLY EXPENDITURES** – Mr. Fontaine reported that he will be getting the invoices out to the member counties for their annual assessments. POOL/PACT liability insurance was the only expense on this report. Mr. Fontaine presented invoices to be paid. Chair Hodges and Mr. Slagowski had questions regarding the Schroeder Law and Resource Concepts Inc. invoices. Invoices to be paid were for Nevada Authority Management, Schroeder Law Offices, Leonard Law, and Resource Concepts Inc. Resource Concepts Inc. invoices are all reimbursable through the water rights retirement program.

**Ken Tipton motioned to approve the financial report as presented. Craig Spratling seconded the motion. Without objection, the members present approved the motion.**

**PRESENTATION ON A NEW NATIONAL SCIENCE FOUNDATION-FUNDED PROJECT, WHERE WE LIVE, ([HTTPS://WHEREWELIVE.ORG/](https://wherewelive.org/)) BY LORETTA SINGLETARY, PHD, DEPARTMENT OF ECONOMICS AND COOPERATIVE EXTENSION, COLLEGE OF AGRICULTURE, BIOTECHNOLOGY AND NATURAL RESOURCES, UNIVERSITY OF**

**NEVADA, RENO** – Gina Gilson gave the presentation in person with Loretta Singletary in support virtually. Ms. Gilson gave an overview of the presentation stating the study is funded by the National Science Foundation looking at three states and looking at how environmental hazards, such as drought, heat, and wildfires, are impacting water management across the Humboldt River Basin. Ms. Gilson provided information regarding their survey and asked that the HRBWA members take part in the survey.

**\*DISCUSSION ONLY**

**UPDATE ON THE HUMBOLDT STAKEHOLDER WORKING GROUP (HSWG) THAT IS ASSISTING THE NEVADA DIVISION OF WATER RESOURCES IN DEVELOPING A COMPREHENSIVE CONJUNCTIVE MANAGEMENT STRATEGY FOR THE HUMBOLDT RIVER BASIN, INCLUDING AN UPDATE ON MEETINGS OF THE HSWG ECONOMICS/CONSERVANCY SUB-GROUP –**

Mr. Fontaine reported after the last HRBWA meeting, NDWR held three public workshops in Elko, Lovelock, and Winnemucca. Mr. Fontaine noted the importance of these workshops in getting information out to the public since the HSWG has been meeting for over a year. Mr. Fontaine gave a brief overview of the water market strategy and the numerous ways in which they could be managed. Ms. Reed expressed her concerns pertaining to the water market strategy and also expressed her frustration with the overall process of the HSWG. Chair Hodges also expressed his frustration with lack of response or action from NDWR when the HSWG has provided suggestions. Kip Allander with NDWR noted that the division is still on track to have a draft Order out by the end of the calendar year. He stressed that it was only a draft order and would not be a final order.

**\*DISCUSSION ONLY**

**PRESENTATION ON THE CARSON RIVER SUBCONSERVANCY AND DISCUSSION REGARDING INTEREST AND FEASIBILITY OF FORMING A WATER CONSERVANCY DISTRICT OR DISTRICTS FOR THE HUMBOLDT RIVER BASIN –**

Ed James presented. Mr. James gave a general overview of the difference between a conservation district and a conservancy district. Mr. James used the Carson Water Sub-conservancy District to illustrate the structure and function of conservancy districts. Mr. Steninger asked how the district is taxed. Mr. James explained only those in the watershed are taxed, not necessarily an entire county. Chair Hodges asked if their conservancy district deals with or works with the weed districts? Mr. James stated they do work with the weed districts and explained the different way they do so.

**\*DISCUSSION ONLY**

**EXECUTIVE DIRECTOR REPORT TO THE HUMBOLDT RIVER BASIN WATER AUTHORITY BOARD OF DIRECTORS -**

Mr. Fontaine discussed the Baker ranches appeal, HRBWA signed on with the Amicus Brief. The appellate brief was filed August 15<sup>th</sup>, 2025. Oral arguments are scheduled sometime in December and January. Schroeder Law wants to know if the HRBWA would like to keep the matter open with them for the purpose of monitoring the bulk of their work is done. Mr. Fontaine stated he would keep the matter open unless he heard any objections. Mr. Fontaine discussed several water litigation cases active throughout the state currently. Mr. Fontaine reported NDWR held a meeting to discuss the new forms they are proposing for applications for extensions of time, however due to technical difficulties during that virtual meeting there was very little information to report. The forms were provided in the board member's packets.

**\*DISCUSSION ONLY**

**BOARD MEMBER/EXECUTIVE DIRECTOR COMMENTS –** Ms. Reed initiated discussion and requested possible follow-up on the ORLA project, asking how the board

felt about possible inter-basin exchange of groundwater? She noted if the draw down occurs in Pine Valley, it should be offset there. Chair Hodges and Mr. Tibbitts responded and added their own perspectives to the discussion. Mr. Tibbitts added that some of the questions asked and ideas presented might be good items for future agendas. Mr. Fontaine added that as the protest process progresses on the base applications, the concerns raised should be brought forth when NDWR asks the protestants for comments. It was also suggested that the comments and questions be put forth at the current public scoping session scheduled by the BLM. Mr. Gale asked if NDWR ever goes through and repeals rights for lack of beneficial use? Mr. Fontaine responded stating, NDWR has to follow very specific statutory guidelines in order to have a forfeiture. Mr. Gale added that cleaning up those records and forfeiting water that is not being used for beneficial use might be a better option than curtailment.

**NEXT MEETING** – December 12<sup>th</sup>, 2025.

**PUBLIC COMMENT** – Leanna Carey, Progressive Rancher Magazine states she has been involved with HRBWA since 2015 and she appreciates her involvement and honors everyone on the board. She stated she was confused on what a conflict of interest is and that Rex Steninger voted to approve ORLA's project, then votes to withdraw the HRBWA protest on the basis that it is not a large enough situation to protest and that Rex also comments Elko County will gain tax revenue from the project. Ms. Carey stated she is very confused how Rex can be behind the project and not stand down when it comes time to vote on the protest.

**ADJOURN** – The meeting was adjourned at 12:52 p.m.

## **Tab 2A**

Humboldt River Basin Water Authority  
Fiscal Year 2025-2026  
For Posting Dates: 07/01/25 - 06/30/26

<b>BEGINNING BALANCE</b>			<b>\$</b>	<b>186,694.47</b>	
		<b>BUDGET</b>		<b>ACTUAL</b>	
<b><u>HRBWA ARPA GRANT 100-000-32182-000</u></b>					
<b><u>REVENUES 100-000-32308-000</u></b>					
EUREKA COUNTY	ANNUAL ASSESSMENT	\$ 10,000.00	\$	10,000.00	
HUMBOLDT COUNTY	ANNUAL ASSESSMENT	\$ 5,000.00	\$	-	*See Below JE
CITY OF WINNEMUCCA	ANNUAL ASSESSMENT	\$ 5,000.00	\$	5,000.00	
ELKO COUNTY	ANNUAL ASSESSMENT	\$ 10,000.00	\$	10,000.00	
LANDER COUNTY	ANNUAL ASSESSMENT	\$ 10,000.00	\$	10,000.00	
PERSHING COUNTY	ANNUAL ASSESSMENT	\$ 10,000.00	\$	10,000.00	
WATER RIGHTS RETIREMENT PROGRAM		\$ -			
<b>TOTAL REVENUES</b>		<b>\$ 50,000.00</b>	<b>\$</b>	<b>45,000.00</b>	
<b><u>EXPENSES 100-015-52219-000</u></b>		<b>\$ 50,000.00</b>			
A&H INSURANCE	ANNUAL PREMIUM		\$	966.04	
RESOURCE CONCEPTS	PROFESSIONAL SERVICES		\$	1,000.00	
LEONARD LAW	PROFESSIONAL SERVICES		\$	337.50	
JEFFREY A FONTAINE	PROFESSIONAL SERVICES 07/01/25-08/30/2025		\$	3,736.75	
<b>TOTAL EXPENSES</b>			<b>\$</b>	<b>6,040.29</b>	
<b>EXCESS REVENUE OVER (UNDER) EXP.</b>			<b>\$</b>	<b>38,959.71</b>	
<b>JOURNAL ENTRY FOR HUMB CO ASSESSMENT</b>			<b>\$</b>	<b>5,000.00</b>	43,959.71
<b>ENDING BALANCE</b>			<b>\$</b>	<b>230,654.18</b>	

## **Tab 2B**



December 12, 2025

Invoice # 26-2

Mr. Bennie Hodges  
Chairman  
Humboldt River Basin Water Authority

For Professional Services Provided by Nevada Authority Management, LLC to the Humboldt River Basin Water Authority During the Period of September 1, 2025 to December 1, 2025. Thank you!

<b>LABOR</b>	65.0 hours @ \$103.00/hr.	\$6,695.00
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Subtotal Labor

**EXPENSES**

Google Suite HRBWA email account Sept. to Nov. 2025@ \$26.40/month	\$79.20
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M. Hodges meeting minutes invoices #9	\$150.00
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RT mileage Carson City to Winnemucca 9/12/25 395 miles@ \$0.5/mile	\$195.00
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RT mileage Carson City to NGM Elko 9/22/25 612 miles@ \$0.5/mile	\$306.00
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Elko lodging 9/22-9/23/25	\$154.22
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Per diem 9/22-9/23/25	\$45.00
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Fed Ex copy Board meeting packets 9/1/25	\$409.24
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USPS mail Board meeting packets 9/2/25	\$77.00
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USPS mail Board meeting packets 9/2/25	\$33.00
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<b>Subtotal Expenses</b>	\$1,448.66
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<b>TOTAL AMOUNT</b>	<b>\$8,143.66</b>
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Nevada Authority Management, LLC Report for the Humboldt River Basin Water Authority  
September 1, 2025 to December 1, 2025

DATE	ACTIVITY	HRS
9/2/2025	Print/mail 9/12/25 HRBWA Board meeting packets	1.5
9/8/2025	Prepare for 9/12/25 HRBWA Board meeting, review monthly State Engineer reports and active legal activities; phone calls with NDWR, Orla Mining and others, review and further develop Humboldt Basin map with Lori Fulton, DRI	5
9/10/2025	Review/send additional backup material for 9/12/2025 Board meeting	1.5
9/11/2025	Phone call with Kip Allander re: Humboldt River mitigation offsets, DCNR water rights retirement audit virtual meeting	1
9/12/2025	Drive to/from Carson City to Winnemucca and participate in HRBWA Board meeting	7
9/22/2025	Drive to Elko	4
9/23/2024	Attend NDWR Humboldt Stakeholder Working Group meeting, drive to Carson City	9
9/25/2025	Attend NDWR workshop on proposed changes to Extension of Time regulations and forms (1 hour split with CNRWA)	0.5
9/29/2025	Virtual meeting with Orla Mining representatives, Jay Dixon and Steve Skidmore re: Orla Mining applications, prepare FY26 member county assessment invoices	2
9/30/2025	Research/respond to legislative inquiry re: water usage by Crossroads Project in Humboldt Co.	1
10/6/2025	Review updated Humboldt Region maps and respond to Lori Fulton, DRI	1
10/10/2025	Participate in virtual meeting with Nevada Division of Water Resources, Orla Mining, Jake Tibbitts and Bailey's re: protests of water right applications 91529 to 91528 in Basin 048, review additional materials provided by NDWR	2.5
10/14/2025	Attend NDWR Humboldt Stakeholder Working Group, Technical Subcommittee meeting	3
10/21/2025	Update Humboldt Region map, virtual meeting with Lori Fulton, DRI	0.5
10/24/2025	Phone call with Pam Harrington, Lander County Natural Resources Director, re: Nevada Gold Mines Robertson Project proposed 3M Plan	1
10/27/2025	Phone call with State Engineer Sullivan and DCNR Policy Advisor Kathy Erskine re: next steps for HRBWA stakeholder working group and draft Humboldt Order	1.5
10/28/2025	Follow-up phone call with DCNR Policy Advisor Kathy Erskine re: next steps for HRBWA stakeholder working group and draft Humboldt Order, Review 3M Plans for HRBWA template	2
10/29/2025	Phone call with Laurel Saito, The Nature Conservancy re: water rights retirement program and possible future bill draft requests; meeting with Becky Peratt, LCB staff for Interim Natural Resources Committee, re: Interim Committee issues (2 hrs. split with CNRWA), phone call with Ed James, Carson River Sub conservancy re: video production ideas for Humboldt River Basin	1.5
10/30/2025	Phone call with Doug Busselman, NFB re: HRBWA stakeholder working group and draft SE Order	0.5
11/2/2025	Prepare background/outline for Humboldt Basin conjunctive management transition	2
11/3/2025	Meet with State Engineer re: Humboldt Basin conjunctive management transition	1.5
11/5/2025	Virtual meeting with Lori Fulton, DRI and Taylor Vergin, NDWR re: Humboldt Region map project	0.5
11/13/2025	Virtual meeting with Laurel Saito, TNC re: Humboldt outreach materials	1
11/15/2025	Finalize scope of work for NDWR and DRI for Humboldt map project	1
11/19/2025	Virtual meeting with DCNR, Jake Tibbitts, Laurel Saito, TNC and Andy Belanger, SNWA re: Water Rights Retirement Program implementation AB104/SB36 (1hr. Split with CNRWA)	0.5
11/20/2025	Submit final draw request for Water Rights Retirement Program	1
11/21/2025	Virtual meeting with Cathy Erskine, DCNR and Laurel Saito re: Video series for Humboldt Basin Phone call with Pam Harrington, Lander County Natural Resources, Humboldt conjunctive	1 0.5
11/26/2025	management and Lander County water rights	
11/28/2025	Prepare 12/12/25 HRBWA Board meeting agenda and backup material	4
12/1/2025	Meet with State Engineer re: Humboldt Basin conjunctive management transition, complete 1/12/25 Board meeting backup material	6



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#### PURCHASE DETAILS

Product	Qty	Unit Price	Price
Priority Mail®	1		\$11.00
Flat Rate Env			
Paradise Valley, NV 89426			
Flat Rate			
Expected Delivery Date			
Sat 09/06/2025			
Tracking #:			
9505 5100 5370 5245 3341 54			
Insurance			\$0.00
Up to \$100.00 included			
Total			\$11.00

1 Floral Geo	2	\$1.00	\$2.00
5 Floral Geo	2	\$5.00	\$10.00
2 Floral Geo	5	\$2.00	\$10.00

Grand Total: \$33.00

Credit Card Remit \$33.00  
Card Name: MasterCard  
Account #: XXXXXXXXXXXX1512  
Approval #: 03327C  
Transaction #: 671  
ATD: A0000000041010 Chip  
AL: Mastercard  
PIN: Not Required

TO REPORT AN ISSUE



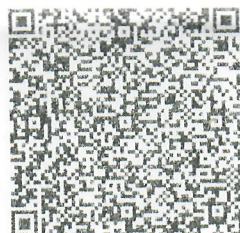
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#### PURCHASE DETAILS

Product	Qty	Unit Price	Price
Priority Mail®	1		\$11.00
Flat Rate Env			
Lovelock, NV 89419			
Flat Rate			
Expected Delivery Date			
Fri 09/05/2025			
Tracking #:			
9505 5100 5368 5245 9219 22			
Insurance			\$0.00
Up to \$100.00 included			
Total			\$11.00

Priority Mail® 1 \$11.00  
Flat Rate Env  
Lamoille, NV 89828  
Flat Rate  
Expected Delivery Date  
Fri 09/05/2025  
Tracking #:  
9505 5100 5368 5245 9219 46  
Insurance \$0.00  
Up to \$100.00 included  
Total \$11.00

Priority Mail® 1 \$11.00  
Flat Rate Env  
Lamoille, NV 89828  
Flat Rate  
Expected Delivery Date  
Fri 09/05/2025  
Tracking #:  
9505 5100 5368 5245 9219 60  
Insurance \$0.00  
Up to \$100.00 included  
Total \$11.00

Priority Mail® 1 \$11.00  
Flat Rate Env  
Orovada, NV 89425  
Flat Rate  
Expected Delivery Date  
Fri 09/05/2025  
Tracking #:  
9505 5100 5368 5245 9219 84  
Insurance \$0.00  
Up to \$100.00 included  
Total \$11.00

Priority Mail® 1 \$11.00  
Flat Rate Env  
Carlin, NV 89822  
Flat Rate  
Expected Delivery Date  
Fri 09/05/2025  
Tracking #:  
9505 5100 5368 5245 9220 04  
Insurance \$0.00  
Up to \$100.00 included  
Total \$11.00

Priority Mail® 1 \$11.00  
Flat Rate Env  
Battle Mountain, NV 89820  
Flat Rate  
Expected Delivery Date  
Fri 09/05/2025  
Tracking #:  
9505 5100 5368 5245 9220 42  
Insurance \$0.00  
Up to \$100.00 included  
Total \$11.00

Priority Mail® 1 \$11.00  
Flat Rate Env  
Battle Mountain, NV 89820  
Flat Rate  
Expected Delivery Date  
Sat 09/06/2025  
Tracking #:  
9505 5100 5368 5245 9220 66  
Insurance \$0.00  
Up to \$100.00 included  
Total \$11.00

Grand Total: \$77.00

Debit Card Remit \$77.00  
Card Name: MasterCard  
Account #: XXXXXXXXXXXX4151  
Approval #: 080453  
Transaction #: 499  
Receipt #: 040267  
Debit Card Purchase: \$77.00  
AID: A0000000042203 Chip  
AL: US Debit  
PIN: Verified



1426 E William St  
Ste 1  
Carson City, NV 89701  
775.886.6099

Receipt #: **CSNK46268B623FF0AX**

September 1, 2025 3:53 PM

## Print Orders

**Order:** 2010509248294795

**\$380.33**

Item	SKU	QTY	Unit Price	Price
<b>Custom Multi Sheet</b>		<b>18</b>	<b>\$21.1295</b>	<b>\$380.33</b>
Reg. Price \$441.89 Savings \$61.56				
BW 1S Copy/Print Reg. Price \$0.1900	0001	2,052	\$0.1600	\$328.32 T
Drill Per Sheet	0371	2,556	\$0.0100	\$25.56 T
Drilling Setup	0372	1	\$1.2500	\$1.25 T
Sheet Pastel 8.5x11	2485	252	\$0.1000	\$25.20 T

### In-Store Pickup Location

Jeff Fontaine  
FXO  
1426 E William St  
Ste 1  
Carson City, NV 89701, US  
7754437667  
ccjfontaine@gmail.com

By submitting your project to FedEx Office or by making a purchase in the FedEx Office store, you agree to all the FedEx Office terms and conditions, including limitations of liability, located at [fedex.com/officeserviceterms](https://fedex.com/officeserviceterms) or you may request a copy of our terms and conditions, which will be made available to you upon request.



CSNK46268B623FF0AX



1426 E William St  
Ste 1  
Carson City, NV 89701  
775.886.6099

Receipt #: **CSNK46268B623FF0AX**

September 1, 2025 3:53 PM

Print Order Subtotal	\$380.33
Tax	\$28.91
<b>Total</b>	<b>\$409.24</b>

Purchase APPROVED

MC	\$409.24
Acct #	****4151
Expiration Date	07/2027
Authorization	075352

Total Tender	\$409.24
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Total Savings	\$61.56
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Mackenzie Hodges  
P.O. Box 1357  
Lovelock, NV 89419  
775-442-1465  
mhodges\_32@yahoo.com

Jeff Fontaine – Executive Director  
Humboldt River Basin Water Authority  
ccjfontaine@gmail.com

Invoice: 9

Summary of this invoice:

<b>Date</b>	<b>Description of Administrative Services</b>	<b>Hours</b>	<b>Amount</b>
08/01/2025	Attend HRBWA meeting and take notes For preparation of meeting minutes	1.00 hrs	0.00
08/25/2025	Review agenda, backup material, notes, & recording and prepare meeting minutes	0.50 hrs	0.00
09/5/2025	Review agenda, backup material, notes, & recording and prepare meeting minutes	1.50 hrs	0.00
	Balance Owed	Flat Rate	\$150.00



## Transaction details

Check #9999

NEVADA AUTHORITY MANAGEMENT LLC  
400 BUNKER HILL DR  
CARSON CITY, NV 89703

014

10-13-25  
date

Pay to the order of Mackenzie Hodges \$150.00

ONE HUNDRED AND FIFTY DOLLARS & 00/100 dollars

BMO Private Bank  
BMO Bank N.A.  
Chicago, Illinois

for 9-1-25 minutes

Jeffrey Intuina

Front of Check

ENDORSE HERE

Mackenzie Hodges

CHECK HERE FOR MOBILE OR REMOTE DEPOSIT ONLY

AT \_\_\_\_\_ NAME OF FINANCIAL INSTITUTION \_\_\_\_\_ DATE \_\_\_\_\_

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE  
RESERVED FOR FINANCIAL INSTITUTION USE \*

Back of Check

Description:	Regular Check
From account:	[REDACTED]
Amount:	\$150.00
Status:	Posted
Date:	2025-11-12

Account details

BMO Premium Business Checking

Checking \* 



AVAILABLE BALANCE

Routing number	
Current balance	
Last business day balance	

Account transactions

Search Transactions

EXPORT

PRINT

FILTER

Showing last 90 days

\$26.40 - 26.40 X

Withdrawals X

POSTED

GOOGLE WORKSPACE CNRWA MOUNTAIN VIE CA

Nov 3, 2025

GOOGLE GSUITE HRBWA CO MOUNTAIN VIE CA

-\$26.40

-\$26.40



Nov 3, 2025

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GOOGLE GSUITE HRBWA CO MOUNTAIN VIE CA	-\$26.40
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Oct 2, 2025

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GOOGLE GSUITE CNRWA CO MOUNTAIN VIE CA	-\$26.40
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Oct 2, 2025

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GOOGLE GSUITE HRBWA CO MOUNTAIN VIE CA	-\$26.40
--	----------

Sep 2, 2025

---

GOOGLE GSUITE CNRWA CO MOUNTAIN VIE CA	-\$26.40
--	----------

Sep 2, 2025

2858 East Jennings Way  
Elko, NV 89801

Date	Room	Description / Voucher	Charges	Credits	Balance
09/22/2025	309	Deposit Transfer - Conf: 1452 to Folio: 51644	0.00	154.22	-154.22
09/22/2025	309	Room Taxable	134.10	0.00	-20.12
09/22/2025	309	Occupancy Sales Tax - 15%	20.12	0.00	0.00
		Balance Due			0.00
		Summary and Taxes			
		Taxable Sales	134.10		
		Occupancy Sales Tax - 15%	20.12		

## **Tab 2C**

[illegible]

## Tab 3

December 12, 2025

Bennie Hodges, Chairman  
Humboldt River Basin Water Authority

Re: Request for the Humboldt River Basin Water Authority to extend the period of service in its agreement with David Berger to December 31, 2026.

Dear Chairman Hodges,

Section 4.1 of the professional services contract between the Humboldt River Basin Water Authority and David Berger pertains to Period of Service, and it reads as follows:

“The period of service wherein is authorized to provide the services described shall be January 1, 2023 through December 31, 2023 and may be extended in writing by mutual consent of the AUTHORITY and Independent Contractor after a request for extension has been submitted to and approved by the AUTHORITY.”

Please consider this letter a request for the Authority to extend the period of service in its contract with David Berger to December 31, 2026.

Sincerely,

  
David Berger

## Tab 4



# NWRA MEMBERSHIP APPLICATION FOR 2026

It's that time again ... time to renew or join the NWRA membership FY 2026. Members receive discounted rates to all NWRA events and activities in 2026! Annual membership benefits are valid January 1 to December 31.

## *Who is the Nevada Water Resources Association (NWRA)?*

NWRA's mission is to provide objective information, training and education related to key issues regarding water resources in Nevada and the region. To accomplish this objective, each year, NWRA hosts a variety of relevant, professional forums that are both educational and enjoyable.

A primary component of NWRA's success is the NWRA Annual Conference. The annual conference is a valuable, multi-disciplinary educational experience. Qualified professionals provide information regarding important issues pertinent to sustaining crucial, yet limited water resources in Nevada and the region. Information is provided during technical sessions, professional presentations and panels. Attendees and presenters are encouraged to collaborate during scheduled non-formal presentations and networking events.

Additionally, NWRA hosts workshops, classes, tours, webinars and symposiums that cover a broad range of topics, such as; Nevada Water Law, the Lake Tahoe Basin, Well Construction Methods, the Truckee River, Mine Water Management, Groundwater, Modeling and many others. Many of these NWRA events provide opportunities for attendees to accrue Continuing Education Credits and/or Professional Development Hours.

## *What is the NWRA Board of Trustees?*

The Board of Trustees guides the organization and consists of 16 elected NWRA members. Each District elects four members. Three of the elected members are Directors who have voting rights. The fourth elected member is an alternate who has voting rights only when a regular member of the same district is absent. The State Engineer serves as an ex officio member.



## *Counties in each NWRA District*

### **District 1**

Clark  
Lincoln  
Nye  
Esmeralda

### **District 2**

Mineral  
Lyon  
Douglas  
Carson City  
Storey  
Churchill

### **District 3**

Lander  
Eureka  
Elko  
White Pine

### **District 4**

Humboldt  
Pershing  
Washoe





## **BECOME A MEMBER OR RENEW YOUR CURRENT MEMBERSHIP**

Members of the Nevada Water Resources Association receive many benefits which include discounts to the many events, tours and workshops that are held throughout the state each year; membership dinners; discounts on publications and other resources; directories; and “members only” access to the members section of the website.

The cost to become a member is \$150/year for individuals and \$20 for students. Organizations membership, which also includes ad space on the NWRA website, is \$650/year for up to six (6) people and \$90 per person after the first six (6). Professional Individual is \$200 and includes website advertising with two updates throughout the year.

As a member, you or your organization will be included on the NWRA mailing list and will receive information and announcements regarding upcoming events. You will also receive discounts to our events.

# **NWRA Membership Renewal Form**

District I will represent: (select one) ☐ 1 ☐ 2 ☐ 3 ☐ 4

- ☐ Individual Membership - \$150 / year
- ☐ Organizational Memberships - \$650 / year (Up to 6 people)

Organizations over 6 people add \$90 per person  x \$90 = \$

- ☐ Professional Individual - \$200 / year
- ☐ Student Membership - \$20 / year

Total Amount of Check: \$

Please complete this form and return with  
check made payable to NWRA to:

**NWRA, P.O. Box 8064, Reno, NV 89507**

*You can also renew online at [www.nvwra.org](http://www.nvwra.org)*

For Organization Members: Please complete one registration form for each of your 6 included individuals.  
The Organization contact and each person will receive a 2026 confirmation.

First Name  Last Name  Degree/  
Suffix

Organization

Job Title

Phone Number  Email

Address

City  State  Zip

**For more information, please call**  
Tina Triplett, NWRA Executive Consultant at (775) 473-5473

## Tab 5



# 2026 NWRA Annual Conference Week

## February 2–5, 2026 | Las Vegas, NV

### Conference Registration

To register, please complete this form and send it with payment to: **NWRA, P.O. Box 8064, Reno, NV 89507**. Please type or print one registration form per attendee. Make checks payable to Nevada Water Resources Association. You may also register online at [www.nvwa.org](http://www.nvwa.org).

The event will be held at the **Tuscany Suites & Casino, 225 East Flamingo Road, Las Vegas, NV 89169**.

Name \_\_\_\_\_

Title \_\_\_\_\_ Degree or Suffix \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

( ) \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

I am interested in serving on the 2027 Conference Planning Committee:

☐ Yes ☐ No

Will you be attending the:

February 3 Reception? ☐ Yes ☐ No

February 4 Luncheon? ☐ Yes ☐ No

February 4 Reception? ☐ Yes ☐ No

February 5 Luncheon? ☐ Yes ☐ No

Do you request a vegetarian meal? ☐ Yes ☐ No

Are you attending for CEU/PDH? ☐ Yes ☐ No

If yes, specify type of credit and # \_\_\_\_\_

I would like to add my name to the ballot to serve on the Board of Trustees. I will attend the Annual Meeting Luncheon to represent myself in my District. ☐ Yes ☐ No

District you will be representing

☐ Dist 1 ☐ Dist 2 ☐ Dist 3 ☐ Dist 4

#### 2026 Membership Dues (1/1/26–12/31/26)

Individual Membership \$ 150 \$ \_\_\_\_\_  
Professional Individual Membership \$ 200 \$ \_\_\_\_\_  
Organizational Membership (includes 6 people) \$ 650 \$ \_\_\_\_\_  
If over 6 people add per person \_\_\_\_\_ @ \$ 90 ea \$ \_\_\_\_\_  
Student Membership \$ 20 \$ \_\_\_\_\_

District you will be representing ☐ Dist 1 ☐ Dist 2 ☐ Dist 3 ☐ Dist 4

#### NWRA Member Conference Registration

A member is an individual or organization who has paid their 2026 membership dues.

Full Conference Member Reg by 1/1/2026 \$ 595 \$ \_\_\_\_\_  
Full Conference Member Reg after 1/1/2026 \$ 645 \$ \_\_\_\_\_

#### Agency/Corporate Registration Per Person

Current NWRA Organization Members  
with 6 or more Attendees @ \$ 515 ea \$ \_\_\_\_\_

1-Day Member Reg (indicate choice & fill in amount) \$ \_\_\_\_\_

☐ February 3 – \$255 ☐ February 4 – \$350 ☐ February 5 – \$255

#### Non-Member Conference Registration

Full Conference Non-Member Reg by 1/1/2026 \$ 765 \$ \_\_\_\_\_  
Full Conference Non-Member Reg after 1/1/2026 \$ 815 \$ \_\_\_\_\_

1-Day Non-Member Reg (indicate choice & fill in amount) \$ \_\_\_\_\_

☐ February 3 – \$290 ☐ February 4 – \$385 ☐ February 5 – \$290

#### Student Registration

Student NWRA Member \$ 75 \$ \_\_\_\_\_  
Student Non-Member \$ 100 \$ \_\_\_\_\_  
Student Poster Presenter \$ 50 \$ \_\_\_\_\_

#### Other Conference Registrations

Speaker/Presenter/Moderator Registration \$ 475 \$ \_\_\_\_\_

Exhibit Booth Attendant - Annual Conference \$ 490 \$ \_\_\_\_\_

(Tuesday 10:00 a.m. to Thursday 1:30 p.m.)

Exhibit Booth Attendant - Extended Days \$ 325 \$ \_\_\_\_\_

(Monday 7 a.m. to Tuesday 10:00 a.m.)

Complimentary Sponsorship Registration \$ - 0 -

#### Add a Pre-Conference Activity

– Water Rights Class, Monday, February 2 \$ 225 \$ \_\_\_\_\_

– Adv. Water Rights Class, Tuesday, February 3 \$ 225 \$ \_\_\_\_\_

**TOTAL ENCLOSED** \$ \_\_\_\_\_

**CANCELLATION POLICY:** All cancellations must be received in writing and sent to NWRA via fax to 775-473-5473, mailed to P.O. Box 8064, Reno, NV 89507, or e-mailed to [admin@nvwa.org](mailto:admin@nvwa.org). Cancellations received within 7 days of the start of the event will not be refunded, however substitutions are welcome. All other cancellation requests will receive a refund minus a 25% administrative fee. If you have purchased the registration with a credit card, the convenience fee is non-refundable.

## Tab 6

# Understanding the Humboldt River Conjunctive Management Effort & Draft Curtailment Order

*Prepared by the Nevada Division of Water Resources (NDWR)*



## Why This Matters

The Humboldt River is a lifeline for Northern Nevada — supporting communities, agriculture, and industry across the region. But today, the region faces a growing challenge: there's simply not enough water to meet all the demands placed on it.

The system is **over-allocated**, meaning more water rights exist than the river and aquifers can reliably supply. Groundwater pumping near the river reduces surface flows, creating real and immediate **conflicts between junior groundwater water right holders and senior surface water right holders**.

To address this imbalance, NDWR may be required to take legal action. If no alternatives are implemented, the Division could issue a curtailment order based on water right priority — requiring some users to reduce or stop groundwater pumping altogether. Under current Nevada law, curtailment is the primary tool available to protect senior rights and manage overuse.

That's why NDWR is preparing to release a **draft curtailment order** — not as a final decision, but as a starting point for public input and local solutions. This draft will help stakeholders understand what curtailment could look like and begin shaping practical, community-driven alternatives before any final decisions are made.

## What's Happening Now

Two efforts are happening in parallel — and both require your attention:

### 1. Draft Curtailment Order

NDWR will soon release a draft curtailment order to outline how and where curtailment could be applied if no alternatives are implemented. This draft is not a final decision — it's a starting point for public input and local solutions.

### 2. Stakeholder Working Group

For the past two years, a diverse group of stakeholders have been working with NDWR to explore community-driven alternatives — such as conservation districts or offset programs that could implement mitigation strategies.

***These efforts aim to protect water rights while being realistic about water availability and minimizing economic disruption.***

[www.water.nv.gov/programs/humboldt](http://www.water.nv.gov/programs/humboldt)



## What is the Draft Curtailment Order?

The draft curtailment order is a **proposed action** by NDWR to reduce groundwater pumping in areas where it's harming senior surface water rights.

It will outline:

- **When** curtailment would be triggered
- **How** and where it would be applied
- **What options** water users may have to avoid curtailment

## Why Release a Draft?

Transparency. Collaboration. Solutions.

Releasing a draft allows NDWR to:

- Share its approach openly
- Invite public feedback
- Encourage proactive, community-led alternatives

This is not about imposing cuts — it's about **working together to avoid them where possible.**

**Important:** This is a **draft** — not a final order. No one is being ordered to reduce water use at this time.

## The Time to Act Is Now — And It Starts with You

The Humboldt River is at a crossroads. While NDWR is committed to doing its part, lasting solutions must come from the ground up.

This is your water supply, your community, your future. The responsibility to lead, collaborate, and act lies with those who know this region best.

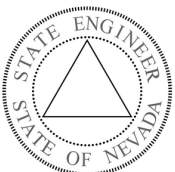
**Organize. Speak up. Share ideas.**

Work together to develop practical, community-driven alternatives. Don't wait for a final order — help shape what comes next.

The path forward depends on local leadership and decisive action. Let's protect the Humboldt River — and everything it supports.

## What's Next

- **Draft Curtailment Order:** NDWR will release a draft for public review and feedback.
- **Public Outreach and Input:** Learn about the draft, ask questions, and share input.
- **Community-Led Solutions:** Local groups will play a key role in developing practical, region-specific alternatives.
- **Stay Informed:** Visit the website for the latest updates, helpful resources, and tools.



[www.water.nv.gov/programs/humboldt](http://www.water.nv.gov/programs/humboldt)





**DISCLAIMER: This is a DRAFT Order and is not being implemented at this time.**

## DRAFT ORDER

### Curtailing the Use of Groundwater Rights that Conflict with Priority Decreed Stream Rights within the Humboldt River Region

This outline of the draft order is prepared for discussion purposes with the Humboldt Stakeholder Working Group meeting on September 23, 2025. The outline is not final and is intended to demonstrate what may be included in the draft order that is planned to be distributed for public review at the end of 2025. The reason for issuing a draft order for public review is to communicate broadly what a future curtailment order would contain, and to take public comment before any final order is issued.

The action needed in the Humboldt River basin is both urgent and long-term. We face hydrologic realities that require us to be responsive within the context of Nevada water law, but there is also a collective interest in respecting the traditions, rights, and livelihoods that rely on the waters of the Humboldt region. Decisions must be transparent, equitable to the extent possible, based upon the best available data and science, and rooted in long-term stewardship of water resources for future generations.

Conflict is occurring now. Senior water rights that are in priority do not receive all scheduled deliveries when the flow in the Humboldt River and its tributaries are depleted by groundwater pumping. Depletion is clearly demonstrated in the stream gaging data; what is less clear is a precise delineation of the source and magnitude of the conflict. The solution provided in Nevada law is to curtail junior rights to protect senior rights, but a curtailment that extends beyond what is necessary to remedy the conflict is unwarranted and unjustifiable.

As the existing conflict becomes more clearly demonstrated over time by the science and the data, so does the development of options and potential solutions to resolve the conflict without strict curtailment. The communities and industries affected by this hydrologic reality need to have the opportunity to reach solutions that minimize negative impacts. This could be achieved through offset programs, market-based approaches, conservation efforts, and through local organizations that are more adaptable than state authority. Curtailment is a severe action and it should be the last resort, but it would be a legal, and defensible, responsibility in the absence of other solutions.

The draft curtailment order is a framework that shows how curtailment could work: when it would be triggered, how and where it would be applied, and what the parameters and options are for water users to avoid curtailment. Distributing a draft for public review provides a basis for clarity, dialogue and collaboration. This is about ensuring that the process moves along with open eyes and an open mind, shaped with stakeholder input. It is not about imposing immediate cuts.

## 1. Introduction

- a. Basic Principles of stream depletion/capture caused by groundwater pumping.
  - b. The Humboldt Decree established the relative rights to the waters of the Humboldt River and its tributaries in 1938, and it established that the stream system is fully appropriated in most years.
  - c. Permits were issued in 1933 and 1938 for year-round storage of additional waters of the Humboldt River in the amount of 115,152 acre-feet.
  - d. Because of the fully decreed stream system and year-round storage rights in Rye Patch Reservoir, the Humboldt River is almost always in regulation.
  - e. Almost all groundwater in the Humboldt River Region is junior to 1938.
  - f. Any amount of capture from a fully appropriated system when in regulation will reduce surface flow that would otherwise be delivered to senior right holders.
  - g. Recognizing what was settled by Order 1329
    - i. Existing conflict is happening now
    - ii. Immediate measures can be taken to prevent the problem from getting worse.
    - iii. When more accurate data are available then longer-term strategies are warranted to address existing conflict.
    - iv. Further steps to implement those strategies will require extensive public outreach.
    - v. Order 1329 was upheld in district court, no appeal to Supreme Court.
- ## 2. Water rights conflicts due to depletion from groundwater pumping has gradually increased over decades.
- a. Describe and cite the multiple analyses demonstrating depletion
    - i. Imlay gage data
      1. Massive increase in zero flow days in recent years
    - ii. Prudic trends analysis
      1. Describe what it did: solid analysis of historic stream gage data.
      2. Conclusions: Comus to Imlay vs. Upstream reaches.
      3. This report didn't set out to identify location and magnitude of capture over time.
    - iii. Regional Groundwater Flow models
      1. Description of the publications.



2. This system-wide analysis is needed to have a baseline understanding of GW/SW connection and identify the location/magnitude of capture.
  - b. The nature of the problem and actions to resolve it need to be considered at the system-wide scale
    - i. One decree governs the entire system
    - ii. Segments of the Humboldt River and its tributaries vary greatly in their setting, but they are not hydrologically isolated from each other.
3. Authority and Necessity
- a. NRS 533.085 prohibits the impairment of vested water rights, regardless of the source of water.
  - b. All statutorily granted water rights in Nevada are given subject to existing rights.
  - c. All waters within the state are owned by the public.
  - d. NRS 533.085 gives the State Engineer the authority to conjunctively manage surface waters with groundwater.
  - e. Policy declarations in NRS 533.024 require the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water.
  - f. The definition of “basin” is broad and inclusive, and thus may include an aquifer and multiple previously delineated topographic basins.
  - g. NRS 532.120 authorizes the State Engineer to make such rules, regulations and orders as are deemed essential for the welfare of the area involved where in his or her judgement the groundwater basin is being depleted.
  - h. NRS 534.110 provides that the State Engineer shall conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the groundwater supply may not be adequate for the needs of all permittees and all vested-right claimants, and if the findings of the State Engineer so indicate, the State Engineer may order that withdrawals be restricted to conform to priority rights until the water level of the basin is stabilized.
4. Area Subject to this Order
- a. Define the Capture Management Zone (CMZ)
    - i. Areas where a well would derive at least 10% of its water from stream depletion after pumping for 50 years.
    - ii. Wells within the Capture Management Zone must mitigate their capture in accordance with Section 6 of this order to avoid curtailment.
    - iii. Groundwater models are used to delineate the CMZ. Generally the portions of basins that are closer to the Humboldt River and its

tributaries have higher capture, but the distance depends on aquifer properties and hydrologic connections with Humboldt River and tributaries.

- iv. Groundwater models are the best available science unless superseded by improved information, data, and/or analysis as described in subsection e.
  - b. Maps showing CMZ.
  - c. Describe areas where we have confidence and where we don't.
    - i. Paradise Valley
    - ii. Pine Valley
    - iii. Upper Humboldt basin
  - d. When there is sufficient confidence in these areas to delineate a CMZ in the judgement of the State Engineer, then a supplemental order will need to be issued regarding the procedures required for those areas to resolve capture liability.
  - e. Explain the process to submit and review supplemental or alternative data to demonstrate more accurate site conditions than the existing published models.
    - i. Requirements for submittal
    - ii. Criteria for review and approval
- 5. Procedure to Determine Capture Liability by location
  - a. Steps to determine capture liability
    - i. Maps and capture curves
    - ii. Site specific capture data obtained from Humboldt Capture Query Tool.
  - b. Capture Liability is based on duty, not actual pumping. Water right holders may relinquish duty or move duty out of their well to reduce capture liability.
  - c. Implementation is only for areas where there is a clear demonstration and confidence in the boundary of the CMZ and an accurate measure of capture fraction.
- 6. Procedure to mitigate capture liability and avoid curtailment within the CMZ
  - a. Obtain offsets sufficient to mitigate capture for individual groundwater permits.
  - b. Participate in a program or common pool offset managed by a local entity and approved by the State Engineer that sufficiently mitigates capture liability.
  - c. Alternative measure or agreement that mitigates capture liability and is approved by the State Engineer.
  - d. 5-year period after issuance of a final order to fully implement mitigation actions.

7. Metrics to demonstrate resolution of conflict over time

- a. Gage data
- b. Future trend analysis
- c. Annual summary of decree diversions vs. instream flow for offsets
- d. Model simulations

8. ORDER

- a. Curtailment in 5 years from the date of issuance of a final order of all groundwater rights within the CMZ junior to 1938 unless mitigation of conflict is fully demonstrated through mechanisms described above.
- b. Definition of curtailment for the purpose of this order: Groundwater within the CMZ cannot be withdrawn from its permitted point of diversion until conflict is mitigated. Groundwater rights that are curtailed subject to this order are still active rights held by the owner, and they may still be considered for change applications or for extensions of time to prevent forfeiture.
- c. Exemptions
  - i. Those groundwater rights located in the administrative basins but not within the CMZ ie <10% capture in 50 yrs.
  - ii. Those groundwater rights with <5 afa capture after 50 years.
- d. Consider check-ins (similar to DV GMP)
- e. Extent that this supersedes Order 1329

# Humboldt River Basin Conjunctive Management Transition Plan Outline

12/1/2025

## Goal

The primary goal of this transition plan is to prepare individuals, businesses, and communities for the State Engineer's implementation of conjunctive water management within the Humboldt River Basin.

## Participants

- Nevada Division of Water Resources (NDWR)
- Humboldt River Basin Water Authority (HRBWA)

## Background

The Nevada Division of Water Resources (NDWR) is in the process of drafting a Curtailment Order for public review. While curtailment is the direct tool available to NDWR under state law, the Humboldt Stakeholder Working Group convened in June 2024 and broader public input are helping identify alternative, community-led solutions that align with water law principals. These potential strategies may include local water management programs, voluntary conservation initiatives, and new policy options that could require legislative or local governmental action.

## Draft Order

Release the Draft Curtailment Order by March 1, 2026 after completing or making substantial progress towards the following:

- Publish the Middle Humboldt Capture Model.
- Prepare an executive summary of the capture models, validating these models as the best available science per NRS 533.024.
- Identify locations and water rights subject to curtailment and ensure straightforward public access to the Humboldt Capture Query Tool.

- Vet conjunctive management ideas, including the use of Decree to offset capture, conservation efforts as offsets, limiting irrigation seasons and duties to those specified in the Decree, improved management practices for Decree, managed recharge as an offset, and development of Augmentation Plans.
- Identify any exemptions and special considerations for public water supplies.
- Provide preliminary results of water market analysis.
- Outline the process for submitting and reviewing supplemental or alternative data to demonstrate more accurate site conditions than those indicated by existing published models.
- Specify conditions for extensions of time.
- Set a deadline for comments, tentatively June 30, 2026.

## Outreach and Public Engagement

Outreach and public engagement should begin in phases starting January 1, 2026. Efforts should include:

- Develop aligned messaging across all communication channels.
- Create printed materials, flyers, infographics, and animations to inform stakeholders.
- Produce a Humboldt River Basin Map Series (HRBWA, DRI, and NDWR).
- Produce and launch a three-part video series covering the basin's chronology, current conditions, and proposed solutions.
- Presentations and workshops to engage the public and stakeholders.
- Publish op-eds and utilize social media platforms for broader outreach.
- Design and maintain a dedicated website or webpage for up-to-date information.

## Organizational Structure and Management

By June 30, 2026, the following organizational actions should take place:

- Identify lead organizations or agencies, continuing dialogue with HRBWA.
- Analyze options for regional and local management, such as a sub-conservancy, groundwater districts, or other suitable structures.
- Present and engage with local governments regarding management strategies.
- Identify and support relevant legislation for the Joint Interim Standing Committee on Natural Resources and the Committee on Public Lands.

## Impacts and Mitigation

By September 30, 2026, the plan should:

- Identify socio-economic and environmental impacts of the proposed Curtailment Order.
- Develop potential mitigation strategies, including the conversion or repurposing of irrigated fields and exploration of economic development opportunities.

## Final Order

- Conduct workshops and hearings
- Provide responses to comments on the Draft Order and rationale for the Final Order.
- Implement the Final Order with a phased approach beginning in 2027.
- Set the effective date and conditions for curtailment.

## Implementation and Oversight

- Assess NDWR resource and staffing requirements to support the transition.
- Establish long-term monitoring and management protocols.

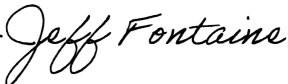
## Tab 7

# Humboldt River Basin Water Authority

Elko · Eureka · Humboldt · Lander · Pershing

DATE: December 1, 2025

TO: Humboldt River Basin Water Authority Board of Directors

FROM: Jeff Fontaine, Executive Director 

RE: December 12, 2025 HRBWA meeting staff report for Agenda Item #10

## **DISCUSSION AND POSSIBLE ACTION REGARDING A ROLE FOR THE AUTHORITY IN CONJUNCTIVE MANAGEMENT OF THE HUMBOLDT RIVER.**

### **BACKGROUND**

The Humboldt River is a lifeline for Northern Nevada — supporting communities, agriculture, and industry across the region. But today, the region faces a growing challenge: there's simply not enough water to meet all the demands placed on it. The system is over-allocated, meaning more water rights exist than the river and aquifers can reliably supply. Groundwater pumping near the river reduces surface flows, creating real and immediate conflicts between junior groundwater water right holders and senior surface water right holders. The action needed in the Humboldt River basin is both urgent and long-term. Under current Nevada law, curtailment is the primary tool available to protect senior rights and manage overuse. However, curtailment is a severe action that will significantly impact individuals, businesses and communities in the Humboldt Region. NDWR is preparing to release a draft curtailment order which will help stakeholders understand what curtailment could look like and begin shaping practical, community-driven alternatives that will help mitigate the impacts of curtailment. This could be achieved through offset programs, market-based approaches, conservation efforts, and through local organizations that are more adaptable than state authority.

The responsibility to lead, collaborate, and act lies with those who know this region best and the path forward depends on local leadership.

### **ANALYSIS**

The Humboldt River Basin Water Authority is uniquely qualified to help organize and manage programs to assist individuals, businesses, and communities adapt to the State Engineer's implementation of conjunctive water management and curtailment within the Humboldt River Basin.

HRBWA was established as a separate legal entity in 1990 by Humboldt, Lander, Eureka, Elko and Pershing Counties in response to proposals to develop and transport potentially large amounts of



ground and surface water from the Humboldt River Basin, and based on the desire to ensure that a long-term supply of reasonably priced water is available to support future agricultural, municipal recreational and industrial uses within the Humboldt River Basin. The Interlocal Agreement states that the five Member Counties share an interest in the protection and enhancement of existing decreed and certificated water rights dependent upon surface and ground waters originating within the entire watershed serving the Humboldt River Basin.

The Roles and Responsibilities of the Humboldt River Basin Water Authority that are listed in the Interlocal Agreement are pertinent to helping individuals, businesses and communities adapt to conjunctive water management and mitigate the impacts of curtailment in the Humboldt River Basin:

- Formulate and present a position to relevant agencies of the State of Nevada, the United States and other government agencies on issues pertaining to the Humboldt River Basin.
- Oversee water supplies and develop and implement plans relating to the enhancement of the environment, social conditions, and economy of member counties as such may be dependent upon available water supplies.
- Monitor water supplies available within the Humboldt River Basin and separately to each party from all sources, (ii) demand for water within each county from all sources both of a consumptive and non-consumptive nature, (iii) the extent to which proposals to develop and export Humboldt River Basin water may adversely affect the water balance for Member Counties of the Authority.
- Prepare, update and oversee recommendations for water management and conservation plans for consumptive and non-consumptive uses of ground and surface waters originating in or passing through the local jurisdictions of member parties of the Authority.
- Encourage citizen participation in water supply and management issues of concern to Member counties of the Authority.
- Recommend appropriate federal and state legislation for the management of surface and groundwater within the Humboldt River Basin.
- Conserve the levels and quality of groundwater within recharge areas to the Humboldt River Basin.
- Conserve the levels and flows of surface waters within the Humboldt.
- Protect and conserve the environmental balance of the Humboldt River Basin and recharge area ecosystem.

- Recommend cooperative programs and management of the water resources of the Humboldt River Basin.
- Make secure and protect present developments within the Humboldt.
- Provide a secure foundation for future investment and development within the Humboldt River Basin.
- Facilitate the development and maintenance of a common base of data and information regarding the use and management of Humboldt River Basin water resources and the establishment of systematic arrangements for the exchange of water data and information.
- Facilitate early coordination and cooperation between Members regarding proposals for intra-basin transfers of Humboldt River Basin water.
- Communicate the roles and responsibilities of the Authority to various public and private interests.

### **RECOMMENDATION**

It is recommended that HRBWA, through a subcommittee, continue to work with the Nevada Division of Water Resources on activities related to the draft Order, outreach and public engagement, and that the Board support evaluating the feasibility of the Humboldt River Basin Water Authority taking on a formal role in the long-term management of programs and projects that help individuals, businesses and communities adapt to conjunctive management in the Humboldt River Basin.

### **ATTACHMENTS**

Humboldt River Basin Water Authority Cooperative Agreement Between Elko County, Eureka County, Humboldt County, Lander County and Pershing County - Revised as of November 17, 2025.

Humboldt River Basin Water Authority Policy Statement on Conjunctive Water Management – December 9, 2022.

## **HUMBOLDT RIVER BASIN WATER AUTHORITY**

### **Cooperative Agreement Between**

**Humboldt County  
Lander County  
Eureka County  
Elko County  
Pershing County**

**Revised As of November 17, 1995**

**INTERLOCAL COOPERATIVE AGREEMENT  
ESTABLISHING THE  
HUMBOLDT RIVER BASIN WATER AUTHORITY**

This Agreement is made and entered into as of November 17, 1995 by and among the following parties (hereinafter referred to as "Members"):

1. Humboldt County, a general purpose unit of local government and subdivision of the State of Nevada (hereinafter referred to as Humboldt);
2. Lander County, a general purpose unit of local government and subdivision of the State of Nevada (hereinafter referred to as Lander);
3. Eureka County, a general purpose unit of local government and subdivision of the State of Nevada (hereinafter referred to as Eureka);
4. Elko County, a general purpose unit of local government and subdivision of the State of Nevada (hereinafter referred to as Elko).
5. Pershing County, a general purpose unit of local government and subdivision of the State of Nevada (hereinafter referred to as Pershing).

**WITNESSETH:**

WHEREAS, the Members share a common interest in the protection and enhancement of existing decreed and certificated water rights dependent upon surface and ground waters originating within the entire watershed serving the Humboldt River Basin, and

WHEREAS, there is a current need for a coordinated response to proposals to develop and export potentially large amounts of ground and surface water from the Humboldt River Basin, and

WHEREAS, there is a current need for a coordinated response to proposals to develop and transport potentially large amounts of ground and surface water within the Humboldt River Basin, and

WHEREAS, among the Members are counties who desire to ensure that a long-term supply of reasonably priced water is available to support future agricultural, municipal, recreational, and industrial uses within the Humboldt River Basin, and

WHEREAS, there is a need for the Members to act in a unified and cooperative manner with respect to ensuring the quality and availability of ground and surface water supplies which originate within or pass through the Humboldt River Basin as necessary to enhance environmental, social, economic, and fiscal conditions within the Basin, and

WHEREAS, participation in the protection and management of Humboldt River Basin water supplies can best be achieved through the cooperative action of the members, operating through a separate legal entity for the purposes hereinafter defined and described, and

WHEREAS, the Members desire hereby to establish a separate legal entity to exercise power, privilege and authority in common and to ensure the quality and availability of water supplies within the Humboldt River Basin for the mutual benefit of the residents and industries within and visitors to Humboldt, Lander, Eureka, Elko, Pershing counties, all as set forth within, and

WHEREAS, Nevada Revised Statutes 277.080 and 277.170 inclusive of the Interlocal Cooperation Act, provides that any power, privilege, or authority exercised or capable of exercise by the public agency of the State of Nevada may be exercised jointly with any other public agency of the State, and

WHEREAS, the provisions of this Act allow for the establishment of a separate legal or administrative entity to conduct a joint or cooperative undertaking.

NOW, THEREFORE, pursuant to the authority and direction of the resolutions hereinabove referred to, and pursuant to the authority of Nevada Revised Statutes 277.080 and 277.170, inclusive, and in consideration of the mutual covenants and agreements herein contained, the Members agree as follows:

1. Effective Date. This Agreement shall become effective as to each Member upon execution by that Member. After two or more Members have executed the Agreement it shall be submitted to the Attorney General of Nevada for approval or deemed approval, pursuant to NRS 277.140, and upon such approval or deemed approval shall become effective as to the parties who have executed the Agreement as of that date. This Agreement shall become effective as to additional parties upon execution by such parties.

2. Creation of Humboldt River Basin Water Authority. The Humboldt River Basin Water Authority (hereinafter referred to as the "Authority"), is hereby created and established as a separate legal or administrative entity with such powers, privileges, duties, functions, and responsibilities as hereinafter set forth.

3. Functions of the Authority. The conferred functions for which the Authority is created are the following:

- A. To formulate and present a position to relevant agencies of the State of Nevada, the United States and other government agencies on issues pertaining to the Humboldt River Basin.
- B. To oversee water supplies and to develop and implement plans relating to the enhancement of the environment, social conditions, and economy of member counties as such may be dependent upon available water supplies.
- C. To monitor (i) water supplies available within the Humboldt River Basin and separately to each party from all sources, (ii) demand for water within each county from all sources both of a consumptive and non-consumptive nature, (iii) the extent to which proposals to develop and export Humboldt River Basin water may adversely affect the water balance for Member counties of the Authority.
- D. To prepare, update and oversee recommendations for water management and conservation plans for consumptive and non-consumptive uses of ground and surface waters originating in or passing through the local jurisdictions of member parties of the Authority.
- E. To encourage citizen participation in water supply and management issues of concern to Member counties of the Authority.
- F. To recommend appropriate federal and state legislation for the management of surface and groundwater within the Humboldt River Basin.
- G. To conserve the levels and quality of groundwater within recharge areas to the Humboldt River Basin.
- H. To conserve the levels and flows of surface waters within the Humboldt River Basin.
- I. To protect and conserve the environmental balance of the Humboldt River Basin and recharge area ecosystem.
- J. To recommend cooperative programs and management of the water resources of the Humboldt River Basin.
- K. To make secure and protect present developments within the Humboldt River Basin.
- L. To provide a secure foundation for future investment and development within the Humboldt River Basin.

M. To facilitate the development and maintenance of a common base of data and information regarding the use and management of Humboldt River Basin water resources and the establishment of systematic arrangements for the exchange of water data and information.

N. To facilitate early coordination and cooperation between Members regarding proposals for intra-basin transfers of Humboldt River Basin water.

O. To communicate the roles and responsibilities of the Authority to various public and private interests.

4. Powers of the Authority. The Authority shall have the following powers, privileges and authority:

A. To contract with Members of the Authority or any other public entity for the provision of services to the Authority.

B. To contract for the services of engineers, attorneys, planners, and financial and other consultants.

C. To enter into other contracts necessary to the full exercise of its power.

D. To employ such persons as it deems necessary.

E. To incur debts, liabilities or obligations subject to limitations herein set forth.

F. To sue and be sued in its own name and to employ general counsel.

G. To apply for, receive, and expend donations, gifts, grants, contributions of money, services, materials, or other property or property rights by the United States or the State of Nevada or their agencies or political subdivisions and from any other source, and to expend such donations, gifts, or contributions to carry out the purposes and objectives of the Authority as set forth in this Agreement.

H. To acquire such supplies, equipment or other property as may be necessary to enable the Authority to perform its duties under this Agreement.

I. To perform all other acts necessary or convenient for the performance of any purpose or power of the Authority.

J. To appoint committees, study groups, and form other organizations or subdivisions pursuant to the laws of the State of Nevada.

5. Prohibited Functions and Powers of the Authority.

A. Except to the extent permitted by applicable law, nothing in this Agreement shall be construed as authorizing the Authority to perform any function or to exercise any power that is not performable or exercisable by at least one of its Members without reference to this Agreement.

B. Except as provided herein with respect to Members, nothing in this Agreement is intended to, or shall be construed so as to, supersede or restrict the jurisdiction, function or power of any federal, state or local public agency.

C. The Authority shall not perform any function performed by a Member party within such party's area of service or boundaries absent written consent of the affected party's governing body.

D. Any function not conferred on the Authority in Article 3 is a prohibited function.

6. Membership. The Members of the Authority shall be Eureka County, Humboldt County, Lander County, Elko County, Pershing County and any other public entity admitted as a Member pursuant to the provisions of Article 12 (B).

7. Governing Body of the Authority.

A. The business and affairs of the Authority shall be conducted by a Board consisting of three (3) directors from each Member.

B. Each Director shall be appointed by the governing body of the respective Member and may, but need not, be a Member of that body. Each governing board may also appoint an alternate Director for the Directors appointed by such board, who shall serve as Directors in the absence thereof.

C. Each Director shall hold office from the first meeting of the Board after his or her appointment by the governing body of the Member he or she represents until a successor is selected by the Member and the Member so notifies the Authority.

D. A Director shall not receive compensation from the Authority for services as Director. A Director may be reimbursed for expenses incurred by such Director in the conduct of the Authority's business.

8. Fiscal Year. The fiscal year of the Authority shall be July 1 through June 30.



9. Principal Office. The principal office of the Authority shall be established by the Board.

10. Meetings. The Board shall meet at the Authority's principal office or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by the Board.

11. Quorum and Voting. For purposes of transacting the Authority's business, a quorum shall exist if the Directors present (i) represent a majority of the Member parties, and (ii) constitute a majority of all Directors then in office. The vote of a majority of the Directors present shall be required for the Authority to take action, except as provided in Article 12 or as may be otherwise provided by law.

12. Special Approval Provisions.

A. Actions by the Authority with respect to the matters specified in this article shall be taken only as provided in this article.

B. Approval by the governing board of each Member shall be required for amendment of this Agreement; for the recommendation of any water management or conservation plan and for the addition of new members pursuant to Article 6.

13. Rules. The Board may adopt such rules and regulations for the conduct of the affairs of the Authority or of the Board as the Board may deem necessary or desirable. Such rules shall include a requirement that all Members submit information necessary for the monitoring of water supply and use at such times as the rules may provide.

14. Officers.

A. The Board shall appoint the following officers: (i) a chairman and vice chairman from its membership; and (ii) a secretary and a treasurer who shall not be Directors.

B. The director officers shall hold office for a period of one year commencing the first day of each fiscal year, subject, however, to being removed at an earlier time by action of the Board. The first director officers appointed shall hold office from the date of their appointment to the last day of the fiscal year in which they were appointed.

C. The Secretary shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.

D. The officers and all other persons who have charge of any funds or securities of the Authority shall be bonded, in such amount as determined by the Board.

E. None of the officers, agents, or employees of the Authority shall be deemed, by reason of their employment by the Authority, to be employed by any of the Member parties.

15. Executive Director. The Executive Director of the Authority shall be the chief administrative officer of the Authority, shall be appointed by and serve at the pleasure of the Board, and shall be responsible to the Board for the proper and efficient administration of the Authority. Subject to policy direction by the Board, and such requirements as the board may from time to time impose, the Executive Director shall have the power:

- A. To plan, organize and direct all Authority activities;
  - B. To authorize expenditures within the approved budget;
  - C. To enter contracts on behalf of the Authority as authorized by the Board;
- and
- D. To take other actions authorized from time to time by the Board.

16. Operating Budgets. Within sixty (60) days after the first meeting of the Board, an operating budget and an operating capital budget for the then fiscal year shall be adopted for the Authority. Unless otherwise provided by law, tentative operating budgets and operating capital budgets shall be prepared for each ensuing fiscal year on or before April 15th with the final annual budgets being adopted on or before June 1st of each year. The Authority shall not, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function other than long-term contracts which local governments may enter expressly authorized by law.

17. Assessments and Contributions for Operating Expenses.

- A. This section reserved.
- B. The Board shall have the power to periodically assess the members directly for operating budgets, and for the satisfaction of any liabilities imposed against the Authority. Such assessments shall be apportioned among the Members on such basis as the Board determines proper, and each Member shall pay when due all assessments made against it.

C. Any Member which withdraws from the Authority after April 15 of any year shall pay to the Authority the assessment which it would have been assessed for the next fiscal year.

18. Other Indebtedness. The Board shall have the power and authority to execute leases, installment sale contracts or installment purchase contracts for the purposes and in accordance with procedures and requirements as permitted by law.

19. Audit.

A. The Authority shall provide for an annual audit of all funds and accounts covering the business of the Authority during the preceding fiscal year. The audit shall be made by a public accountant certified or registered or by a partnership or professional corporation registered under the provisions of NRS Chapter 628. Such financial audit shall be conducted according to generally accepted auditing standards, including comment on compliance with all applicable statutes and regulations, recommendations for improvements and any other comments deemed pertinent by the auditor, including the auditor's expression of opinion on any financial statements. The Audit shall be completed and copies of the audit provided to the Members not later than five (5) months after the close of the fiscal year for which the audit is conducted. The Authority shall act upon any recommendations of the report within six (6) months after receipt of the report, unless more prompt action is required.

B. The Board may appoint the controller or recorder-auditor of a Member county to act as the controller or fiscal officer of the Authority. If such appointment is made, Authority funds may be maintained as a separate account within the financial records of the Member county whose controller or auditor-recorder is so serving the Authority. In such event the financial records of the Authority may be audited by the auditing firm which audits the financial records of such Member county for such fiscal year, as part of the audit of such Member county. So long as the requirements of Nevada Statutes are satisfied, the Board may choose not to have a separate audit of Authority finances performed for such fiscal years. A copy of any portions of such a Member county audit pertinent to the Authority shall be provided to each Member.

20. Liabilities of the Authority. The debts, liabilities and obligations of the Authority shall be the debts, liabilities and obligations of the Authority alone and not of the Members.

21. Liabilities of the Board. The funds of the Authority may be used to defend, indemnify and hold harmless the Authority, its directors, officers and employees, and any member for actions taken within the scope of the authority of the Authority. Nothing herein shall limit the right of the Authority to purchase insurance to provide coverage for any of the foregoing.

22. Term. The Authority shall continue in existence until this Agreement is rescinded and the Authority terminated as provided in Article 25.

23. Other Cooperative Agreements. Nothing in this Agreement shall prevent the Members from entering into other cooperative agreements.

24. Withdrawal of Members. A Member may withdraw from the Authority at any time by written notification to the Authority Board, subject to the provisions of Article 17(c). No Member may withdraw during the outstanding term of any indebtedness of the Authority, the terms of which preclude termination or withdrawal, unless security be made for payment by the Member of any pro rata share of such indebtedness which the Member otherwise would be or become liable.

25. Termination.

A. This Agreement may be rescinded and the Authority terminated by a written agreement of termination executed by all Members, except during the outstanding term of any outstanding indebtedness, the terms of which preclude such termination.

B. Upon termination of the Authority (i) the obligations of the Authority shall be paid and (ii) all other assets shall be distributed as provided in the termination agreement.

26. Amendment. Except as otherwise provided in this Agreement, the rights and duties of the Members may not be assigned or delegated without the written consent of all Members. Any attempt to assign or delegate such rights or duties in contravention of this Agreement shall be null and void. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations of the Authority then in effect. This Agreement shall ensure to the benefit of, and be binding upon, the successors and assigns of the Members.

27. Choice of Law. This Agreement shall be governed by the laws of the State of Nevada.

28. Severability. If any provision of this Agreement should be held to be invalid or unenforceable by a final decision of a court of competent jurisdiction, then this Agreement shall terminate unless the remaining provisions are reaffirmed by action of the governing board of each Member within 60 days from the date on which such a decision of invalidity or unenforceability becomes final.

29. Startup. Until an Executive Director has been selected, the Board may utilize the services of a contractor to assist with Authority activities.

30. Reservation of Rights

A. The Members mutually recognize the rights and standing of each Member to represent and protect the rights and interests of their respective jurisdictions and citizens in the shared water and natural resources of the Humboldt River Basin.

B. Each Member reserves and retains all rights and authority to seek, in any geographical area, or any appropriate court or forum, adjudication or protection of its respective rights in and to Humboldt River Basin water resources, in such manner as may now or hereafter be provided by law.

C. In entering into this Agreement, no Member shall be deemed to imply its consent to any diversion, transfer or consumptive use of Humboldt River Basin water resources now or in the future.

31. Formality. Each Member intending to execute this Agreement shall adopt the same according to its own rules and Nevada law as an ordinance of the governing board of each Member.

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed as of the date first written above.

Approved as to form and legality  
this 30<sup>th</sup> day of Nov, 1996.

FRANKIE SUE DEL PAPA  
Attorney General of the State of Nevada

By David Creekman  
Assistant Attorney General  
Deputy

HUMBOLDT COUNTY

By [Signature]  
Chairman, Board of Commissioners

ATTEST:

Susan E. Harris  
Humboldt County Clerk

Approved as to form and legality:

R. M. [Signature]  
Humboldt County District Attorney

LANDER COUNTY

By *Shirley Smith*  
Chairman, Board of Commissioners

ATTEST:

*Judy E. Hager*  
Lander County Clerk

Approved as to form and legality:

*Patricia D. Cafferty*  
Lander County District Attorney

EUREKA COUNTY

By *Steve Robinson*  
Chairman, Board of Commissioners

ATTEST:

*Janet Shangle*  
Eureka County Clerk

Approved as to form and legality:

*W. E. Schaeffer*  
Eureka County District Attorney

ELKO COUNTY

By *Rich*  
Chairman, Board of Commissioners

ATTEST:

*Lorena Dredy*  
Elko County Clerk

Approved as to form and legality:

*Ray D. Wootley*  
Elko County District Attorney

PERSHING COUNTY

By *Jan Carl*  
Chairman, Board of Commissioners

ATTEST:

*Donna Quinn*  
Pershing County Clerk

Approved as to form and legality:

*Belinda Quilici*  
Pershing County District Attorney

# HUMBOLDT RIVER BASIN WATER AUTHORITY

## **POLICY STATEMENT ON CONJUNCTIVE WATER MANAGEMENT**

*Adopted December 9, 2022*

### **BACKGROUND**

Conjunctive management is the integrated management of hydrologically connected water regardless of the source to improve the overall availability and reliability of water while reducing conflict and potential long term harm to the resource.

One of the fundamental principles of integrated water resources management is the interconnected nature of water in the hydrological cycle, including the interactions between surface water and groundwater. The appropriation of water resources without adequate consideration of these interactions can lead to long-term degradation of water resources and the ecosystems they sustain. In response to this and to growing pressure on water resources from increasing development, water experts have developed a body of knowledge termed “conjunctive water resources management” to promote management approaches that treat surface water, groundwater and other components of the water cycle as a single, interconnected resource, where appropriate.

While conjunctive management is a pragmatic approach, its implementation in Nevada has been inconsistent and limited primarily to evaluating the impacts of groundwater pumping on surface water rights. The understanding of connectivity in individual systems is still inadequate in many areas of Nevada, however, it is generally accepted in the scientific community that perennial stream systems and springs throughout Nevada are hydrologically connected to groundwater aquifers. Moreover, conjunctive management in Nevada comes at a time when over a century of case law and rights to use surface and ground water have generally existed in separate regulatory schemes.

Existing Nevada law (NRS 533.024) declares that it is the policy of the State of Nevada to manage conjunctively the appropriation, use and administration of all waters of this State, regardless of the source of water. Apart from this Legislative declaration adopted in 2017 no other statutes related to conjunctive water management have been enacted and the Division of Water Resources has not yet adopted regulations governing conjunctive water management. The Division of Water Resources is, however, undertaking conjunctive management on a case-by-case basis in certain areas (e.g., Humboldt River Basin and Order 1329).

**Member Counties:** Elko • Eureka • Humboldt • Lander • Pershing

**I. It is the policy of the Humboldt River Basin Water Authority that** conjunctive management of hydrologically connected water resources is generally appropriate and warranted but may not be in select cases and should only be implemented after a complete vetting with local and public coordination of how issues and impacts will be worked through.

**II. It is the policy of the Humboldt River Basin Water Authority that** conjunctive management of the appropriation, use and administration of hydrologically connected waters, regardless of their source, when and where warranted, is important when assisting to protect existing water rights and the integrity of the prior appropriation system.

**III. It is the policy of the Humboldt River Basin Water Authority that** the State Engineer should use appropriate analytical tools, numerical capture models, and best available science to determine conflicts, impairment, or effects on surface water rights by existing groundwater permits, new applications to appropriate groundwater, and applications to change existing groundwater appropriations.

**IV. It is the policy of the Humboldt River Basin Water Authority that** the Division of Water Resources should adopt regulations that establish a framework for how and when it will implement conjunctive water management within its statutory authority and that the regulation making process for such should comply with the Nevada Administrative Procedures Act (NRS 233B).

**V. It is the policy of the Humboldt River Basin Regional Water Authority that** conjunctive management should never be used to affect or eliminate priorities or justify forfeiture or claims of abandonment of water rights.

**VI. It is the policy of the Humboldt River Basin Regional Water Authority that** water rights holders should not be required to accept monetary compensation for conflict with or impairment of their water rights.

**VII. It is the policy of the Humboldt River Basin Water Authority that** a formal, integrated management plan with guarantees, financial and otherwise, should be the foundation for conjunctive water management with such plan including:

- Any necessary actions and measures to avoid new or address existing conflicts with or impairment of senior-priority water rights by the diversion and use of water by junior-priority ground water rights; and
- Replacement water of acceptable quality provided in equal quantity at the time and place required to avoid or address conflicts with senior-priority water rights.



**VIII.** *It is the policy of the Humboldt River Basin Water Authority that monitoring and management based on specific, measurable, attainable, and relevant objectives be used as primary tools to assure that implemented conjunctive management measures are effective and sustainable in the long term and avoid unintended consequences for other water users or water-dependent resources.*

**IX.** *It is the policy of the Humboldt River Basin Water Authority that conjunctive management should occur at the most local level possible where the unique set of conditions is well understood and where interested water users can efficiently and fully participate and remain informed.*

**X.** *It is the policy of the Humboldt River Basin Water Authority that conjunctive management must include sustained data and information sharing and open dialogue between the Division of Water Resources and water users in any conjunctive management area in a format that is easily accessible and understood.*

**XI.** *It is the policy of the Humboldt River Basin Water Authority that public entities such as irrigation districts and municipal water purveyors should be allowed to collectively manage both surface and ground water in a conjunctive water management area in accordance with requirements by the State Engineer or other legal sideboards.*

## Tab 8

## 2025 Proposed “Waters of the United States” (WOTUS) Rule

On November 17, 2025, the U.S. Environmental Protection Agency (EPA) and the Department of the Army announced proposed revisions to the 2023 definition of “waters of the United States,” which defines the scope of federal jurisdiction over Clean Water Act permitting. When finalized, this WOTUS rule will help accelerate economic prosperity while protecting vital water resources. It will fully implement the direction provided by the U.S. Supreme Court’s 2023 decision in *Sackett v. EPA*. It will cut red tape and provide clarity for American industry, energy producers, farmers, ranchers, developers, businesses, and landowners. The proposal will also protect water quality by striking balance between federal and state authority, recognizing that states and tribes are best positioned to appropriately manage their local land and water resources.

### Proposed Revisions to the Definition of WOTUS

The agencies’ proposed definition of WOTUS would fully implement the Court’s direction by ensuring federal jurisdiction is focused on relatively permanent, standing or continuously flowing bodies of water—such as streams, oceans, rivers, and lakes—and wetlands that are connected and indistinguishable from such waterbodies. Specifically, the proposed rule would:

- Define “relatively permanent” to ensure the *Sackett* decision is fully implemented. The term focuses on those waters that are standing or continuously flowing year-round or at least during the “wet season.” This would be applicable to the tributaries and lakes and ponds categories.
- Define “tributary” to ensure only those relatively permanent bodies of water that meet specific requirements be considered jurisdictional.
- Define “continuous surface connection” to fully implement the *Sackett* decision. This term would require wetlands to meet a new two-part test to be jurisdictional: 1) they must abut a jurisdictional water, and 2) they must have surface water at least during the wet season.
- Remove interstate waters from the categories of jurisdictional waters to make clear that such waters no longer gain jurisdiction by simply crossing state lines.
- Clarify what constitutes “excluded ditches” through a proposed definition of ditch to distinguish these features from other types of waters and exclude those ditches constructed or excavated in dry land.
- Clarify what constitutes “excluded prior converted cropland” with a definition that allows the agencies to identify prior converted cropland and to ensure that prior converted cropland only loses its designation when it has been abandoned and reverts to wetlands. The definition provides additional context on abandonment to ensure agricultural producers do not inappropriately lose the exclusion under the Act for doing good work on their lands.
- Clarify what constitutes “excluded waste treatment systems” through the addition of a definition which provides helpful direction as to the breadth of systems that meet the exclusion.
- Underscore that groundwater is not considered WOTUS through a proposed exclusion.

## Next Steps

The proposed rule will be published in the *Federal Register*, which will start a 45-day public comment period. EPA and the Army will host two hybrid public meetings. Details about commenting either in writing or during a public meeting can be found on EPA's website. The agencies look forward to reviewing public comment while working to expeditiously develop a final rule. Please see additional information on [Waters of the United States](#).

## Updated Definition of “Waters of the United States” Proposed Rule Fact Sheet for the Agricultural Community

On November 17, 2025, the U.S. Environmental Protection Agency (EPA) and the Department of the Army announced proposed revisions to the 2023 definition of “waters of the United States,” which defines the scope of federal jurisdiction over Clean Water Act permitting. When finalized, this action would give landowners in rural America—including the agricultural community—clarity, predictability, and consistency under the Clean Water Act to understand where Federal jurisdiction applies and where it does not. It would continue to protect the nation’s navigable waters while reducing bureaucratic barriers to agricultural production and growth, and helping farmers and ranchers feed our nation and manage their land. The proposed rule would provide a straightforward and common-sense approach to the definition of “waters of the United States,” consistent with the Supreme Court’s clear direction, and would preserve and protect the primary authority of States and Tribes over the land and water resources within their borders. Pre-proposal recommendations from the agricultural community helped shape this proposed rule.

### WOTUS Matters to the Agricultural Community

The definition of “waters of the United States” establishes the geographic scope of Federal jurisdiction and applies to the implementation of a variety of programs under the Clean Water Act. Many of these programs are managed by States, Tribes, or the U.S. Army Corps of Engineers with EPA oversight.

First and foremost, WOTUS defines whether or not a waterbody is subject to Federal jurisdiction under the Clean Water Act. If a waterbody is considered a WOTUS, then Clean Water Act programs may apply to farmers or landowners impacting that waterbody, including through the section 402 National Pollutant Discharge Elimination System (or NPDES) permit program (including the Pesticide General Permit), the section 404 permit program for discharges of dredged or fill material, the section 311 oil spill prevention, preparedness and response program, the section 303 water quality standards and total maximum daily load (or TMDL) programs, and the section 401 State water quality certification. Producers across America depend on clean, reliable water for their livestock, crops, and families.

### Proposing Improved and Clear Exclusions

The proposed rule would revise three existing exclusions associated with the definition of “waters of the United States”—delivering clarity to the agricultural community.

**Prior Converted Cropland** – The proposed rule seeks to maintain an exclusion for prior converted cropland while reverting to the 2020 Navigable Waters Protection Rule’s (NWPR) definition. Under the proposal, clarity on what is meant by “agricultural purposes” under the NWPR is reestablished to ensure that farmers are not punished for conservation practices that are critical to the success of their agricultural systems. In addition, the agencies would no longer rely solely on determinations of prior converted cropland from the U.S. Department of

Agriculture. Re-codifying the prior converted cropland exclusion and definition from the NWPR would reestablish an easier and less burdensome process for farmers to obtain a determination for prior converted cropland for Clean Water Act purposes and provide the agriculture community with regulatory and economic certainty. The proposal also intends to clarify that the exclusion for prior converted cropland would cease when the area is abandoned (*i.e.*, not used for, or in support of, agricultural purposes in the immediately preceding five years) and has reverted to wetlands.

**Waste Treatment Systems** – The proposed rule would maintain an exclusion for waste treatment systems while reverting to the NWPR’s regulatory text and definition of waste treatment systems for additional clarity, consistency, and transparency.

**Ditches (including roadside ditches) Constructed or Excavated Entirely in Dry Land** – The proposed revisions to the ditch exclusions provide more clarity and regulatory certainty to farmers and agricultural producers, ensuring that fewer ditches would be found to be jurisdictional. The proposed rule would eliminate jurisdiction over ditches dug in dry land regardless of flow. By adding the NWPR’s definition of “ditch” in the regulatory text, the proposed rule would provide clarity and certainty to the agricultural community.

The proposed rule would also reintroduce the NWPR exclusion for groundwater, including groundwater drained through subsurface drainage systems, such as tile drains from agriculture. Though groundwater has never been considered to be a jurisdictional water, the proposed rule would provide additional clarity and regulatory certainty to farmers by explicitly codifying an exclusion in the agencies’ regulations once again.

### **Retaining Exemptions under the Clean Water Act**

This proposed rule would not change the exemptions under Clean Water Act section 404(f), which relieve farmers and ranchers of the need for authorization for many routine types of agricultural discharges into “waters of the United States.” Congress expressly exempted the construction and maintenance of irrigation ditches and the maintenance of drainage ditches from permitting requirements under section 404 of the Clean Water Act. Discharges of dredged or fill material associated with those exempt activities into a ditch that meets the definition of “waters of the United States” are therefore exempt from permitting, unless they change the use of the waters of the United States and reduce the reach or impair the flow or circulation of these waters.

Consistent with the Act, this document requests that interested persons provide proposed changes to revise or update the Manufactured Home Construction and Safety Standards, the Manufactured Home Procedural and Enforcement Regulations, the Model Manufactured Home Installation Standards, and Manufactured Home Installation Program Regulations. Specifically, recommendations are requested that further HUD's efforts to increase the quality, durability, safety and affordability of manufactured homes; facilitate the availability of affordable manufactured homes and increase homeownership for all Americans; and encourage cost-effective and innovative construction techniques for manufactured homes.

To permit the MHCC to fully consider the proposed changes, commenters are encouraged to provide at least the following information:

- The specific section of the current Manufactured Home Construction and Safety Standards, Manufactured Home Procedural and Enforcement Regulations, Model Manufactured Home Installation Standards, or Manufactured Home Installation Program Regulations that require revision or update, or whether the recommendation would require a new standard;

- Specific detail regarding the recommendation including a statement of the problem intended to be corrected or addressed by the recommendation, how the recommendation would resolve or address the problem, and the basis of the recommendation; and

- Information regarding whether the recommendation would result in increased costs to manufacturers or consumers and the value of the benefits derived from HUD's implementation of the recommendation, should be provided and discussed to the extent feasible.

The Act requires that an administering organization administer the process for the MHCC's development and interpretation of the Manufactured Home Construction and Safety Standards, Manufactured Home Procedural and Enforcement Regulations, Model Manufactured Home Installation Standards, and Manufactured Home Installation Program Regulations. The administering organization that has been selected by HUD to administer this process is Home Innovation Research Labs Inc. This document requests that proposed revisions be submitted to the MHCC for consideration through the administering organization, Home Innovation Research Labs. This organization will be

responsible for ensuring delivery of all appropriately prepared proposed changes to the MHCC for its review and consideration.

#### **Paperwork Reduction Act**

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB Control Number 2535–0116. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Dated: July 19, 2017.

**Pamela Beck Danner,**

*Administrator, Office of Manufactured Housing Programs.*

[FR Doc. 2017–15574 Filed 7–26–17; 8:45 am]

**BILLING CODE P**

## **DEPARTMENT OF DEFENSE**

### **Department of the Army, Corps of Engineers**

#### **33 CFR Part 328**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Parts 110, 112, 116, 117, 122, 230, 232, 300, 302, and 401**

**[EPA–HQ–OW–2017–0203; FRL–9962–34–OW]**

**RIN 2040–AF74**

#### **Definition of “Waters of the United States”—Recodification of Pre-Existing Rules**

**AGENCY:** Department of the Army, Corps of Engineers, Department of Defense; and Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency and the Department of the Army (“the agencies”) are publishing this proposed rule to initiate the first step in a comprehensive, two-step process intended to review and revise the definition of “waters of the United States” consistent with the Executive Order signed on February 28, 2017, “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.” This first step proposes to rescind the definition of “waters of the United

States” in the Code of Federal Regulations to re-codify the definition of “waters of the United States,” which currently governs administration of the Clean Water Act, pursuant to a decision issued by the U.S. Court of Appeals for the Sixth Circuit staying a definition of “waters of the United States” promulgated by the agencies in 2015. The agencies would apply the definition of “waters of the United States” as it is currently being implemented, that is informed by applicable agency guidance documents and consistent with Supreme Court decisions and longstanding practice. Proposing to re-codify the regulations that existed before the 2015 Clean Water Rule will provide continuity and certainty for regulated entities, the States, agency staff, and the public. In a second step, the agencies will pursue notice-and-comment rulemaking in which the agencies will conduct a substantive re-evaluation of the definition of “waters of the United States.”

**DATES:** Comments must be received on or before August 28, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OW–2017–0203, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). The agencies may publish any comment received to the public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The agencies will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna Downing, Office of Water (4504–T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 566–2428; email address: [CWAwotus@epa.gov](mailto:CWAwotus@epa.gov); or Ms. Stacey Jensen, Regulatory Community of Practice (CECW–CO–R), U.S. Army

Corps of Engineers, 441 G Street NW., Washington, DC 20314; telephone number: (202) 761-5903; email address: [USACE\\_CWA\\_Rule@usace.army.mil](mailto:USACE_CWA_Rule@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** The regulatory definition of “waters of the United States” in this proposed rule is the same as the definition that existed prior to promulgation of the Clean Water Rule in 2015 and that has been in effect nationwide since the Clean Water Rule was stayed on October 9, 2015. The agencies will administer the regulations as they are currently being implemented consistent with Supreme Court decisions and longstanding practice as informed by applicable agency guidance documents.

State, tribal, and local governments have well-defined and longstanding relationships with the federal government in implementing CWA programs and these relationships are not altered by the proposed rule. This proposed rule will not establish any new regulatory requirements. Rather, the rule simply codifies the current legal *status quo* while the agencies engage in a second, substantive rulemaking to reconsider the definition of “waters of the United States.”

## I. Executive Summary

### A. What This Proposed Rule Does

In this proposed rule, the agencies define the scope of “waters of the United States” that are protected under the Clean Water Act (CWA). In 2015, the agencies published the “Clean Water Rule: Definition of ‘Waters of the United States’” (80 FR 37054, June 29, 2015), and on October 9, 2015, the U.S. Court of Appeals for the Sixth Circuit stayed the 2015 Rule nationwide pending further action of the court. The agencies propose to replace the stayed 2015 definition of “waters of the United States”, and re-codify the exact same regulatory text that existed prior to the 2015 rule, which reflects the current legal regime under which the agencies are operating pursuant to the Sixth Circuit’s October 9, 2015 order. The proposed regulatory text would thus replace the stayed rulemaking text, and re-codify the regulatory definitions (at 33 CFR part 328 and 40 CFR parts 110; 112; 116; 117; 122; 230; 232; 300; 302; and 401) in the Code of Federal Regulations (CFR) as they existed prior to the promulgation of the stayed 2015 definition. If this proposed rule is finalized, the agencies would continue to implement those prior regulatory definitions, informed by applicable agency guidance documents and consistent with Supreme Court

decisions and longstanding agency practice.

### B. History and the Purpose of This Rulemaking

Congress enacted the Federal Water Pollution Control Act Amendments of 1972, Public Law 92–500, 86 Stat. 816, as amended, Public Law 95–217, 91 Stat. 1566, 33 U.S.C. 1251 *et seq.* (“Clean Water Act” or “CWA” or “Act”) “to restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” Section 101(a). A primary tool in achieving that purpose is a prohibition on the discharge of any pollutants, including dredged or fill material, to “navigable waters” except in accordance with the Act. Section 301(a). The CWA provides that “[t]he term ‘navigable waters’ means the waters of the United States, including the territorial seas.” Section 502(7).

The CWA also provides that States retain their traditional role in preventing, reducing and eliminating pollution. The Act states that “[i]t is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources . . .” Section 101(b). States and Tribes voluntarily may assume responsibility for permit programs governing discharges of pollution under section 402 for any jurisdictional water bodies (section 402(b)), or of dredged or fill material discharges under section 404 (section 404(g)), with agency approval. (Section 404(g) provides that states may not assume permitting authority over certain specified waters and their adjacent wetlands.) States are also free to establish their own programs under state law to manage and protect waters and wetlands independent of the federal CWA. The statute’s introductory purpose section thus commands the Environmental Protection Agency (EPA) to pursue two policy goals simultaneously: (a) To restore and maintain the nation’s waters; and (b) to preserve the States’ primary responsibility and right to prevent, reduce, and eliminate pollution.

The regulations defining the scope of federal CWA jurisdiction currently in effect, which this proposed rule would recodify, were established in large part in 1977 (42 FR 37122, July 19, 1977). While EPA administers most provisions in the CWA, the U.S. Army Corps of Engineers (Corps) administers the permitting program under section 404. During the 1980s, both of these agencies adopted substantially similar definitions

(51 FR 41206, Nov. 13, 1986, amending 33 CFR 328.3; 53 FR 20764, June 6, 1988, amending 40 CFR 232.2).

Federal courts have reviewed the definition of “waters of the United States” and its application to a variety of factual circumstances. Three Supreme Court decisions, in particular, provide critical context and guidance in determining the appropriate scope of “waters of the United States.”

In *United States v. Riverside Bayview Homes*, 474 U.S. 121 (1985) (*Riverside*), the Court, in a unanimous opinion, deferred to the Corps’ ecological judgment that adjacent wetlands are “inseparably bound up” with the waters to which they are adjacent, and upheld the inclusion of adjacent wetlands in the regulatory definition of “waters of the United States.” *Id.* at 134.

In *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) (*SWANCC*), the Supreme Court held that the use of “isolated” non-navigable intrastate ponds by migratory birds was not by itself a sufficient basis for the exercise of federal regulatory authority under the CWA. The *SWANCC* decision created uncertainty with regard to the jurisdiction of other isolated non-navigable waters and wetlands. In January 2003, EPA and the Corps issued joint guidance interpreting the Supreme Court decision in *SWANCC* (“the 2003 Guidance”). The guidance indicated that *SWANCC* focused on isolated, intrastate, non-navigable waters, and called for field staff to coordinate with their respective Corps or EPA Headquarters on jurisdictional determinations which asserted jurisdiction for waters under 33 CFR 328.3(a)(3)(i) through (iii). Waters that were jurisdictional pursuant to 33 CFR 328.3(a)(3) could no longer be determined jurisdictional based solely on their use by migratory birds.

Five years after the *SWANCC* decision, in *Rapanos v. United States*, 547 U.S. 715 (2006) (*Rapanos*), a four-Justice plurality opinion in *Rapanos*, authored by Justice Scalia, interpreted the term “waters of the United States” as covering “relatively permanent, standing or continuously flowing bodies of water . . .,” *id.* at 739, that are connected to traditional navigable waters, *id.* at 742, as well as wetlands with a “continuous surface connection . . .” to such water bodies, *id.* (Scalia, J., plurality opinion). The *Rapanos* plurality noted that its reference to “relatively permanent” waters did “not necessarily exclude streams, rivers, or lakes that might dry up in extraordinary circumstances, such as drought,” or “seasonal rivers, which contain



continuous flow during some months of the year but no flow during dry months . . .” *Id.* at 732 n.5 (emphasis in original). Justice Kennedy concurred with the plurality judgment, but concluded that the appropriate test for the scope of jurisdictional waters is whether a water or wetland possesses a “significant nexus” to waters that are or were navigable in fact or that could reasonably be so made.” *Id.* at 759. The four dissenting Justices in *Rapanos*, who would have affirmed the court of appeals’ application of the agencies’ regulations, also concluded that the term “waters of the United States” encompasses, *inter alia*, all tributaries and wetlands that satisfy “either the plurality’s [standard] or Justice Kennedy’s.” *Id.* at 810 & n.14 (Stevens, J., dissenting).

While the *SWANCC* and *Rapanos* decisions limited the way the agencies’ longstanding regulatory definition of “waters of the United States” was implemented, in neither case did the Court invalidate that definition.

After the *Rapanos* decision, the agencies issued joint guidance in 2007 to address the waters at issue in that decision but did not change the codified definition. The guidance indicated that “waters of the United States” included traditional navigable waters and their adjacent wetlands, relatively permanent waters and wetlands that abut them, and waters with a significant nexus to a traditional navigable water. The guidance did not address waters not at issue in *Rapanos*, such as interstate waters and the territorial seas. The guidance was reissued in 2008 with minor changes (hereinafter, the “2008 guidance”).<sup>1</sup>

After issuance of the 2008 guidance, Members of Congress, developers, farmers, state and local governments, environmental organizations, energy companies and others asked the agencies to replace the guidance with a regulation that would provide clarity and certainty on the scope of the waters protected by the CWA.

Following public notice and comment on a proposed rule, the agencies published a final rule defining the scope of “waters of the United States” on June 29, 2015 (80 FR 37054). Thirty-one States and a number of other parties sought judicial review in multiple

actions in Federal district courts and Circuit Courts of Appeal, raising concerns about the scope and legal authority of the 2015 rule. One district court issued an order granting a motion for preliminary injunction on the rule’s effective date, finding that the thirteen State challengers were likely to succeed on their claims, including that the rule violated the congressional grant of authority to the agencies under the CWA and that it appeared likely the EPA failed to comply with Administrative Procedure Act (APA) requirements in promulgating the rule. *State of North Dakota et al. v. US EPA*, No. 15–00059, slip op. at 1–2 (D.N.D. Aug. 27, 2015, as clarified by order issued on September 4, 2015). Several weeks later, the Sixth Circuit stayed the 2015 rule nationwide to restore the “pre-Rule regime, pending judicial review.” *In re U.S. Dep’t. of Def. and U.S. Env’tl. Protection Agency Final Rule: Clean Water Rule*, No. 15–3751 (lead), slip op. at 6. The Sixth Circuit found that the petitioners had demonstrated a substantial possibility of success on the merits, including with regard to claims that certain provisions of the rule were at odds with the *Rapanos* decision and that the distance limitations in the rule were not substantiated by scientific support. Pursuant to the court’s order, the agencies have implemented the statute pursuant to the regulatory regime that preceded the 2015 rule. On January 13, 2017, the U.S. Supreme Court granted *certiorari* on the question of whether the court of appeals has original jurisdiction to review challenges to the 2015 rule. The Sixth Circuit granted petitioners’ motion to hold in abeyance the briefing schedule in the litigation challenging the 2015 rule pending a Supreme Court decision on the question of the court of appeals’ jurisdiction.

On February 28, 2017, the President of the United States issued an Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.” Section 1 of the Order states, “[i]t is in the national interest to ensure that the Nation’s navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the States under the Constitution.” It directs the EPA and the Army to review the 2015 rule for consistency with the policy outlined in section 1, and to issue a proposed rule rescinding or revising the 2015 rule as appropriate and consistent with law. Section 2. The

Executive Order also directs the agencies to consider interpreting the term “navigable waters” in a manner consistent with Justice Scalia’s plurality opinion in *Rapanos*. Section 3.

The agencies have the authority to rescind and revise the regulatory definition of “waters of the United States,” consistent with the guidance in the Executive Order, so long as the revised definition is authorized under the law and based on a reasoned explanation. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (“*Fox*”). Importantly, such a revised decision need not be based upon a change of facts or circumstances. A revised rulemaking based “on a re-evaluation of which policy would be better in light of the facts” is “well within an agency’s discretion,” and “[a] change in administration brought about by the people casting their votes is a perfectly reasonable basis for an executive agency’s reappraisal” of its regulations and programs. *Nat’l Ass’n of Home Builders v. EPA*, 682 F.3d 1032, 1038 & 1043 (D.C. Cir. 2012) (citing *Fox*, 556 U.S. at 514–15 (Rehnquist, J., concurring in part and dissenting in part)).

The Executive Order states that it is in the national interest to protect the nation’s waters from pollution as well as to allow for economic growth, ensuring regulatory clarity, and providing due deference to States, as well as Congress. Executive Order section 1. These various priorities reflect, in part the CWA itself, which includes both the objective to “restore and maintain” the integrity of the nation’s waters, as well as the policy to “recognize, preserve, and protect the primary responsibilities and right of States to prevent, reduce, and eliminate pollution . . .” CWA sections 101(a), 101(b). Re-evaluating the best means of balancing these statutory priorities, as called for in the Executive Order, is well within the scope of authority that Congress has delegated to the agencies under the CWA.

This rulemaking is the first step in a two-step response to the Executive Order, intended to ensure certainty as to the scope of CWA jurisdiction on an interim basis as the agencies proceed to engage in the second step: A substantive review of the appropriate scope of “waters of the United States.”

### C. This Proposed Rule

In this proposed rule, the agencies would rescind the 2015 Clean Water Rule and replace it with a recodification of the regulatory text that governed the legal regime prior to the 2015 Clean Water Rule and that the agencies are

<sup>1</sup> The guidance expressly stated that it was not intended to create any legally binding requirements, and that “interested persons are free to raise questions about the appropriateness of the application of this guidance to a particular situation, and EPA and/or the Corps will consider whether or not the recommendations or interpretations of this guidance are appropriate in that situation based on the statutes, regulations, and case law.” 2008 guidance at 4 n. 17.

currently implementing under the court stay, informed by applicable guidance documents (e.g., the 2003 and 2008 guidance documents, as well as relevant memoranda and regulatory guidance letters), and consistent with the *SWANCC* and *Rapanos* Supreme Court decisions, applicable case law, and longstanding agency practice. The proposal retains exclusions from the definition of “waters of the United States” for prior converted cropland and waste treatment systems, both of which existed before the 2015 regulations were issued. Nothing in this proposed rule restricts the ability of States to protect waters within their boundaries by defining the scope of waters regulated under State law more broadly than the federal law definition.

#### D. Rationale for This Rulemaking

This rulemaking action is consistent with the February 28, 2017, Executive Order and the Clean Water Act. This action will consist of two steps. In this first step, the agencies are proposing as an interim action to repeal the 2015 definition of “waters of the United States” and codify the legal *status quo* that is being implemented now under the Sixth Circuit stay of the 2015 definition of “waters of the United States” and that was in place for decades prior to the 2015 rule. This regulatory text would, pending completion of the second step in the two-step process, continue to be informed by the 2003 and 2008 guidance documents. In the second step, the agencies will conduct a separate notice and comment rulemaking that will consider developing a new definition of “waters of the United States” taking into consideration the principles that Justice Scalia outlined in the *Rapanos* plurality opinion.

In the 2015 rulemaking, the agencies described their task as “interpret[ing] the scope of the ‘waters of the United States’ for the CWA in light of the goals, objectives, and policies of the statute, the Supreme Court case law, the relevant and available science, and the agencies’ technical expertise and experience.” 80 FR 37054, 37060 (June 29, 2015). In so doing, the agencies properly acknowledged that a regulation defining “waters of the United States” in this area is not driven by any one type or piece of information, but rather must be the product of the evaluation and balancing of a variety of different types of information. That information includes scientific data as well as the policies articulated by Congress when it passed the Act. For example, the agencies recognized this construct in the preamble to the 2015 Rule by explaining

that what constitutes a “significant nexus” to navigable waters “is not a purely scientific determination” and that “science does not provide bright line boundaries with respect to where ‘water ends’ for purposes of the CWA.” 80 FR at 37060.<sup>2</sup>

The objectives, goals, and policies of the statute are detailed in sections 101(a)–(g) of the statute, and guide the agencies’ interpretation and application of the Clean Water Act. Section 101(a) of the Act states that the “objective of this chapter is to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters,” and identifies several goals and national policies Congress believed would help the Act achieve that objective. 33 U.S.C. 1251(a). When referring to the Act’s objective, the 2015 rule referred specifically to Section 101(a). 80 FR at 37056.

In addition to the objective of the Act and the goals and policies identified to help achieve that objective in section 101(a), in section 101(b) Congress articulated that it is “the policy of the Congress” to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his or her authority. Section 101(b) also states that it is the policy of Congress that the States manage the construction grant program under this chapter and implement the permit programs under sections 402 and 404 of the Act. 33 U.S.C. 1251(b). Therefore, as part of the two-step rulemaking, the agencies will be considering the relationship of the CWA objective and policies, and in particular, the meaning and importance of section 101(b).

The 2015 rule did acknowledge the language contained in section 101(b) and the vital role states and tribes play in the implementation of the Act and the effort to meet the Act’s stated objective. *See, e.g.*, 80 FR at 37059. In discussing the provision, the agencies noted that it was “[o]f particular importance[,] [that] states and tribes may be authorized by the EPA to administer the permitting programs of

CWA sections 402 and 404.” *Id.* The agencies also noted that “States and federally-recognized tribes, consistent with the CWA, retain full authority to implement their own programs to more broadly and more fully protect the waters in *their jurisdiction*.” *Id.* at 37060. However, the agencies did not include a discussion in the 2015 rule preamble of the meaning and importance of section 101(b) in guiding the choices the agencies make in setting the outer bounds of jurisdiction of the Act, despite the recognition that the rule must be drafted “in light of the goals, objectives, and policies of the statute.” In the two-step rulemaking process commencing with today’s notice, the agencies will more fully consider the policy in section 101(b) when exercising their discretion to delineate the scope of waters of the U.S., including the extent to which states or tribes have protected or may protect waters that are not subject to CWA jurisdiction.

The scope of CWA jurisdiction is an issue of great national importance and therefore the agencies will allow for robust deliberations on the ultimate regulation. While engaging in such deliberations, however, the agencies recognize the need to provide as an interim step for regulatory continuity and clarity for the many stakeholders affected by the definition of “waters of the United States.” The pre-CWR regulatory regime is in effect as a result of the Sixth Circuit’s stay of the 2015 rule but that regime depends upon the pendency of the Sixth Circuit’s order and could be altered at any time by factors beyond the control of the agencies. The Supreme Court’s resolution of the question as to which courts have original jurisdiction over challenges to the 2015 rule could impact the Sixth Circuit’s exercise of jurisdiction and its stay. If, for example, the Supreme Court were to decide that the Sixth Circuit lacks original jurisdiction over challenges to the 2015 rule, the Sixth Circuit case would be dismissed and its nationwide stay would expire, leading to inconsistencies, uncertainty, and confusion as to the regulatory regime that would be in effect pending substantive rulemaking under the Executive Order.

As noted previously, prior to the Sixth Circuit’s stay order, the District Court for North Dakota had preliminarily enjoined the rule in 13 States (North Dakota, Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, South Dakota, Wyoming and New Mexico). Therefore, if the Sixth Circuit’s nationwide stay were to expire, the 2015

<sup>2</sup> This notion was at least implicitly recognized by the Chief Justice in his concurring opinion in *Rapanos*: “[T]he Corps and the EPA would have enjoyed plenty of room to operate in developing some notion of an outer bound to the reach of their authority.” *Rapanos v. United States*, 547 U.S. 715, 758 (2006) (Roberts, C.J., concurring). Ultimately, developing “some notion of an outer bound” from the full range of relevant information is the task facing the agencies.

rule would be enjoined under the North Dakota order in States covering a large geographic area of the country, but the rule would be in effect in the rest of the country pending further judicial decision-making or substantive rulemaking under the Executive Order.

Adding to the confusion that could be caused if the Sixth Circuit's nationwide stay of the 2015 rule were to expire, there are multiple other district court cases pending on the 2015 rule, including several where challengers have filed motions for preliminary injunctions. These cases—and the pending preliminary injunction motions—would likely be reactivated if the Supreme Court were to determine that the Sixth Circuit lacks original jurisdiction over challenges to the 2015 rule. The proposed interim rule would establish a clear regulatory framework that would avoid the inconsistencies, uncertainty and confusion that would result from a Supreme Court ruling affecting the Sixth Circuit's jurisdiction while the agencies reconsider the 2015 rule. It would ensure that, during this interim period, the scope of CWA jurisdiction will be administered exactly the way it is now, and as it was for many years prior to the promulgation of the 2015 rule. The agencies considered other approaches to providing stability while they work to finalize the revised definition, such as simply withdrawing or staying the Clean Water Rule, but did not identify any options that would do so more effectively and efficiently than this proposed rule would do. A stable regulatory foundation for the *status quo* would facilitate the agencies' considered re-evaluation, as appropriate, of the definition of "waters of the United States" that best effectuates the language, structure, and purposes of the Clean Water Act.

## II. General Information

### A. How can I get copies of this document and related information?

1. *Docket*. An official public docket for this action has been established under Docket Id. No. EPA-HQ-OW-2017-0203. The official public docket consists of the documents specifically referenced in this action, and other information related to this action. The official public docket is the collection of materials that is available for public viewing at the OW Docket, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The OW Docket telephone number is 202-566-

2426. A reasonable fee will be charged for copies.

2. *Electronic Access*. You may access this **Federal Register** document electronically under the **Federal Register** listings at <http://www.regulations.gov>. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may access EPA Dockets at <http://www.regulations.gov> to view public comments as they are submitted and posted, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Docket Facility.

### B. What is the agencies' authority for taking this action?

The authority for this action is the Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, including sections 301, 304, 311, 401, 402, 404 and 501.

### C. What are the economic impacts of this action?

This proposed rule is the first step in a comprehensive, two-step process to review and revise the 2015 definition of "waters of the United States." The agencies prepared an illustrative economic analysis to provide the public with information on the potential changes to the costs and benefits of various CWA programs that could result if there were a change in the number of positive jurisdictional determinations. The economic analysis is provided pursuant to the requirements of Executive Orders 13563 and 12866 to provide information to the public. The 2015 CWR is used as a baseline in the analysis in order to provide information to the public on the estimated differential effects of restoring pre-2015 status quo in comparison to the 2015 CWR. However, as explained previously, the 2015 CWR has already been stayed by the Sixth Circuit, and this proposal would merely codify the legal status quo, not change current practice.

The proposed rule is a definitional rule that affects the scope of "waters of the United States." This rule does not establish any regulatory requirements or directly mandate actions on its own. However, by changing the definition of "waters of the United States," the

proposed rule would change the waters where other regulatory requirements that affect regulated entities come into play, for example, the locations where regulated entities would be required to obtain certain types of permits. The consequence of a water being deemed non-jurisdictional is simply that CWA provisions no longer apply to that water. There are no avoided costs or forgone benefits if similar state regulations exist and continue to apply to that water. The agencies estimated that the 2015 rule would result in a small overall increase in positive jurisdictional determinations compared to those made under the prior regulation as currently implemented, and that there would be fewer waters within the scope of the CWA under the 2015 rule compared to the prior regulations. The agencies estimated the avoided costs and forgone benefits of repealing the 2015 rule. This analysis is contained in the *Economic Analysis for the Proposed Definition of "Waters of the United States"—Recodification of Pre-existing Rules* and is available in the docket for this action.

## III. Public Comments

The agencies solicit comment as to whether it is desirable and appropriate to re-codify in regulation the *status quo* as an interim first step pending a substantive rulemaking to reconsider the definition of "waters of the United States" and the best way to accomplish it. Because the agencies propose to simply codify the legal *status quo* and because it is a temporary, interim measure pending substantive rulemaking, the agencies wish to make clear that this interim rulemaking does not undertake any substantive reconsideration of the pre-2015 "waters of the United States" definition nor are the agencies soliciting comment on the specific content of those longstanding regulations. See *P&V Enterprises v. Corps of Engineers*, 516 F.3d 1021, 1023–24 (D.C. Cir. 2008). For the same reason, the agencies are not at this time soliciting comment on the scope of the definition of "waters of the United States" that the agencies should ultimately adopt in the second step of this two-step process, as the agencies will address all of those issues, including those related to the 2015 rule, in the second notice and comment rulemaking to adopt a revised definition of "waters of the United States" in light of the February 28, 2017, Executive Order. The agencies do not intend to engage in substantive reevaluation of the definition of "waters of the United States" until the second step of the rulemaking. See *P&V*, 516 F.3d at 1025–26.

#### IV. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket.

In addition, the agencies prepared an analysis of the potential avoided costs and forgone benefits associated with this action. This analysis is contained in the *Economic Analysis for the Proposed Definition of "Waters of the United States"—Recodification of Pre-existing Rules*. A copy of the analysis is available in the docket for this action.

##### B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control numbers 2050–0021 and 2050–0135 for the CWA section 311 program and 2040–0004 for the 402 program.

For the CWA section 404 regulatory program, the current OMB approval number for information requirements is maintained by the Corps (OMB approval number 0710–0003). However, there are no new approval or application processes required as a result of this rulemaking that necessitate a new Information Collection Request (ICR).

##### C. Regulatory Flexibility Act

We certify that this action will not have a significant economic impact on a substantial number of small entities. Because this action would simply codify the legal *status quo*, we have concluded that this action will not have a significant impact on small entities. This analysis is contained in the *Economic Analysis for the Proposed Definition of "Waters of the United States"—Recodification of Pre-existing Rules*. A copy of the analysis is available in the docket for this action.

##### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The definition of "waters of the United States" applies broadly to CWA programs. The action imposes no enforceable duty on any state, local, or tribal governments, or the private sector,

and does not contain regulatory requirements that might significantly or uniquely affect small governments.

##### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Consistent with the agencies' policy to promote communications with state and local governments, the agencies have informed states and local governments about this proposed rulemaking.

The agencies will appropriately consult with States and local governments as a subsequent rulemaking makes changes to the longstanding definition of "waters of the United States."

##### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications as specified in Executive Order 13175. This proposed rule maintains the legal *status quo*. Thus, Executive Order 13175 does not apply to this action.

Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes (May 4, 2011), the agencies will appropriately consult with tribal officials during the development of a subsequent rulemaking that makes changes to the longstanding definition of "waters of the United States." In fact, the agencies have already initiated the formal consultation process with respect to the subsequent rulemaking.

##### G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because the environmental health risks or safety risks addressed by this action do not present a disproportionate risk to children.

##### H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

##### I. National Technology Transfer and Advancement Act

This proposed rule does not involve technical standards.

##### J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This proposed rule maintains the legal *status quo*. The agencies therefore believe that this action does not have disproportionately high and adverse human health or environmental effects on minority, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, Feb. 16, 1994).

##### K. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

Pursuant to Executive Order 13771 (82 FR 9339, February 3, 2017) this proposed rule is expected to be an E.O. 13771 deregulatory action.

#### List of Subjects

##### 33 CFR Part 328

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Navigation, Water pollution control, Waterways.

##### 40 CFR Parts 110, 112, 116, 117, 122, 230, 232, 300, 302, and 401

Environmental protection, Water pollution control.

Dated: June 27, 2017.

##### E. Scott Pruitt,

Administrator, Environmental Protection Agency.

Dated: June 27, 2017.

##### Douglas W. Lamont,

Deputy Assistant Secretary of the Army (Project Planning and Review), performing the duties of the Assistant Secretary of the Army for Civil Works.

#### Title 33—Navigation and Navigable Waters

For the reasons set out in the preamble, title 33, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 328—DEFINITION OF WATERS OF THE UNITED STATES

■ 1. The authority citation for part 328 is revised to read as follows:

Authority: 33 U.S.C. 1344.

■ 2. Section 328.3 is amended by revising paragraphs (a) through (d) and adding paragraphs (e) and (f) to read as follows:

##### § 328.3 Definitions.

\* \* \* \* \*

(a) The term *waters of the United States* means

(1) All waters which are currently used, or were used in the past, or may

be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters including interstate wetlands;

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:

(i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or

(ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(iii) Which are used or could be used for industrial purpose by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as waters of the United States under the definition;

(5) Tributaries of waters identified in paragraphs (a)(1) through (4) of this section;

(6) The territorial seas;

(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)(1) through (6) of this section.

(8) Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

(b) The term *wetlands* means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(c) The term *adjacent* means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are "adjacent wetlands."

(d) The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

(e) The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(f) The term *tidal waters* means those waters that rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by hydrologic, wind, or other effects.

#### Title 40—Protection of Environment

For reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 110—DISCHARGE OF OIL

■ 3. The authority citation for part 110 is revised to read as follows:

**Authority:** 33 U.S.C. 1321(b)(3) and (b)(4) and 1361(a); E.O. 11735, 38 FR 21243, 3 CFR parts 1971–1975 Comp., p. 793.

■ 4. Section 110.1 is amended by revising the definition of "Navigable waters" and adding the definition of "Wetlands" in alphabetical order to read as follows:

##### § 110.1 Definitions.

\* \* \* \* \*

*Navigable waters* means the waters of the United States, including the territorial seas. The term includes:

(a) All waters that are currently used, were used in the past, or may be

susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;

(b) Interstate waters, including interstate wetlands;

(c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) That are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;

(3) That are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as navigable waters under this section;

(e) Tributaries of waters identified in paragraphs (a) through (d) of this section, including adjacent wetlands; and

(f) Wetlands adjacent to waters identified in paragraphs (a) through (e) of this section: Provided, That waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States;

Navigable waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

\* \* \* \* \*

*Wetlands* means those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs and similar areas such as sloughs, prairie potholes, wet meadows, prairie river overflows, mudflats, and natural ponds.

#### PART 112—OIL POLLUTION PREVENTION

■ 5. The authority citation for part 112 is revised to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*; 33 U.S.C. 2720; E.O. 12777 (October 18, 1991), 3 CFR, 1991 Comp., p. 351.

■ 6. Section 112.2 is amended by revising the definition of "Navigable waters" and adding the definition of

“Wetlands” in alphabetical order to read as follows:

#### § 112.2 Definitions.

\* \* \* \* \*

*Navigable waters* of the United States means “navigable waters” as defined in section 502(7) of the FWPCA, and includes:

- (1) All navigable waters of the United States, as defined in judicial decisions prior to passage of the 1972 Amendments to the FWPCA (Pub. L. 92–500), and tributaries of such waters;
- (2) Interstate waters;
- (3) Intrastate lakes, rivers, and streams which are utilized by interstate travelers for recreational or other purposes; and
- (4) Intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce.

\* \* \* \* \*

*Wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs, and similar areas such as sloughs, prairie potholes, wet meadows, prairie river overflows, mudflats, and natural ponds.

\* \* \* \* \*

### PART 116—DESIGNATION OF HAZARDOUS SUBSTANCES

- 7. The authority citation for part 116 is revised to read as follows:

**Authority:** Secs. 311(b)(2)(A) and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*).

- 8. Section 116.3 is amended by revising the definition of “Navigable waters” to read as follows:

#### § 116.3 Definitions.

\* \* \* \* \*

*Navigable waters* is defined in section 502(7) of the Act to mean “waters of the United States, including the territorial seas,” and includes, but is not limited to:

- (1) All waters which are presently used, or were used in the past, or may be susceptible to use as a means to transport interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide, and including adjacent wetlands; the term *wetlands* as used in this regulation shall include those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically

adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas; the term *adjacent* means bordering, contiguous or neighboring;

- (2) Tributaries of navigable waters of the United States, including adjacent wetlands;

- (3) Interstate waters, including wetlands; and

- (4) All other waters of the United States such as intrastate lakes, rivers, streams, mudflats, sandflats and wetlands, the use, degradation or destruction of which affect interstate commerce including, but not limited to:

- (i) Intrastate lakes, rivers, streams, and wetlands which are utilized by interstate travelers for recreational or other purposes; and

- (ii) Intrastate lakes, rivers, streams, and wetlands from which fish or shellfish are or could be taken and sold in interstate commerce; and

- (iii) Intrastate lakes, rivers, streams, and wetlands which are utilized for industrial purposes by industries in interstate commerce.

Navigable waters do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

\* \* \* \* \*

### PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES

- 9. The authority citation for part 117 is revised to read as follows:

**Authority:** Secs. 311 and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), (“the Act”) and Executive Order 11735, superseded by Executive Order 12777, 56 FR 54757.

- 10. Section 117.1 is amended by revising paragraph (i) to read as follows:

#### § 117.1 Definitions.

\* \* \* \* \*

- (i) *Navigable waters* means “waters of the United States, including the territorial seas.” This term includes:

- (1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

- (2) Interstate waters, including interstate wetlands;

- (3) All other waters such as intrastate lakes, rivers, streams, (including intermittent streams), mudflats, sandflats, and wetlands, the use,

degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

- (i) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

- (ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;

- (iii) Which are used or could be used for industrial purposes by industries in interstate commerce;

- (4) All impoundments of waters otherwise defined as navigable waters under this paragraph;

- (5) Tributaries of waters identified in paragraphs (i)(1) through (4) of this section, including adjacent wetlands; and

- (6) Wetlands adjacent to waters identified in paragraphs (i)(1) through (5) of this section (“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs, and similar areas such as sloughs, prairie potholes, wet meadows, prairie river overflows, mudflats, and natural ponds): *Provided*, That waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

Navigable waters do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

\* \* \* \* \*

### PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

- 11. The authority citation for part 122 continues to read as follows:

**Authority:** The Clean Water Act, 33 U.S.C. 1251 *et seq.*

- 12. Section 122.2 is amended by:

- a. Lifting the suspension of the last sentence of the definition of “Waters of the United States” published July 21, 1980 (45 FR 48620).

- b. Revising the definition of “Waters of the United States”.

- c. Suspending the last sentence of the definition of “Waters of the United States” published July 21, 1980 (45 FR 48620).

■ d. Adding the definition of “Wetlands”.

The revision and addition read as follows:

**§ 122.2 Definitions.**

\* \* \* \* \*

*Waters of the United States* or *waters of the U.S.* means:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate “wetlands;”

(c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as waters of the United States under this definition;

(e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;

(f) The territorial sea; and

(g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. [See Note 1 of this section.] Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

**Note:** At 45 FR 48620, July 21, 1980, the Environmental Protection Agency

suspended until further notice in § 122.2, the last sentence, beginning “This exclusion applies . . .” in the definition of “Waters of the United States.” This revision continues that suspension.

*Wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

\* \* \* \* \*

**PART 230—SECTION 404(b)(1)  
GUIDELINES FOR SPECIFICATION OF  
DISPOSAL SITES FOR DREDGED OR  
FILL MATERIAL**

■ 13. The authority citation for part 230 is revised to read as follows:

**Authority:** Secs. 404(b) and 501(a) of the Clean Water Act of 1977 (33 U.S.C. 1344(b) and 1361(a)).

■ 14. Section 230.3 is amended by:

■ a. Redesignating paragraph (o) as paragraph (s).

■ b. Revising newly redesignated paragraph (s).

■ c. Redesignating paragraph (n) as paragraph (r).

■ d. Redesignating paragraph (m) as paragraph (q–1).

■ e. Redesignating paragraphs (h) through (l) as paragraphs (m) through (q).

■ f. Redesignating paragraphs (e) and (f) as paragraphs (h) and (i).

■ g. Redesignating paragraph (g) as paragraph (k).

■ h. Redesignating paragraphs (b) through (d) as paragraphs (c) through (e).

■ i. Adding reserved paragraphs (f), (g), (j), and (l).

■ j. Adding paragraphs (b) and (t).

The revision and additions read as follows:

**§ 230.3 Definitions.**

\* \* \* \* \*

(b) The term *adjacent* means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes, and the like are “adjacent wetlands.”

\* \* \* \* \*

(s) The term *waters of the United States* means:

(1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters

which are subject to the ebb and flow of the tide;

(2) All interstate waters including interstate wetlands;

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:

(i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or

(ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(iii) Which are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as waters of the United States under this definition;

(5) Tributaries of waters identified in paragraphs (s)(1) through (4) of this section;

(6) The territorial sea;

(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (s)(1) through (6) of this section; waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(t) The term *wetlands* means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

**PART 232—404 PROGRAMS  
DEFINITIONS; EXEMPT ACTIVITIES  
NOT REQUIRING 404 PERMITS**

■ 15. The authority citation for part 232 is revised to read as follows:

**Authority:** 33 U.S.C. 1344.

■ 16. Section 232.2 is amended by revising the definition of “Waters of the



United States” and adding the definition of “Wetlands” to read as follows:

**§ 232.2 Definitions.**

\* \* \* \* \*

*Waters of the United States* means:

All waters which are currently used, were used in the past, or may be susceptible to us in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

All interstate waters including interstate wetlands.

All other waters, such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would or could affect interstate or foreign commerce including any such waters:

Which are or could be used by interstate or foreign travelers for recreational or other purposes; or

From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

Which are used or could be used for industrial purposes by industries in interstate commerce.

All impoundments of waters otherwise defined as waters of the United States under this definition;

Tributaries of waters identified in paragraphs (g)(1)–(4) of this section;

The territorial sea; and

Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (q)(1)–(6) of this section.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Act (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not waters of the United States.

Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

*Wetlands* means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN**

■ 17. The authority citation for part 300 is revised to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p.306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

■ 18. Section 300.5 is amended by revising the definition of “Navigable waters” to read as follows:

**§ 300.5 Definitions.**

\* \* \* \* \*

*Navigable waters* as defined by 40 CFR 110.1, means the waters of the United States, including the territorial seas. The term includes:

(1) All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;

(2) Interstate waters, including interstate wetlands;

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters;

(i) That are or could be used by interstate or foreign travelers for recreational or other purposes;

(ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;

(iii) That are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as navigable waters under this section;

(5) Tributaries of waters identified in paragraphs (a) through (d) of this definition, including adjacent wetlands; and

(6) Wetlands adjacent to waters identified in paragraphs (a) through (e) of this definition: Provided, that waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

(7) Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

\* \* \* \* \*

■ 19. In appendix E to part 300, section 1.5 is amended by revising the definition of “Navigable waters” to read as follows:

**Appendix E to Part 300—Oil Spill Response**

\* \* \* \* \*

**1.5 Definitions \* \* \***

*Navigable waters* as defined by 40 CFR 110.1 means the waters of the United States, including the territorial seas. The term includes:

(a) All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;

(b) Interstate waters, including interstate wetlands;

(c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) That are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; and

(3) That are used or could be used for industrial purposes by industries in interstate commerce.

(d) All impoundments of waters otherwise defined as navigable waters under this section;

(e) Tributaries of waters identified in paragraphs (a) through (d) of this definition, including adjacent wetlands; and

(f) Wetlands adjacent to waters identified in paragraphs (a) through (e) of this definition: Provided, that waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

(g) Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

\* \* \* \* \*

**PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION**

■ 20. The authority citation for part 302 is revised to read as follows:

**Authority:** 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

■ 21. Section 302.3 is amended by revising the definition of “Navigable waters” to read as follows:

**§ 302.3 Definitions.**

\* \* \* \* \*

*Navigable waters* or *navigable waters of the United States* means waters of the



United States, including the territorial seas;

\* \* \* \* \*

## PART 401—GENERAL PROVISIONS

■ 22. The authority citation for part 401 is revised to read as follows:

**Authority:** Secs. 301, 304 (b) and (c), 306 (b) and (c), 307 (b) and (c) and 316(b) of the Federal Water Pollution Control Act, as amended (the “Act”), 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c), 1317 (b) and (c) and 1326(c); 86 Stat. 816 *et seq.*; Pub. L. 92–500.

■ 23. Section 401.11 is amended by revising paragraph (l) to read as follows:

### § 401.11 General definitions.

\* \* \* \* \*

(l) The term *navigable waters* includes: All navigable waters of the United States; tributaries of navigable waters of the United States; interstate waters; intrastate lakes, rivers, and streams which are utilized by interstate travelers for recreational or other purposes; intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce; and intrastate lakes, rivers, and streams which are utilized for industrial purposes by industries in interstate commerce. Navigable waters do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

\* \* \* \* \*

[FR Doc. 2017–13997 Filed 7–26–17; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Chapter 1

#### 46 CFR Chapters 1 and III

#### 49 CFR Chapter IV

[Docket No. USCG–2017–0658]

### Great Lakes Pilotage Advisory Committee—Input To Support Regulatory Reform of Coast Guard Regulations—New Task

**AGENCY:** U.S. Coast Guard, Department of Homeland Security.

**ACTION:** Announcement of new task assignment for the Great Lakes Pilotage

Advisory Committee (GLPAC); teleconference meeting.

**SUMMARY:** The U.S. Coast Guard is issuing a new task to the Great Lakes Pilotage Advisory Committee (GLPAC). The U.S. Coast Guard is asking GLPAC to help the agency identify existing regulations, guidance, and collections of information (that fall within the scope of the Committee’s charter) for possible repeal, replacement, or modification. This tasking is in response to the issuance of Executive Orders 13771, “Reducing Regulation and Controlling Regulatory Costs; 13777, “Enforcing the Regulatory Reform Agenda;” and 13783, “Promoting Energy Independence and Economic Growth.” The full Committee is scheduled to meet by teleconference on August 23, 2017, to discuss this tasking. This teleconference will be open to the public. The U.S. Coast Guard will consider GLPAC recommendations as part of the process of identifying regulations, guidance, and collections of information to be repealed, replaced, or modified pursuant to the three Executive Orders discussed above.

**DATES:** The full Committee is scheduled to meet by teleconference on August 23, 2017, from 1:30 p.m. to 3 p.m. EDT. Please note that this teleconference may adjourn early if the Committee has completed its business.

**ADDRESSES:** To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on August 16, 2017. The number of teleconference lines is limited and will be available on a first-come, first-served basis.

**Instructions:** Submit comments on the task statement at any time, including orally at the teleconference, but if you want Committee members to review your comments before the teleconference, please submit your comments no later than August 16, 2017. You must include the words “Department of Homeland Security” and the docket number for this action. Written comments may also be submitted using the Federal e-Rulemaking Portal at <http://www.regulations.gov>. If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. You may review *Regulations.gov*’s Privacy and Security Notice at <https://www.regulations.gov/privacyNotice>.

**Docket Search:** For access to the docket or to read documents or comments related to this notice, go to <http://www.regulations.gov>, insert “USCG–2017–0658” in the Search box, press Enter, and then click on the item you wish to view.

**FOR FURTHER INFORMATION CONTACT:** Ms. Michelle Birchfield, Alternate Designated Federal Officer of the Great Lakes Pilotage Advisory Committee, telephone (202) 372–1533, or email [michelle.r.birchfield@uscg.mil](mailto:michelle.r.birchfield@uscg.mil).

### SUPPLEMENTARY INFORMATION:

#### New Task to the Committee

The U.S. Coast Guard is issuing a new task to GLPAC to provide recommendations on whether existing regulations, guidance, and information collections (that fall within the scope of the Committee’s charter) should be repealed, replaced, or modified. GLPAC will then provide advice and recommendations on the assigned task and submit a final recommendation report to the U.S. Coast Guard.

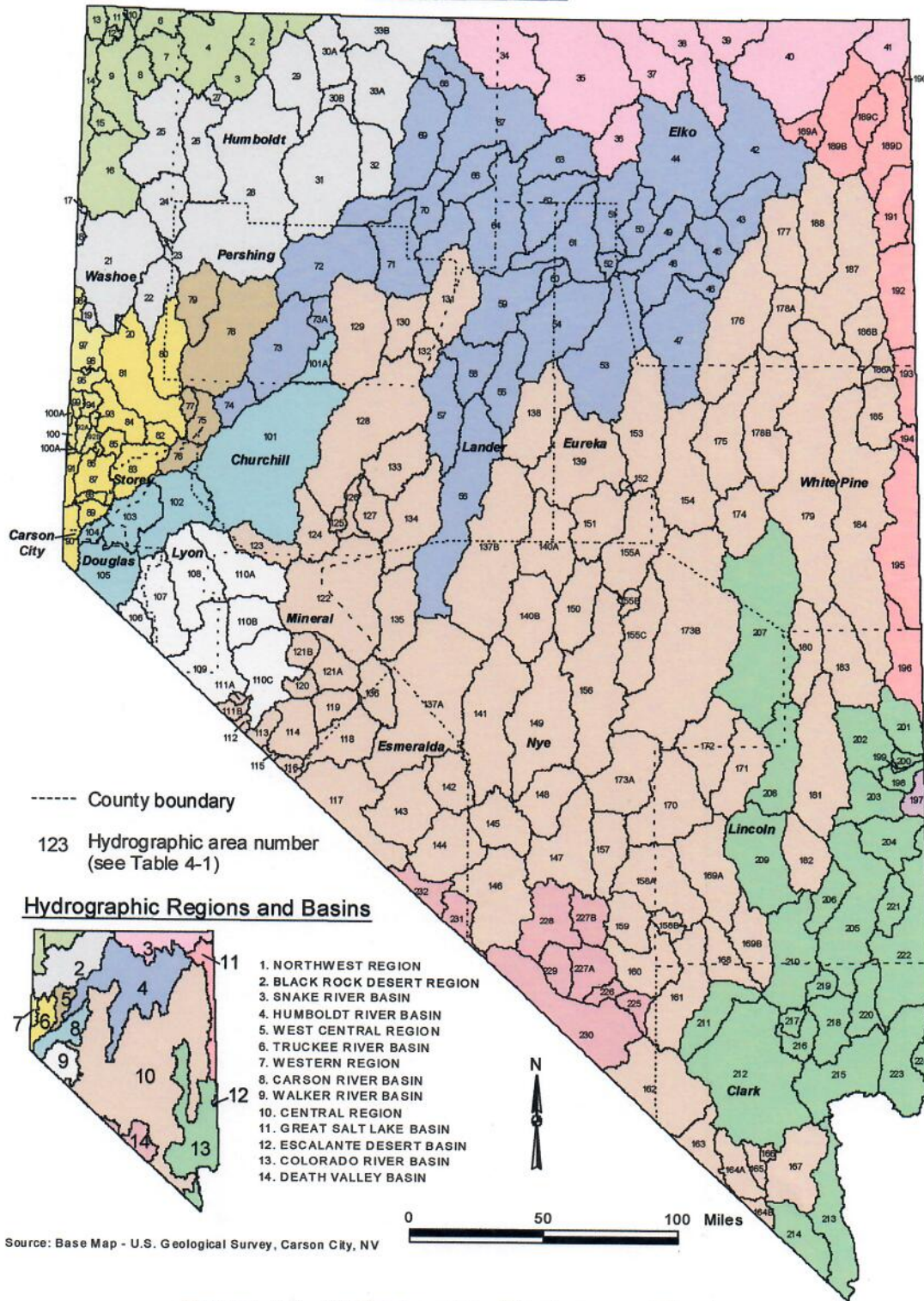
#### Background

On January 30, 2017, President Trump issued Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs.” Under that Executive Order, for every one new regulation issued, at least two prior regulations must be identified for elimination, and the cost of planned regulations must be prudently managed and controlled through a budgeting process. On February 24, 2017, the President issued Executive Order 13777, “Enforcing the Regulatory Reform Agenda.” That Executive Order directs agencies to take specific steps to identify and alleviate unnecessary regulatory burdens placed on the American people. On March 28, 2017, the President issued Executive Order 13783, “Promoting Energy Independence and Economic Growth.” Executive Order 13783 promotes the clean and safe development of our Nation’s vast energy resources, while at the same time avoiding agency actions that unnecessarily encumber energy production.

When implementing the regulatory offsets required by Executive Order 13771, each agency head is directed to prioritize, to the extent permitted by law, those regulations that the agency’s Regulatory Reform Task Force identifies as outdated, unnecessary, or ineffective in accordance with Executive Order 13777. As part of this process to comply with all three Executive Orders, the U.S. Coast Guard is reaching out through multiple avenues to interested individuals to gather their input about

## Tab 9

## Hydrographic Areas



**Figure 4-2. Hydrographic Regions and Basins**



**Table 4-1. List of Hydrographic Areas**

**1. NORTHWEST REGION**

1. Pueblo Valley
2. Continental Lake Valley
3. Gridley Lake Valley
4. Virgin Valley
5. Sage Hen Valley
6. Guano Valley
7. Swan Lake Valley
8. Massacre Lake Valley
9. Long Valley
10. Macy Flat
11. Coleman Valley
12. Mosquito Valley
13. Warner Valley
14. Surprise Valley
15. Boulder Valley
16. Duck Lake Valley

**2. BLACK ROCK DESERT REGION**

17. Pilgrim Flat
18. Painter Flat
19. Dry Valley
20. Sano Valley
21. Smoke Creek Desert
22. San Emidio Desert
23. Granite Basin
24. Hualapai Flat
25. High Rock Lake Valley
26. Mud Meadow
27. Summit Lake Valley
28. Black Rock Desert
29. Pine Forest Valley
30. Kings River Valley
- (A) Rio King Subarea
- (B) Sod House Subarea
31. Desert Valley
32. Silver State Valley
33. Quinn River Valley
- (A) Orovida Subarea
- (B) McDermitt Subarea

**3. SNAKE RIVER BASIN**

34. Little Owyhee River Area
35. South Fork Owyhee River Area
36. Independence Valley
37. Owyhee River Area
38. Bruneau River Area
39. Jarbidge River Area
40. Salmon Falls Creek Area
41. Goose Creek Area

**4. HUMBOLDT RIVER BASIN**

42. Marys River Area
43. Starr Valley Area
44. North Fork Area
45. Lamoille Valley
46. South Fork Area
47. Huntington Valley
48. Dixie Creek - Tenmile Creek Area
49. Elko Segment
50. Susie Creek Area
51. Maggie Creek Area
52. Marys Creek Area
53. Pine Valley
54. Crescent Valley
55. Carico Lake Valley
56. Upper Reese River Valley
57. Antelope Valley
58. Middle Reese River Valley
59. Lower Reese River Valley
60. Whirlwind Valley
61. Boulder Flat
62. Rock Creek Valley
63. Willow Creek Valley
64. Clovers Area
65. Pumpernickel Valley
66. Kelly Creek Area
67. Little Humboldt Valley
68. Hardscrabble Area
69. Paradise Valley
70. Winnemucca Segment
71. Grass Valley
72. Imlay Area
73. Lovelock Valley
- (A) Oreana Subarea
74. White Plains

**5. WEST CENTRAL REGION**

75. Bradys Hot Springs Area
76. Fernley Area
77. Fireball Valley
78. Granite Springs Valley
79. Kumiva Valley

**6. TRUCKEE RIVER BASIN**

80. Winnemucca Lake Valley
81. Pyramid Lake Valley
82. Dodge Flat
83. Tracy Segment
84. Warm Springs Valley
85. Spanish Springs Valley
86. Sun Valley
87. Truckee Meadows
88. Pleasant Valley
89. Washoe Valley
90. Lake Tahoe Basin
91. Truckee Canyon Segment

**7. WESTERN REGION**

92. Lemmon Valley
- (A) Western Part
- (B) Eastern Part
93. Antelope Valley
94. Bedell Flat
95. Dry Valley
96. Newcomb Lake Valley
97. Honey Lake Valley
98. Skeddadle Creek Valley
99. Red Rock Valley
100. Cold Spring Valley
- (A) Long Valley

**8. CARSON RIVER BASIN**

101. Carson Desert
- (A) Packard Valley
102. Churchill Valley
103. Dayton Valley
104. Eagle Valley
105. Carson Valley

**9. WALKER RIVER BASIN**

106. Antelope Valley
107. Smith Valley
108. Mason Valley
109. East Walker Area
110. Walker Lake Valley
- (A) Schurz Subarea
- (B) Lake Subarea
- (C) Whisky Flat - Hawthorne Subarea

**10. CENTRAL REGION**

111. Alkali Valley (Mineral)
- (A) Northern Part
- (B) Southern Part
112. Mono Valley
113. Huntoon Valley
114. Teels Marsh Valley
115. Adobe Valley
116. Queen Valley
117. Fish Lake Valley
118. Columbus Salt Marsh Valley
119. Rhodes Salt Marsh Valley
120. Garfield Flat
121. Soda Spring Valley
- (A) Eastern Part
- (B) Western Part
122. Gabbs Valley
123. Rawhide Flats
124. Fairview Valley
125. Stingaree Valley
126. Cowkick Valley
127. Eastgate Valley Area
128. Dixie Valley
129. Buena Vista Valley
130. Pleasant Valley
131. Buffalo Valley
132. Jersey Valley
133. Edwards Creek Valley
134. Smith Creek Valley
135. Ione Valley
136. Monte Cristo Valley
137. Big Smoky Valley
- (A) Tonopah Flat

(B) Northern Part

138. Grass Valley
139. Kobeh Valley
140. Monitor Valley
- (A) Northern Part
- (B) Southern Part
141. Ralston Valley
142. Alkali Spring Valley (Esmeralda)
143. Clayton Valley
144. Lida Valley
145. Stonewall Flat
146. Sarcobatus Flat
147. Gold Flat
148. Cactus Flat
149. Stone Cabin Flat
150. Little Fish Lake Valley
151. Antelope Valley (Eureka & Nye)
152. Stevens Basin
153. Diamond Valley
154. Newark Valley
155. Little Smoky Valley
- (A) Northern Part
- (B) Central Part
- (C) Southern Part
156. Hot Creek Valley
157. Kawich Valley
158. Emigrant Valley
- (A) Groom Lake Valley
- (B) Papoose Lake Valley
159. Yucca Flat
160. Frenchman Flat
161. Indian Springs Valley
162. Pahrump Valley
163. Mesquite Valley (Sandy Valley)
164. Ivanpah Valley
- (A) Northern Part
- (B) Southern Part

165. Jean Lake Valley
166. Hidden Valley (South)
167. Eldorado Valley
168. Three Lakes Valley (Northern Part)
169. Tikapoo Valley (Tickaboo Valley)
- (A) Northern Part
- (B) Southern Part
170. Penoyer Valley (Sand Spring Valley)

171. Coal Valley
172. Garden Valley
173. Railroad Valley
- (A) Southern Part
- (B) Northern Part
174. Jakes Valley
175. Long Valley
176. Ruby Valley
177. Clover Valley
178. Butte Valley
- (A) Northern Part (Round Valley)
- (B) Southern Part
179. Steptoe Valley
180. Cave Valley
181. Dry Lake Valley
182. Delamar Valley
183. Lake Valley
184. Spring Valley
185. Tippet Valley

186. Antelope Valley (White Pine & Elko)
- (A) Southern Part
- (B) Northern Part
187. Goshute Valley
188. Independence Valley (Pequop Valley)

**11. GREAT SALT LAKE BASIN**

189. Thousand Springs Valley
- (A) Herrill Siding - Brush Creek Area
- (B) Toano - Rock Spring Area
- (C) Montello - Crittenden Creek Area (Montello Valley)
190. Grouse Creek Valley
191. Pilot Creek Valley
192. Great Salt Lake Desert
193. Deep Creek Valley
194. Pleasant Valley
195. Snake Valley
196. Hamlin Valley

**12. ESCALANTE DESERT**

197. Escalante Desert

**13. COLORADO RIVER BASIN**

198. Dry Valley
199. Rose Valley
200. Eagle Valley
201. Spring Valley
202. Patterson Valley
203. Panaca Valley
204. Clover Valley
205. Lower Meadow Valley Wash
206. Kane Springs Valley
207. White River Valley
208. Pahroc Valley
209. Pahrnagat Valley
210. Coyote Spring Valley
211. Three Lakes Valley (Southern Part)
212. Las Vegas Valley
213. Colorado Valley
214. Piute Valley
215. Black Mountains Area
216. Garnet Valley (Dry Lake Valley)
217. Hidden Valley (North)
218. California Wash
219. Muddy River Springs Area (Upper Moapa Valley)
220. Lower Moapa Valley
221. Tule Desert
222. Virgin River Valley
223. Gold Butte Area
224. Greasewood Basin

**14. DEATH VALLEY BASIN**

225. Mercury Valley
226. Rock Valley
227. Forty-mile Canyon
- (A) Jackass Flats
- (B) Buckboard Mesa
228. Oasis Valley
229. Crater Flat
230. Amargosa Desert
231. Grapevine Canyon
232. Oriental Wash

# Monthly Report (Highlighted Applications are in the Humboldt River Basin)

Monthly Report For The Month of: November 2025										Run Date: 11/23/2025 10:17:35			
APP NO.	DATE	CHG	BASIN	OWNER NAME	SRC	DESCRIPTION	CO	DUTY	DIV RATE	MOU	POINT OF DIVERSION		
											SEC	TWN	RNG
69102R05	Nov-18	69102	162	ROYAL CAPITAL INVESTMENT GROUP LLC	UG		NY	2	0.006	DOM	21	20S	53E
94800	Nov-03	81943	105	VOGEL LIVING TRUST 2017	UG		DO	4	0.0054	IRR	36	13N	20E
94801	Nov-04	V12797	144	JOHNSON, STEVEN + YOUNG, BRUCE	SPR	STATE LINE SPRINGS #1	ES	7.95	0.011	MM	22	06S	40E
94802	Nov-04	V12798	144	JOHNSON, STEVEN + YOUNG, BRUCE	SPR	STATE LINE SPRINGS #2	ES	15.93	0.022	MM	27	06S	40E
94803T	Nov-04	V12797	144	JOHNSON, STEVEN + YOUNG, BRUCE	SPR	STATE LINE SPRINGS #1	ES	7.95	0.011	MM	22	06S	40E
94804T	Nov-04	V12798	144	JOHNSON, STEVEN + YOUNG, BRUCE	SPR	STATE LINE SPRINGS #2	ES	15.93	0.022	MM	27	06S	40E
94805T	Nov-04	40001	076	CITY OF FERNLEY	UG	MARK IV WELL	LY	560.1	0.78	CON	09	20N	25E
94806	Nov-04	87160	176	KG MINING (BALD MOUNTAIN) INC.	UG	RMW-1 WELL	WP	5.6	0.0078	STK	30	25N	58E
94807	Nov-06		179	MARSHALL, REESE W. AND LISA M.	STR	N. FITZHUGH CREEK	WP	11.22	0.12	IRR	05	20N	65E
94808	Nov-06	90516	072	WEST COAST SALMON NEVADA LP	UG		PE	1515.4	3.173	IRR	26	34N	35E
94809	Nov-06	90517	072	WEST COAST SALMON NEVADA LP	UG		PE	735.91	1.51	IRR	35	34N	35E
94810	Nov-06	90518	072	WEST COAST SALMON NEVADA LP	UG		PE	466.15	0.96	IRR	35	34N	35E
94811	Nov-06	90519	072	WEST COAST SALMON NEVADA LP	UG		PE	0	4	IRR	35	34N	35E
94812	Nov-06	58923	091	TRUCKEE MEADOWS WATER AUTHORITY	STR	TRUCKEE RIVER	WA	81.51	0.294	MUN	31	19N	18E
94812	Nov-06	58923	091	TMWA	STR	TRUCKEE RIVER	WA	81.51	0.294	MUN	31	19N	18E
94813	Nov-06	75765	162	GPS PLEASANT VALLEY, LLC	UG	PUCI WELL #1	NY	27	0.1053	MUN	03	21S	54E
94814	Nov-07		059	SECURE MINERALS USA LLC	UG		LA	225	0.6	MM	25	31N	46E
94815	Nov-07	53363	105	SETTLEMAYER RANCHES, INC.	UG		DO	2	0.0033	QM	04	12N	20E
94816T	Nov-12	83102	047	KG MINING (BALD MOUNTAIN) INC.	UG	RBWW-1	WP	115.235	0.25	MM	14	24N	56E

Monthly Report For The Month of: November 2025

Run Date: 11/23/2025 10:17:35

APP NO.	DATE	CHG	BASIN	OWNER NAME	SRC	DESCRIPTION	CO	DUTY	DIV RATE	MOU	POINT OF DIVERSION		
											SEC	TWN	RNG
94817T	Nov-12	3180	156	FALLINI 1983 TRUST (50%)	SPR	HOT SPRING	NY	31.36	0.103	MM	20	04N	50E
94817T	Nov-12	3180	156	HELEN FALLINI LIVING TRUST (50%)	SPR	HOT SPRING	NY	31.36	0.103	MM	20	04N	50E
94818	Nov-17	58425	170	MARTA SANFORD AGEE TRUST, DATED FEBRUARY 15, 2022	UG		LI	157.1	1	IRR	02	04S	55E
94819T	Nov-17	DCTR-3	101	TCID	UG	TRUCKEE AND CARSON RIVERS	CH	71.715	0	DEC	33	19N	26E
94819T	Nov-17	DCTR-3	101	TRUCKEE CARSON IRRIGATION DISTRICT	UG	TRUCKEE AND CARSON RIVERS	CH	71.715	0	DEC	33	19N	26E
94820	Nov-17	77614	083	HIATT LAND & DEVELOPMENT CO. LTD.	UG		ST	47	0.066	QM	36	20N	22E
94821	Nov-17	87298	083	HIATT LAND & DEVELOPMENT CO. LTD.	UG		ST	6	0.008	QM	36	20N	22E
94822	Nov-17	40335	191	SOUTH SPRINGS SYSTEM, L.L.C.	SPR	KILLIAN SPRINGS NO. 2	EL	14.4238 3	0.02	STK	33	38N	70E
94823	Nov-17	40336	191	SOUTH SPRINGS SYSTEM, L.L.C.	SPR	GARDEN SPRINGS	EL	14.4238 3	0.02	STK	21	38N	70E
94824	Nov-17	40337	191	SOUTH SPRINGS SYSTEM, L.L.C.	SPR	KILLIAN SPRINGS NO. 1	EL	30.689	0.05	STK	33	38N	70E
94825	Nov-17	40338	191	SOUTH SPRINGS SYSTEM, L.L.C.	SPR	PARSON SPRINGS	EL	30.689	0.15	STK	28	38N	70E
94826	Nov-17	65091	191	SOUTH SPRINGS SYSTEM, L.L.C.	SPR	GARDEN SPRINGS	EL	723.97	1	STK	21	38N	70E
94827	Nov-17	65092	191	SOUTH SPRINGS SYSTEM, L.L.C.	SPR	KILLIAN SPRINGS #2	EL	723.97	1	STK	33	38N	70E
94828	Nov-17	65093	191	SOUTH SPRINGS SYSTEM, L.L.C.	SPR	KILLIAN SPRINGS #1	EL	723.97	1	STK	33	38N	70E
94829	Nov-17	65094	191	SOUTH SPRINGS SYSTEM, L.L.C.	SPR	PARSON SPRINGS	EL	723.97	1	STK	28	38N	70E
94830	Nov-17	3DTR	083	PYRAMID LAKE PAIUTE TRIBE	STR	TRUCKEE RIVER	ST	3.87	0	WLD	19	20N	23E
94831	Nov-17	46516	101	RENNER PROPERTIES, LLC	UG		CH	1	0.0014	COM	29	19N	28E
94832	Nov-20		048	KUNDE, ROBERT LEROY JR.	UG		EL	4.48	0.006	COM	23	32N	55E
V12791	Nov-04		056	BTAZ NEVADA, LLC	UG	WALSH HOME RANCH STOCK WELL	LA	0	0	STK	27	18N	42E
V12792	Nov-04		056	BTAZ NEVADA, LLC	UG	HESS RANCH STOCK WELL 2	LA	0	0	STK	08	16N	42E
V12793	Nov-04		056	BTAZ NEVADA, LLC	UG	HESS RANCH STOCK WELL 1	LA	0	0	STK	03	16N	42E
V12794	Nov-04		056	BTAZ NEVADA, LLC	UG	HOME RANCH STOCK WELL 2	LA	0	0	STK	32	18N	42E
V12795	Nov-04		056	BTAZ NEVADA, LLC	UG	HESS RANCH STOCK WELL 3	LA	0	0	STK	09	16N	42E

# Monthly Report (Highlighted Applications are in the Humboldt River Basin)

Monthly Report For The Month of: October 2025										Run Date: 11/23/2025 10:17:09			
APP NO.	DATE	CHG	BASIN	OWNER NAME	SRC	DESCRIPTION	CO	DUTY	DIV RATE	MOU	POINT OF DIVERSION		
											SEC	TWN	RNG
21146R06	Oct-09	21146	162	STATHATOS, GARY AND KEA	UG		NY	2	0.00716	DOM	36	21S	53E
75765R130	Oct-17	75765	162	LAZARO, PETER S. JR. & CAROL	UG		NY	2	0.0078	DOM	11	20S	52E
82763R04	Oct-01	82763	162	MGB CONSTRUCTION LLC	UG		NY	2	0.0067	DOM	34	20S	53E
82763R05	Oct-14	82763	162	FRIAS, ANTONIO MOTA	UG		NY	2	0.0067	DOM	36	20S	53E
82763R06	Oct-15	82763	162	BREAKING BADGER LLC	UG		NY	2	0.0067	DOM	14	20S	54E
82763R07	Oct-15	82763	162	BREAKING BADGER LLC	UG		NY	2	0.0067	DOM	29	20S	53E
82763R08	Oct-15	82763	162	BREAKING BADGER LLC	UG		NY	2	0.0067	DOM	18	21S	54E
94754	Oct-01		232	ESMERALDA COUNTY	SPR	MAMMOTH SPRING	ES	31.8	0.044	QM	20	06S	40E
94755	Oct-03	17956	056	SILVER CREEK RANCH INC.	UG		LA	184.4	0.778	IRR	06	18N	46E
94756	Oct-03	74490	076	CITY OF FERNLEY	UG		CH	2	0.0125	IND	09	20N	26E
94757	Oct-06	52282	087	BULLOCK, CODY AND MELISSA	STR	TRUCKEE RIVER	WA	3	0.0186	DEC	11	19N	19E
94758	Oct-06	52282	087	DALLAS, ROBERT AND LUANNA	STR	TRUCKEE RIVER	WA	2	0.0125	DEC	11	19N	19E
94759	Oct-07		108	DESERT HILLS DAIRY, LLC	UG		LY	0	0.9	IRR	07	14N	25E
94760	Oct-07	77091	091	RCA TRUST ONE, DATED 6/29/1977	STR	TRUCKEE RIVER	WA	1.68	0.009	DEC	14	19N	18E
94761	Oct-07		143	ESMERALDA MINERALS, LLC	UG		ES	50	0.3342	MM	29	02S	40E
94762	Oct-07	78678	105	PARK RANCH HOLDINGS, LLC	UG		DO	27.44	0.0768	IRR	28	13N	20E
94763	Oct-08	84479	108	L & M FAMILY LIMITED	UG	NORTH CASTLE WELL #12	LY	119.9216	0.6661	IRR	33	15N	25E
94764	Oct-08	84479	108	L & M FAMILY LIMITED	UG	BROWN WELL #8	LY	119.9216	0.6661	IRR	03	14N	25E
94765	Oct-08	84479	108	L & M FAMILY LIMITED	UG	NORTH FARIAS WELL #4	LY	119.9216	0.6661	IRR	10	14N	25E

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APP NO.	DATE	CHG	BASIN	OWNER NAME	SRC	DESCRIPTION	CO	DUTY	DIV RATE	MOU	POINT OF DIVERSION		
											SEC	TWN	RNG
94766	Oct-08	84479	108	L & M FAMILY LIMITED	UG	NEW DYE WELL #7R	LY	119.9216	0.6661	IRR	10	14N	25E
94767	Oct-08	29855	049	TERRY, JACK	UG		EL	2.61	0.0082	COM	20	34N	55E
94768	Oct-08	88170	137A	REASON, RICHARD A. & SANDRA M.	UG		NY	4.88	0.011	IRR	13	06N	40E
94769	Oct-09	75765	162	TORRES, JOAQUIN AND MARIA	UG		NY	8	0.0312	COM	05	20S	53E
94770	Oct-09	21146	162	STATHATOS, GARY AND KEA	UG		NY	8	0.0288	IRR	36	21S	53E
94771	Oct-09	85571	212	GARY E. PRIMM FAMILY TRUST, U/T/D APRIL 10, 1984	UG		CL	9	0.01243	QM	23	21S	59E
94772T	Oct-14	81425	141	TONOPAH PUBLIC UTILITIES	UG		NY	56	0.123	MM	16	05N	44E
94773	Oct-15		054	JULIAN TOMERA RANCHES, INC., BATTLE MOUNTAIN DIVISION	UG		LA	2.21	0.06	STK	02	29N	46E
94774	Oct-15	73397	048	JULIAN TOMERA RANCHES (STONEHOUSE)	UG		EL	15.68	0.0217	STK	33	32N	54E
94775	Oct-17		212	JDL LIVING TRUST DATED MAY 23, 2018	UG		CL	1.089	0.002	QM	16	22S	60E
94776	Oct-17	242DTR	087	JOSEPHSON, C. ERIC	STR	TRUCKEE RIVER	WA	0.68	0.0074	DEC	16	19N	19E
94777	Oct-17	77240	070	CITY OF WINNEMUCCA	UG		HU	12	0.04	IND	16	35N	37E
94778	Oct-17	434ADTR	091	PLUMB LANE BUSINESS PARK, LLC	STR	TRUCKEE RIVER-COCHRAN DITCH	WA	16.04	0.057	MUN	31	19N	18E
94779	Oct-17	434DTR	091	PLUMB LANE BUSINESS PARK, LLC	STR	TRUCKEE RIVER-COCHRAN DITCH	WA	0.27	0.001	MUN	31	19N	18E
94780	Oct-17	63257	082	BUTCHER HOLDINGS, LLC	UG		WA	1	0.02	MM	25	21N	23E
94781T	Oct-21	46948	176	WRIGHT LAND COMPANY, LP & WBW LP	UG	ARTEMIS WELL	EL	6.720891	0.0094	MM	11	26N	59E
94782	Oct-22	44731	204	HUGHES, ARLIN AND DENISE	UG		LI	2.9	0.00404	STK	16	05S	69E
94783	Oct-22	596DTR	087	PYRAMID LAKE PAIUTE TRIBE	STR	TRUCKEE RIVER	WA	19.59	0	WLD	07	19N	20E
94784	Oct-22	64435	162	FRONT SIGHT MANAGEMENT LLC	UG	EAST WELL	NY	144	0.542	CON	14	22S	54E
94785	Oct-22	64832	162	FRONT SIGHT MANAGEMENT LLC	UG	EAST WELL	NY	170	0.465	CON	14	22S	54E
94786	Oct-22	64834	162	FRONT SIGHT MANAGEMENT LLC	UG	EAST WELL	NY	95	0.233	CON	14	22S	54E
94787	Oct-23	92929	045	ROYER, JOSEPH W.	UG		EL	2.455	0.004	COM	27	33N	58E
94788	Oct-23	207DTR	083	TRI GENERAL IMPROVEMENT DISTRICT	STR	TRUCKEE RIVER	ST	304.747	1.735	MUN	25	20N	22E



# Monthly Report (Highlighted Applications are in the Humboldt River Basin)

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APP NO.	DATE	CHG	BASIN	OWNER NAME	SRC	DESCRIPTION	CO	DUTY	DIV RATE	MOU	POINT OF DIVERSION		
											SEC	TWN	RNG
30265R01	Sep-18	30265	108	BOWDEN, LELAND D. AND PAULA J.	UG		LY	2	0.0125	DOM	11	12N	25E
68085R08	Sep-15	68085	162	INNOVATIVE DEVELOPMENTS LLC	UG		NY	2	0.0044	DOM	32	20S	53E
68085R09	Sep-22	68085	162	CLOUD NV DEVELOPERS LLC	UG		NY	2	0.0044	DOM	36	20S	53E
69102R04	Sep-12	69102	162	AA HOUSING SOLUTIONS LLC	UG		NY	2	0.006	DOM	29	20S	53E
75765R129	Sep-03	75765	162	BEIERWALTES, RANDY ALAN & BARBRA LEATHERS	UG		NY	2	0.0078	DOM	24	20S	52E
78076R03	Sep-04	78076	105	BENTLY PRESSURIZED BEARING COMPANY	UG		DO	6	0.072	DOM	14	13N	20E
78528R05	Sep-08	78528	087	CLAY TERAMO/TERAMO FAMILY TRUST	UG		WA	2	0.00954	DOM	36	19N	19E
94690	Sep-04	85123	056	BROOKS, KARL AND STACY	UG		NY	1743.16	8.7	IRR	33	15N	41E
94691	Sep-04		047	AGEE, TYLER W.	SPR	LUX'S SPRING	EL	1.38	0.0019	STK	16	29N	56E
94692	Sep-04		047	AGEE, TYLER W.	UG	AGEE'S BLM WELL	EL	1.41	0.002	STK	19	29N	56E
94693	Sep-04	16963	029	NEVADA - DEPARTMENT OF TRANSPORTATION	UG		HU	5.35	0.02	QM	19	45N	31E
94694	Sep-04	69726	184	CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS	UG		WP	600	4	IRR	02	16N	67E
94695	Sep-05	DWR-3	106	WALKER BASIN CONSERVANCY	STR	WEST WALKER RIVER	DO	0	3.3	WLD	17	10N	23E
94696	Sep-05	1258	106	WALKER BASIN CONSERVANCY	STR	WEST WALKER RIVER	DO	240	0.8	WLD	17	10N	23E
94697	Sep-05	2040A03	108	WALKER BASIN CONSERVANCY	STR	EAST WALKER RIVER	LY	451.91	0.93	WLD	14	11N	26E
94698	Sep-05	2523	106	WALKER BASIN CONSERVANCY	STR	WEST WALKER RIVER	DO	555.3	1.851	WLD	17	10N	23E
94699	Sep-05		127	BENCH CREEK RANCH CO, LLC.	UG	SOUTH KELLOG WELL	CH	11.94	0.0165	STK	25	18N	36E
94700	Sep-05	89102	088	MT. ROSE DEVELOPMENT	UG		WA	386.669	1	REC	19	17N	19E

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APP NO.	DATE	CHG	BASIN	OWNER NAME	SRC	DESCRIPTION	CO	DUTY	DIV RATE	MOU	POINT OF DIVERSION		
											SEC	TWN	RNG
94701T	Sep-05	20765	105	DREYER FOOTHILL RANCH, LLC	UG		DO	40	0.17	QM	10	12N	19E
94702	Sep-08		195	BAKER WATER & SEWER GENERAL IMPROVEMENT DISTRICT	UG		WP	50	0.2	MUN	12	13N	69E
94703	Sep-08		195	BAKER WATER & SEWER GENERAL IMPROVEMENT DISTRICT	UG		WP	50	0.2	MUN	12	13N	69E
94704	Sep-08		195	BAKER WATER & SEWER GENERAL IMPROVEMENT DISTRICT	UG		WP	50	0.2	MUN	12	13N	69E
94705	Sep-08	89863	053	NEVADA GOLD MINES LLC	UG	GDW-23001	EU	16.8	0.0234	MM	11	26N	48E
94706	Sep-08	39167	084	FRIEDMAN, TORY A.	UG		WA	5	0.007	IRR	18	22N	22E
94707	Sep-09	165DTR	087	BRUCE, MARK AND LISA	STR	TRUCKEE RIVER	WA	2.52	0.009	DEC	19	19N	19E
94708	Sep-10	27275	069	PARADISE VALLEY GROWERS LLC	UG		HU	169.96	0.787	IRR	23	41N	39E
94709	Sep-10	43158	069	PARADISE VALLEY GROWERS LLC	UG		HU	11.22	0.0203	IRR	10	41N	39E
94710	Sep-10		144	ESMERALDA CATTLE COMPANY,	UG	HIGHWAY 95 WELL	ES	11.76	0.07	STK	25	04S	42E
94711	Sep-10	89125	105	EAST VALLEY VIEW, LLC	UG		DO	1.2	0.005	IRR	23	12N	19E
94712	Sep-10	89126	105	EAST VALLEY VIEW, LLC	UG		DO	2.41	0.0067	IRR	23	12N	19E
94713	Sep-10	89127	105	EAST VALLEY VIEW, LLC	UG		DO	2.41	0.0019	IRR	23	12N	19E
94714	Sep-12	22210	179	STEPTOE FARMS, LLC	UG		WP	140	0.74	IRR	21	26N	65E
94715	Sep-12	22211	179	STEPTOE FARMS, LLC	UG		WP	138.2	0.72	IRR	21	26N	65E
94716	Sep-12	24226	179	STEPTOE FARMS, LLC	UG		WP	118.04	0.69	IRR	21	26N	65E
94717	Sep-12	24227	179	STEPTOE FARMS, LLC	UG		WP	49.6	0.18	IRR	21	26N	65E
94718	Sep-12	81046	048	TOMERA, KEVIN	UG	TOMERA RANCH WELL	EL	2	0.011	STK	26	31N	53E
94719	Sep-17	39167	084	WSR LAND, LLC	UG		WA	20	0.028	IRR	13	24N	19E
94720	Sep-17	55603	084	WSR LAND, LLC	UG		WA	15.68	0.0217	IRR	13	24N	19E
94721	Sep-17	55605	084	WSR LAND, LLC	UG		WA	4.32	0.0166	IRR	13	24N	19E
94722	Sep-18	92688	212	MOORE, FREDERICK STEVEN AND SUZY W	UG		CL	1	0.003	QM	32	19S	60E
94723	Sep-18	91622	212	MADISON WATER LLC	UG		CL	7.46	0.0103	COM	20	23S	61E

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APP NO.	DATE	CHG	BASIN	OWNER NAME	SRC	DESCRIPTION	CO	DUTY	DIV RATE	MOU	POINT OF DIVERSION		
											SEC	TWN	RNG
94724	Sep-18	91622	212	MADISON WATER LLC	UG		CL	0.63	0.0009	COM	20	23S	61E
94725	Sep-18	91623	212	MADISON WATER LLC	UG		CL	6.87	0.08	COM	20	23S	61E
94726	Sep-18	91625	212	MADISON WATER LLC	UG		CL	10	0.0139	COM	20	23S	61E
94727	Sep-18	91621	212	MADISON WATER LLC	UG		CL	10.04	0.0138	COM	20	23S	61E
94728	Sep-18	91621	212	MADISON WATER LLC	UG		CL	35	0.0482	COM	05	19S	63E
94729	Sep-18	3946	105	THURM, GARY E. JR.	STR	PINE NUT CREEK	DO	59.37	0.198	IRR	25	12N	21E
94730	Sep-18	22208	179	STEPTOE FARMS, LLC	UG		WP	82.28	0.31	IRR	19	21N	64E
94731	Sep-18	23358	179	STEPTOE FARMS, LLC	UG		WP	178.64	0.59	IRR	19	21N	64E
94732	Sep-18	80756	179	STEPTOE FARMS, LLC	UG		WP	134.36	0.67	IRR	19	21N	64E
94733	Sep-18	27222	179	STEPTOE FARMS, LLC	UG		WP	124.8	0.55	IRR	19	21N	64E
94734	Sep-19		070	5T HOLDINGS, LLC	UG	OLD WELL	HU	0	6	IRR	14	35N	37E
94735	Sep-19	52749	142	TONOPAH DIVIDE MINING COMPANY	UG		ES	361.515	0.5	MM	08	01N	42E
94736T	Sep-22	48296	048	LINN, SHAD S.	UG	WELL 1	EL	1.5	0.002	CON	11	33N	56E
94737	Sep-22		212	PALMER, DAVID S AND LORI L	UG		CL	2.24	0.00309	QM	15	22S	60E
94738	Sep-22	89232	054	NEVADA GOLD MINES LLC	UG	DB-38 CORTEZ DISTRICT	LA	23.453	0.0324	MM	06	27N	47E
94739	Sep-22		229	ANGLOGOLD ASHANTI NORTH AMERICA INC.	UG	WELL CF-M-PW1	NY	0	0.264	MMD	32	11S	48E
94740	Sep-22		066	ORO VACA, INC.	UG	STOCK WELL	HU	0	0.025	STK	23	38N	43E
94741	Sep-22	86912	071	SHIER FAMILY PRESERVATION TRUST	UG		PE	9.94	0.045	IRR	31	34N	38E
94742	Sep-24		101	GENESIS IRONWORKS, LLC	UG		CH	0.75	0.07	COM	29	20N	26E
94743	Sep-24	28357	179	STEPTOE FARMS, LLC	UG		WP	80.92	0.043	IRR	19	21N	64E
94744	Sep-24	28357	179	STEPTOE FARMS, LLC	UG		WP	157.28	0.34	IRR	21	26N	65E
94745T	Sep-25	90484	121A	TIPTON, TONY AND JERRIE	UG		MI	87	0.45	CON	29	06N	35E
94746	Sep-25	DCTR-3	101	MORRISON, MONTE C. AND AMY	STR	TRUCKEE AND CARSON RIVERS	CH	2.87	0	DEC	33	19N	26E

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APP NO.	DATE	CHG	BASIN	OWNER NAME	SRC	DESCRIPTION	CO	DUTY	DIV RATE	MOU	POINT OF DIVERSION		
											SEC	TWN	RNG
94747T	Sep-26	79834	048	GREAT BASIN WATER COMPANY	UG		EL	723.97	1	MUN	31	33N	57E
94748	Sep-29	DCTR-3	101	JOHNSON FAMILY TRUST	STR	TRUCKEE AND CARSON RIVERS	CH	7	0	DEC	33	19N	26E
94749	Sep-29	85138	108	CITY OF YERINGTON	UG	PW-1	MI	500	0.6907	CON	35	12N	27E
94750	Sep-29	85138	108	CITY OF YERINGTON	UG	PW-A	MI	500	0.6907	CON	21	12N	27E
94751	Sep-29	53715	061	NEVADA GOLD MINES LLC AND GOLDCORP DEE LLC	UG	BW-58	EU	196.3429	0.38	MM	14	36N	49E
94752	Sep-29	58254	061	NEVADA GOLD MINES LLC AND GOLDCORP DEE LLC	UG	BW-58	EU	1084.5	2	MM	14	36N	49E
94753	Sep-29	86654	061	NEVADA GOLD MINES LLC	UG	BW-58	EU	1084.5	2	MMD	14	36N	49E
V12782	Sep-04		044	ALLIE T. BEAR FAMILY TRUST, DATED JANUARY 31, 2011	SPR	UPPER SIXTEEN MILE SPRING	EL	0	0.17	STK	26	36N	54E
V12783	Sep-04		038	PRUNTY RANCH LLC	SPR	HOUSE SPRING	EL	0	0.008	STK	27	44N	57E
V12784	Sep-04		183	PATRICK AND KEN LYTLE GLOECKNER	STR	WILSON CREEK	LI	0	0	STK	28	05N	68E
V12785	Sep-26		054	ALISON EILEE ITZA GRANTOR AND TRUSTEE, OR ANY SUCCESSOR TRUSTEE, OF THE SKD LIVING TRUST, DATED MARCH 14, 2019	STR	INDIAN CREEK	LA	0	0.0037	STK	02	28N	46E
V12786	Sep-26		054	ALISON EILEE ITZA GRANTOR AND TRUSTEE, OR ANY SUCCESSOR TRUSTEE, OF THE SKD LIVING TRUST, DATED MARCH 14, 2019	STR	FERRIS CREEK	LA	0	0.0037	STK	02	28N	46E



## **Gold Standard Ventures (US) Inc.**

**A wholly owned subsidiary of Orla Mining Ltd.**

# **DRAFT Water Resources Monitoring, Management, and Mitigation Plan – South Railroad Project**

**November 2025**

Prepared by Orla Mining LLC in coordination with Elko and Eureka County

**GOLD STANDARD VENTURES (US) Inc. (GSV), A WHOLLY OWNED SUBSIDIARY OF ORLA MINING LLC. HAS PREPARED THIS WATER RESOURCES MONITORING, MANAGEMENT, AND MITIGATION PLAN FOR POTENTIAL UNKNOWN AND UNPREDICTED IMPACTS TO SEEPS/SPRINGS WITHIN ELKO and EUREKA COUNTYS RELATED TO THE SOUTH RAILROAD PROJECT**

## **Background**

GSV South Railroad Project (the Project) is a proposed open pit gold and silver mine operation within the Piñon Range in Elko County, Nevada, as shown in Map 1. Mining is proposed to occur in four pits, with ore processed onsite at a conventional heap leach pad and waste rock placed in three waste rock disposal facilities (WRDFs) and as pit backfill. Dewatering is proposed to access ore in the Dark Star Main and Dark Star North pits, whereas dewatering is not anticipated for the Pinion North and Pinion Main pits. As part of the Project, groundwater would be extracted for pit volume dewatering and consumptive use, with excess water treated for arsenic and temperature and discharged into an unnamed tributary to Dixie Creek (herein called the unnamed discharge tributary). A predictive groundwater flow modeling analysis was performed, predicting the maximum extent of the 10-foot drawdown contour for the Project. An Area of Analyses for the Project has been defined as combination of the South Railroad mine permit area (Mine Permit Area), the one-mile buffer zone beyond the maximum 10-foot drawdown isopleth contour, the site access road with a 300-foot buffer zone, and Dixie Creek, including its headwaters catchment shown in Map 1.

This Water Resources Monitoring, Management, and Mitigation (3M) Plan applies to proposed groundwater extraction from the Dixie Creek – Tenmile Creek Area Hydrographic Basin (No. 48) for mining, processing, and dewatering water rights for the South Railroad Mine Project (Project). Applications under review with the Nevada Division of Water Resources (NDWR) include application numbers 91529 – 91539, and a change application 94310. All applications once approved will be subject to this 3M Plan.

## **Purpose and Intent of this 3M Plan**

The 3M Plan is designed to monitor certain potential impacts to groundwater and ultimately surface water as the result of mine dewatering to senior water rights holders. This 3M Plan will assist GSV in avoiding unknown or unpredicted impacts to seeps and springs within Elko and Eureka Counties, through avoidance or mitigation. It is intended for the 3M Plan to provide the necessary data to assess the response of the aquifer(s) and surface waters to the stress of water extraction by mining activities, provide an early warning capability for management or pre-emptive mitigation actions, and provide safeguards for responsible management of water.

## Study Area and Duration

From the main pumping area of the Dark Star Noth Pit the study area extends approximately 8 miles west into Pine Valley, and approximately 16 miles Northeast into the Dixie Creek Basin located in both Elko and Eureka County, Nevada. The study area is within sections of the Dixie Creek - Ten Mile Creek Hydrographic Basin (No. 48) and the Pine Valley Hydrographic Basin (No. 53) as defined by the NDWR. The land in the study area is a mix of private and public lands administered by the BLM Elko District Office.

This 3M Plan will go into effect once authorization to develop dewatering wells for the South Railroad Project has been received. It will remain in effect into mine closure until such time as the predicted and potential unforeseen effects of dewatering are mitigated where necessary to the satisfaction GSV, NDWR, and both Elko and Eureka Counties.

## Monitoring and Sampling Plan

The South Railroad Project 3M Plan intends to characterize the local water resources around the proposed mine to identify effects of mine dewatering and water management practices and to guide mitigation measures when necessary. Where potential mine effects are anticipated or there are particularly sensitive environmental resources present, the 3M Plan seeks to provide the appropriate data, monitoring frequency, and data quality for regulatory and mitigation-related decision-making. This 3M Plan uses the same proposed monitoring sites and frequencies as the Water Resources Monitoring Plan submitted to NDWR in October 2025, and used the same triggers and actions as proposed in the Monitoring and Contingent Mitigation Plan (MCMP) developed for the BLM as part of NEPA in March, 2025.

Baseline groundwater monitoring at the Project commenced in 2005 with the installation of three monitoring wells, prior to GSV's involvement. Since 2017, additional wells and vibrating wire piezometers (VWPs) have been installed to quantify and monitor changes in groundwater elevations, evaluate groundwater quality, and to monitor hydraulic response to groundwater test pumping. As of 2025 there are 13 wells and 38 VWPs present across the proposed Project and monitoring areas. Maps 2-4 show the existing and proposed future locations for groundwater monitoring forming the basis of this 3M Plan as it pertains to groundwater. Table 1 lists the proposed groundwater monitoring locations, and Table 2 lists the groundwater pumping locations. Both tables include proposed monitoring type and frequency.

**Table 1 – Groundwater Level Monitoring Sites Proposed for Inclusion in the 3M Plan**

Site ID	Collar Elevation (ft-amsl)	Total Depth (ft-bgs) <sup>1</sup>	Screened / Monitored Lithology <sup>2</sup>	Monitoring Area Description	Monitoring Frequency <sup>3</sup>	Longitude (WGS84 / NAD83)	Latitude (WGS84 / NAD83)
PW22-01	6664.0	1040	ST-U, CGL, ST-L	Dark Star	C-D, Q/M	-115.965019	40.467857
DR18-112	6316.0	85	Tcgl	Unnamed (North) Tributary, Dixie Crk.	C-D, Q/M	-115.960798	40.477674
DS-DG-01	6500.0	~125	CGL	Dark Star	C-D, Q/M	-115.964609	40.472285
DS-DG-02	6450.0	~100	Tiw	Dark Star	C-D, Q/M	-115.959981	40.472541
DS-DG-03	6300.0	~75	Tiw	Dark Star	C-D, Q/M	-115.954281	40.471895
DS-DG-04	6400.0	~100	Tiw	Dark Star	C-D, Q/M	-115.955007	40.465406
DS-DG-05	6425.0	~50	Tcgl	Dark Star	C-D, Q/M	-115.970500	40.468897
HLF-DG-01	6550.0	~75	Tcgl	Dark Star	M, Q/M	-115.986842	40.467843
HLF-UG-01	6900.0	~300	Mt	Dark Star	M, Q/M	-115.998819	40.474713
HLF-DG-02	6550.0	~75'	Tcgl	Dark Star	M, Q/M	-115.987637	40.472237
DSW25-02A	6358.0	500	Tcgl	Unnamed (North) Tributary, Dixie Crk.	C-D, Q/M	-115.976667	40.473806
DFP-1	5539.2	65	Qa	Lower Dixie Creek	C-D, Q/M	-115.902647	40.554779
DFP-2	5515.4	70	Qa	Lower Dixie Creek	C-D, Q/M	-115.894913	40.564173
DFP-3	5435.5	60	Qa	Lower Dixie Creek	C-D, Q/M	-115.887740	40.578641
DFP-4	5390.8	25	Qa	Lower Dixie Creek	C-D, Q/M	-115.885768	40.588885
DFP-5	5334.5	20	Qa	Lower Dixie Creek	C-D, Q/M	-115.881610	40.606479
DFP-8	5403.7	40	Qa	Lower Dixie Creek	C-D, Q/M	-115.887925	40.588225
MW-4	6617.0	100	Mc	Pinion	M, Q/M	-116.004252	40.455084
PIN14-28	7075.0	800	Mc	Pinion	M, Q/M	-115.993077	40.455483
PW21-01	6842.0	965	Mtp, mlbx, Ddg	Pinion	M, Q/M	-116.003431	40.460383
Pin-DG-01	6700.0	~200	Mc	Pinion	M, Q/M	-116.013625	40.461768
Pin-UG-01	7300.0	~700	Ddg	Pinion	M, Q/M	-116.005557	40.468942

**Notes:**

<sup>1</sup> Total Depth reported at feet below surface (ft-bgs).

<sup>2</sup> Tcgl = Tertiary conglomerate; Mc = Mississippian Chainman Formation; CGL = Pennsylvanian-Permian conglomerate; Mtp = Mississippian Tripon Pass Formation; mlbx = multi-lithic breccia; Ddg = Devonian Devils Gate Formation; ST-U = Pennsylvanian-Permian upper siltstone; ST-L = Pennsylvanian-Permian lower siltstone; Qa = Quaternary alluvium; Tiw = Tertiary Indian Wells Formation; Mt = Mississippian Tonka Formation

<sup>3</sup> Monitoring frequency: 'C-D-,Q/M' = Continuously monitored w/datalogger and average daily values reported quarterly initially then monthly in areas affected by dewatering once operational; 'M, Q/M' = monthly monitoring with quarterly reporting initially then monthly in areas affected by dewatering once operational

<sup>4</sup> 'TBD' = to be determined; planned future wells



**Table 2 – Existing and Planned Groundwater Pumping Wells and Associated Water Right Points of Diversion**

Site ID (Source Description)	Well Log	Water Right POD(s)	Monitoring Frequency <sup>1</sup>	Longitude (WGS84 / NAD83)	Latitude (WGS84 / NAD83)
DSWW17-01	<a href="#">129070</a>	<a href="#">94392T</a>	C-D, M	40.465838	-115.967482
		<a href="#">91529</a>			
		<a href="#">94310</a>			
SW-01	TBD <sup>2</sup>	<a href="#">91530</a>	C-D, M	40.472179	-115.963411
SW-02		<a href="#">91531</a>		40.471606	-115.960857
SW-03		<a href="#">91532</a>		40.469893	-115.959022
SW-04		<a href="#">91533</a>		40.469070	-115.961600
SW-05		<a href="#">91534</a>		40.468812	-115.965308
SW-06		<a href="#">91535</a>		40.471062	-115.964885
SW-07		<a href="#">91536</a>		40.465724	-115.964193
SW-08		<a href="#">91537</a>		40.467116	-115.964923
SW-09		<a href="#">91538</a>		40.465102	-115.961775
SW-10		<a href="#">91539</a>		40.466548	-115.960151

**Notes:**

<sup>1</sup> Monitoring frequency: 'Q' = Quarterly, 'C-D-,M' = Continuously monitored w/datalogger and average daily pumping values reported quarterly. It should be noted that quarterly monitoring may be increased to monthly frequency just before or once the project is authorized and enters into production.

<sup>2</sup> 'TBD' = to be determined; planned future wells

Surface water monitoring has been ongoing to quantify seasonal variability in discharge rates and water quality. Surface water monitoring sites were initially designated in 2018 using the categories of streams ('ST' designation), seeps and springs ('SP' designation), or persistently green areas (PGA; 'PG' designation). As of 2025, there are 89 designated surface water monitoring locations. Figures 2 – 4 show the existing and proposed future locations for surface water monitoring forming the basis of this 3M Plan. Table 3 lists the surface water sites proposed in this plan and includes location, location description, source type (spring or stream), and monitoring frequency.

**Table 3 – Surface Water Sites Proposed for Inclusion in 3M Plan**

Site ID	Source / Area Name	Source Type	Elev. (ft-amsl)	Monitoring Frequency <sup>1</sup>	Longitude (WGS84 / NAD83)	Latitude (WGS84 / NAD83)
SP4	Unnamed (North) Tributary, Dixie Crk.	Spring	6305	Q	-115.960667	40.478194
ST6	Unnamed (North) Tributary, Dixie Crk.	Stream	5993	Q	-115.944845	40.491104
Dix-2	Unnamed (North) Tributary, Dixie Crk.	Stream	6343	C-D, Q	-115.975401	40.474389
Dix-3	Unnamed (North) Tributary, Dixie Crk.	Stream	6118	C-D, Q	-115.954624	40.483698
Dix-6	Unnamed (North) Tributary, Dixie Crk.	Stream	5839	C-D, Q	-115.928278	40.502213
Dix-1	Upper Dixie Creek North	Stream	5821	C-D, Q	-115.922810	40.504649
Dix-8	Upper Dixie Creek South	Stream	6582	C-D, Q	-115.934341	40.438216
Dix-4A	Lower Dixie Creek	Stream	5776	C-D, Q	-115.921948	40.511334
Dix-4B	Lower Dixie Creek	Stream	5483	C-D, Q	-115.893138	40.564276
Dix-5	Lower Dixie Creek	Stream	5154	C-D, Q	-115.845889	40.680312
ST4	Dixie Fork Trout Creek	Stream	6434	Q	-116.017160	40.459157
ST5	Dixie Fork Trout Creek	Stream	6175	Q	-116.023268	40.453542
SP54	South Fork Trout Creek	Spring	7124	Q	-115.984754	40.432157
SP10 <sup>2</sup>	Trout Creek (Headwater)	Spring	6608	Q	-116.018560	40.471502
SP12	Trout Creek (Headwater)	Spring	6507	Q	-116.022779	40.464457
SP13	Trout Creek (Headwater)	Spring	6473	Q	-116.024580	40.465553
SP15	Trout Creek (Headwater)	Spring	6229	Q	-116.034619	40.472881
ST13	Trout Creek	Stream	5666	Q	-116.057041	40.462616
ST9	Trout Creek (Confluence)	Stream	5471	Q	-116.066290	40.452006
SCW <sup>3</sup>	Upper Smith Creek	Stream	6555	Q	-116.015340	40.418100

**Notes:**

<sup>1</sup> Monitoring frequency: 'Q' = Quarterly, 'C-D-,Q' = Continuously monitored w/datalogger and average daily values reported quarterly. It should be noted that quarterly monitoring may be increased to monthly frequency just before or once the project is authorized and enters production.

<sup>2</sup> SP10 is located ~800 ft upstream of NDWR site 053N30E5321BCBD1 (Trout Creek Spring).

<sup>3</sup> SCW is NDWR site 053N29E535DCDC1 (18" rectangular weir in Smith Creek).

## Weather/Climate

Palmer Hydrological Drought Index (PHDI) data from National Oceanic and Atmospheric Administration NOAA and the US Drought Monitor (USDM) produced jointly by the National Drought Mitigation Center (NDMC) at the University of Nebraska-Lincoln, NOAA, and the U.S. Department of Agriculture (USDA) will also be utilized to identify drought. The purpose of collecting weather/climate and drought data is to provide a basis for evaluating changes in groundwater levels or stream and spring flow due to weather, climate, or drought in comparison to dewatering. Those sites which may be potentially

impacted by mine dewatering will be analyzed statistically including a nonparametric trend analysis tool which has been presented to, and approved by, USEPA and BLM.

The Climate Engine, a cloud computation of climate and remote sensing data hosted by DRI, University of Idaho, and Google, will also be utilized. The Engine provides daily precipitation and potential evapotranspiration starting from January 1, 1979 and has been proved to be viable. Other tools such as OpenET developed by DRI, NASA, EDF, and Google, when publicly available, may be used.

## Reporting

All monitoring data will be entered into the GSV Monitoring Plan (GSVMP) database on a regular, timely, and continual basis as it is collected and verified. The verified data and analysis results will be cooperatively shared among the Parties, and available to the public upon request.

To accomplish this, GSV will add a section to the annual GSVMP report to summarize data and information specific to this 3M Plan including hydrographs and analytical data for surface and groundwater locations.

## Management

Elko County, Eureka County and GSV will meet at least annually with each Party's technical experts in attendance after the annual GSVMP report has been reviewed by both Elko and Eureka County. The intent is to discuss relevant data and analyses under the 3M Plan. The purpose of the meeting and basis for an agenda includes to:

- Determine if any adopted action criteria under this 3M Plan caused by Project groundwater pumping have been reached.
- Review the monitoring data and consider changes or additions to the monitoring elements, as appropriate, including refining standards and quality control procedures for data collection, management, and analysis.
- Review groundwater level trends and spring and stream flows to determine hydrologic trends. Where possible, identify drought effects on groundwater recharge rates and base flows in surface waters.
- Develop management actions to avoid adverse impacts (i.e., avoid having to mitigate), where possible, to water resources or water rights based upon available data and analyses.
- Evaluate the effectiveness of management or mitigation measures, if implemented, and develop any follow-up measures.
- Consider updates to the Groundwater Flow Model (GWFM) including appropriate times for any model updates and modes of model output.

GSV has developed a numerical GWFM to simulate the groundwater flow systems in the 3-Basin model domain (Dixie Creek – Ten Mile Creek Area (No. 48), Pine Valley (No.53), and Huntington Valley (No. 47)). The GWFM will be updated and re-calibrated two years after the start of mine dewatering and per agency requirements thereafter. The intent is to incorporate the data collected by GSV and to improve the understanding of the flow systems. Elko and Eureka County will be provided with the opportunity to participate in the GWFM updates. GSV will consider and incorporate both Counties input and suggestions or provide written explanation to both Counties why any suggestion was not included in the GWFM updates. This will be used as a management tool to evaluate predictions of drawdown, impacts and to help define management and/or mitigation actions.

Any modification to this Plan must be jointly approved by the NDWR, Elko County, Eureka County, and GSV. Nothing herein seeks to limit, alter, modify, or change the exclusive authority of the NDWR to approve or modify any water resources plan under NDWR authority.

## Action Criteria for Management or Mitigation Actions

The South Railroad Project approval is limited to a defined period of 1.5 years for construction, 10 years of operation (including 4 to 6 years of dewatering), and an additional 5 years of management and closure activities, for a total of 16.5 years.

The GWFM report and previous geochemical studies demonstrate that the vast majority of the seeps and springs in the area are perched above the regional bedrock groundwater table and it is unlikely they will be impacted by mine dewatering. A possible exception includes one thermal spring (SP4), which based on temperature and geochemical signature appears to be supplied by a deeper bedrock groundwater source\_which is the targeted dewatering aquifer.

As additional data are collected under this 3M Plan, efforts will be made by GSV and Elko/Eureka County to use this data to develop specific quantitative action criteria, if possible, to provide early warning of potential adverse impacts to water rights, determined to be caused by Project groundwater pumping. Initially however, the basis for action criteria will be based on the “Triggers and Mitigation Recommendations” as presented in the “Monitoring and Contingent Mitigation Plan, Stantec March 2025” (MCMP) and presented in Appendix A. When any action criterion developed and adopted as part of this either this 3M Plan or MCMP is reached, the Parties will meet as soon as possible to assess whether the action criterion impact is caused by Project groundwater pumping.

If it is determined by the Parties that any action criterion impact is caused by Project groundwater pumping, the Parties will expeditiously develop mitigation or management measures using the MCMP as the initial guide. The Parties will analyze the feasibility of the specific measures to assess alternatives, evaluate the potential effectiveness of the measures, and evaluate potential impacts created by implementation of the measures. Any Party may propose an additional action criterion or a change to existing action criteria.

Implementation of any management or mitigation action will be subject to the jurisdiction and authority of the NDWR.

If Elko County, Eureka County, and GSV cannot reach an agreement on management or mitigation actions, the Parties may jointly agree to conduct additional data collection and/or data review and analyses directed at resolving the different interpretations or opinions. If that is not successful, the Parties may refer the issue, accompanied by their respective opinions, to NDWR. Nothing herein limits or changes the NDWR authority, and any Party can petition the NDWR to consider any issue.

## Mitigation Actions

This 3M Plan outlines measures and procedures to identify and mitigate unknown and unpredicted impacts that may result from Project pumping. The 3M Plan is intended to set forth procedures and methods for identifying unknown and unpredicted impacts and require mitigation of those identified impacts. GSV will mitigate any currently predicted and unpredicted adverse impacts as agreed upon under the provisions of this 3M Plan. GSV will take necessary steps to ensure that mitigation actions are feasible, reasonable, timely, and effective. The MCMP will form the basis and starting point for deciding appropriate mitigation actions.

The effectiveness of implemented mitigation measures will be evaluated under the provisions of this 3M Plan. Additional measures will be implemented, or existing measures will be adapted if a previous mitigation measure does not meet its intended purpose(s).

If it is shown through the 3M Plan or other monitoring, and confirmed by the State Engineer, that withdrawal of groundwater the [Project] is reducing the volume of water allocated to a senior water right holder including vested water right claimants, GSV agrees to take actions authorized and required by Nevada law to offset the volume reduction or take other actions to make the senior water right holder whole. Any agreements will be provided in writing to the State Engineer, Elko and Eureka Counties.

Mitigation measures, if necessary, will be developed and implemented on a case-by-case basis under provisions of this 3M Plan using the MCMP as a guide. Potential mitigation measures and strategies will be agreed upon by all parties before being implemented and will follow an adaptive management strategy. Adaptive management will allow for a period of data collection and review to determine the effectiveness of any potential mitigation measures and ensure such measures are appropriate. Mitigation measures may include but are not limited to the following:

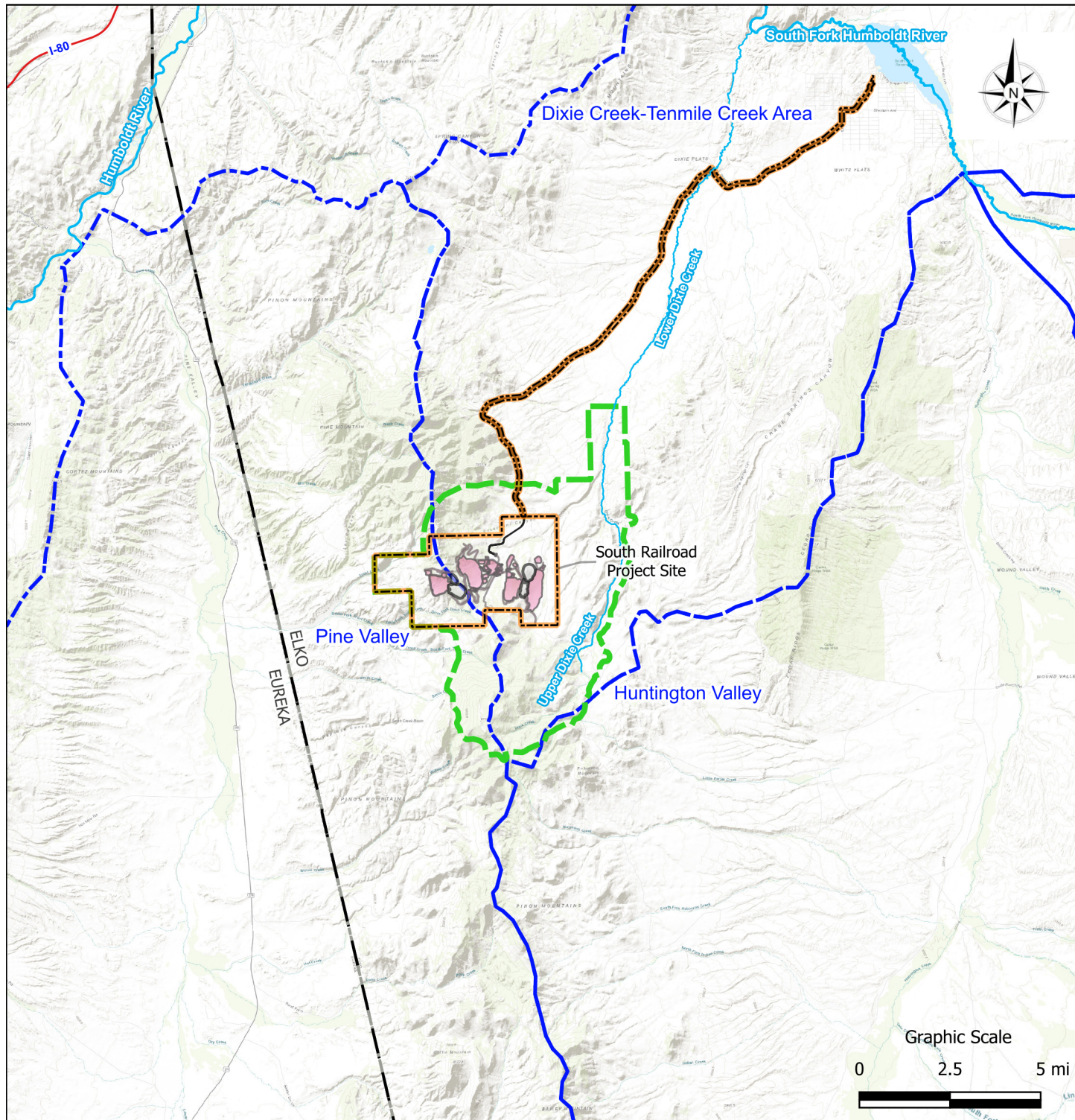
- Replacement wells constructed (with an associated groundwater right) to mitigate impacted surface water or groundwater rights, or to supply water for wildlife.
- Pipe from existing sources and use troughs or other suitable method.

- Enhanced development of existing seeps and springs with fencing and/or spring boxes.
- Financial compensation through an agreement between GSV and any impacted senior water rights holder.
- Active and current water rights (water currently pumped) within the affected basin could be purchased and retired.
- Implement technology to reduce water consumption of the Project. Pumping rates may be decreased if alternative technology emerges that could reduce water requirements or increase water recycling rates. Water conservation techniques will be proactively employed to reduce other mitigation measures (i.e., before any impact is measured).
- Modify discharge locations and/or quantity of water sent to certain tributaries or streams.
- Reduction or cessation of groundwater extraction from one or more wells and/or geographic redistribution of groundwater extraction.

## Modification of the 3M

Any Party may request a modification of this 3M Plan. The Parties will work in good faith to make any reasonable or necessary modifications. Any modification to the 3M Plan will be submitted to NDWR with a request to adopt the modified 3M Plan.





## Legend

### South Railroad Project Facilities

#### Proposed Plan of Operations Boundary

- Main Project Area
- North Access Route
- Access Road
- Simulated 10-ft Drawdown Isopleth + 1-Mile

#### Proposed Facilities

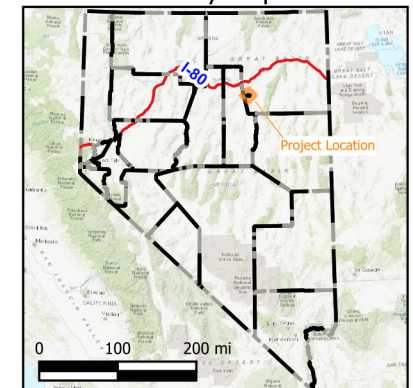
- Facility Boundaries
- Proposed Open Pit Mine Areas

#### Hydrographic Basin Boundaries

- Dixie Creek-Tenmile Creek Area, Pine Valley and Huntington Valley
- Named Streams
- Eureka/Elko County Line

ESRI Topo Basemap

### Vicinity Map



Dixon Hydrologic, PLLC  
Engineering Hydrology and Water Rights Permitting



## **Gold Standard Ventures (US) Inc.**

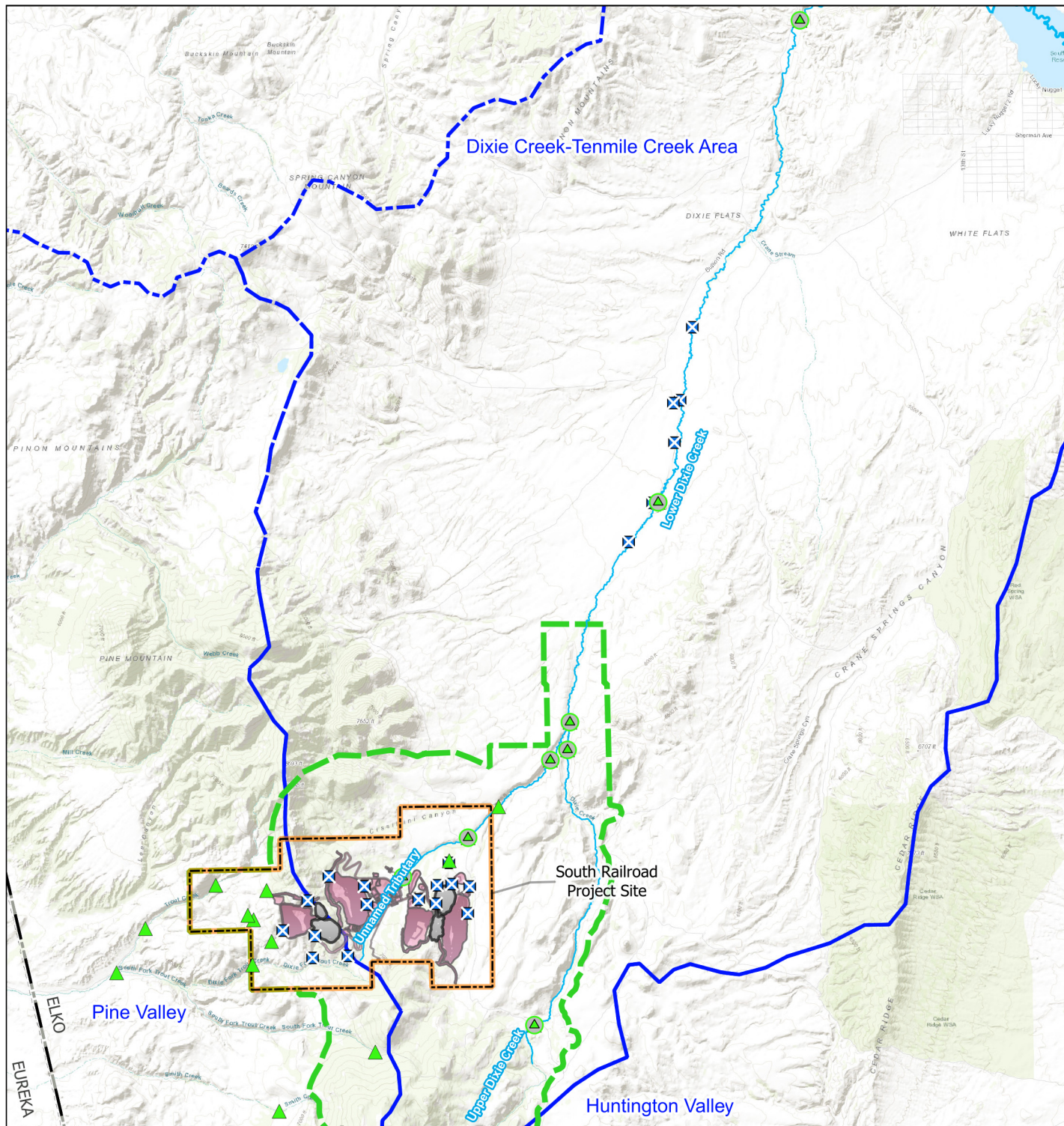
South Railroad Project  
Water Resources Monitoring, Management, and  
Mitigation Plan  
Site Map

### Map 1

Date: 11/6/2025

By: Jay Dixon, P.E.





## Legend

### South Railroad Project Facilities

#### Proposed Plan of Operations Boundary

Main Project Area

Simulated 10-ft Drawdown Isopleth + 1-Mile

#### Proposed Facilities

Facility Boundaries

Proposed Open Pit Mine Areas

#### Proposed WRMP Sites

##### Groundwater Level Monitoring Sites

Monitoring Wells

##### Surface Water Flow Monitoring Sites

Springs and Streams

Dixie Creek Gages

Dixie Creek

##### Hydrographic Basin Boundaries

Dixie Creek-Tenmile Creek Area,  
Pine Valley and Huntington Valley

Eureka/Elko County Line

ESRI Topo Basemap



Graphic Scale

0 2 4 mi



Dixon Hydrologic, PLLC  
Engineering Hydrology and Water Rights Permitting



## Gold Standard Ventures (US) Inc.

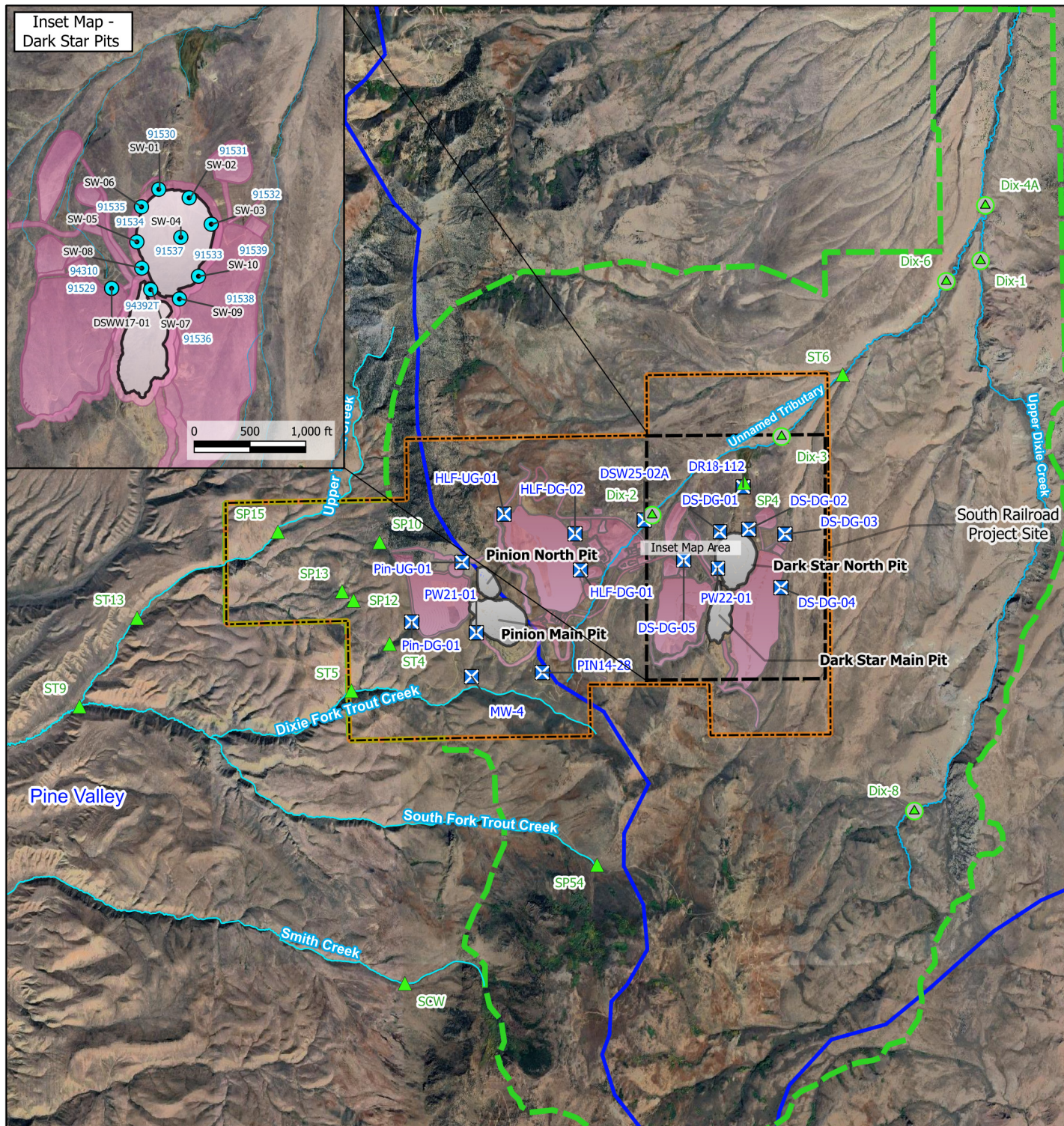
South Railroad Project  
Water Resources Monitoring, Management, and  
Mitigation Plan  
Proposed Monitoring Sites

Map 2

Date: 11/6/2025

By: Jay Dixon, P.E.





## Legend

### South Railroad Project Facilities

#### Proposed Plan of Operations Boundary

- Main Project Area
- Access Road
- Simulated 10-ft Drawdown Isopleth + 1-Mile

#### Proposed Facilities

- Facility Boundaries
- Proposed Open Pit Mine Areas

#### Hydrographic Basin Boundaries

- Dixie Creek-Tenmile Creek Area, Pine Valley and Huntington Valley
- Eureka/Elko County Line

#### Proposed WRMP Sites

##### Groundwater Level Monitoring Sites

- X Monitoring Wells

##### Surface Water Flow Monitoring Sites

- ▲ Springs and Streams
- △ Dixie Creek Gages
- Named Streams

#### SRR Water Right Points of Diversion

- Proposed and Existing Well (DSWW17-01)



Graphic Scale

0 1 2 mi

Dixon Hydrologic, PLLC  
Engineering Hydrology and Water Rights Permitting



## Gold Standard Ventures (US) Inc.

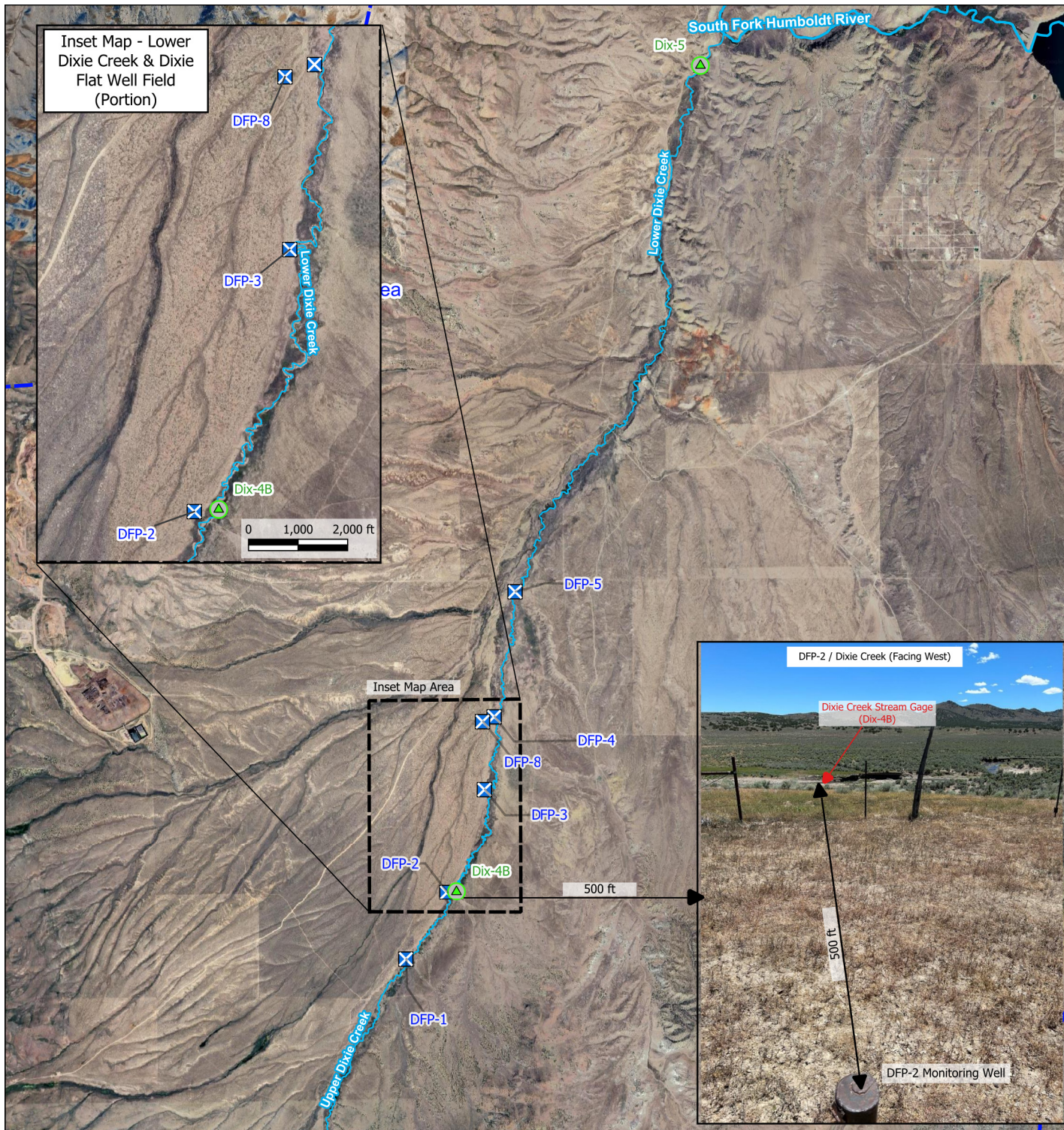
South Railroad Project  
Water Resources Monitoring, Management, and  
Mitigation Plan  
(Near Mine Area)

Map 3

Date: 11/6/2025

By: Jay Dixon, P.E.





## Legend

Hydrographic Basin Boundaries

Dixie Creek-Tenmile Creek Area, Pine Valley and Huntington Valley

Proposed Monitoring Plan Sites

Select Groundwater Monitoring Sites

Monitoring Wells

Select Surface Water Monitoring Sites

Dixie Creek Gages

Named Streams



Graphic Scale

0 1 2 mi

Dixon Hydrologic, PLLC  
Engineering Hydrology and Water Rights Permitting



**Gold Standard Ventures (US) Inc.**

South Railroad Project  
Water Resources Monitoring, Management, and  
Mitigation Plan  
(Lower Dixie Creek / Dixie Flat Area)

Map 4

Date: 11/6/2025

By: Jay Dixon, P.E.



# **APPENDIX A**

## **TRIGGERS AND MITIGATION RECOMENDATIONS**

## Monitoring and Contingent Mitigation Plan

### *Triggers and Mitigation Recommendations*

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
SP20	Access Road	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP22	Access Road	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP25	Access Road	No	Yes	TBD	Insufficient data	TBD	TBD
SP28	Access Road	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP29	Access Road	No	Yes	TBD	Insufficient data	TBD	TBD
SP39	Cissilini Canyon	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP40	Cissilini Canyon	No	Yes	TBD	Insufficient data	TBD	TBD
SP41	Cissilini Canyon	No	Yes	TBD	Insufficient data	TBD	TBD
SP42	Cissilini Canyon	No	Yes	TBD	Insufficient data	TBD	TBD
SP43	Cissilini Canyon	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP44	Cissilini Canyon	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP45	Cissilini Canyon	No	Yes	TBD	Insufficient data	TBD	TBD
SP46	Cissilini Canyon	No	Yes	TBD	Insufficient data	TBD	TBD
SP1	Dark Star East	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
SP17	Dark Star East	No	Yes	TBD	Insufficient data	TBD	TBD
SP17A	Dark Star East	No	Yes	TBD	Insufficient data	TBD	TBD
SP17B	Dark Star East	No	Yes	TBD	Insufficient data	TBD	TBD

## Monitoring and Contingent Mitigation Plan

### Triggers and Mitigation Recommendations

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
SP3	Dark Star East	No	No	None	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is not present.	None	TBD
SP47	Dark Star East	No	No	TBD	Insufficient data	TBD	TBD
SP8	Dark Star East	No	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
SP9	Dark Star East	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
ST1	Dark Star East	Yes	No	None	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is not present.	None	TBD

## Monitoring and Contingent Mitigation Plan

### Triggers and Mitigation Recommendations

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
PG1	Dark Star West	No	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
PG2	Dark Star West	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
SP34	Dark Star West	No	Yes	TBD	Insufficient data	TBD	TBD
SP36	Dark Star West	No	Yes	TBD	Insufficient data	TBD	TBD
SP37	Dark Star West	No	Yes	TBD	Insufficient data	TBD	TBD
SP38	Dark Star West	No	Yes	TBD	Insufficient data	TBD	TBD
SP58	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP59	Dixie Creek Headwaters	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP60	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP61	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP62	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP63	Dixie Creek Headwaters	Yes	Yes	TBD	Insufficient data	TBD	TBD

## Monitoring and Contingent Mitigation Plan

### *Triggers and Mitigation Recommendations*

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
SP74	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP75	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP76	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP77	Dixie Creek Headwaters	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP78	Dixie Creek Headwaters	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP79	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP80	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP81	Dixie Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP83	Dixie Creek Headwaters	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP84	Dixie Creek Headwaters	Yes	Yes	TBD	Insufficient data	TBD	TBD
ST3	Dixie Fork Trout Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing

## Monitoring and Contingent Mitigation Plan

### Triggers and Mitigation Recommendations

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
ST4	Dixie Fork Trout Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 7.6 = low-flow average as of Q4 2024 Trigger 2: 1 = lowest recorded low flow sampling period amount Flow to be provided: 1 gpm	Piping water from new or existing source
ST5	Dixie Fork Trout Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 27.1 = low-flow average as of Q4 2024 Trigger 2: 1.4 = lowest recorded low flow sampling period amount Flow to be provided: 1.4 gpm	Piping water from new or existing source
ST7	Dixie Fork Trout Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
Dix-4A	Lower Dixie Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 547.7 = low-flow average as of Q4 2024 Trigger 2: 16 = lowest recorded low flow sampling period amount Flow to be provided: 16 gpm	Piping water from new or existing source. Mitigation measures at this site will be coordinated with mitigations at other Dixie Creek sites.



## Monitoring and Contingent Mitigation Plan

### Triggers and Mitigation Recommendations

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
Dix-4B	Lower Dixie Creek	Yes	No data available	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 186.4 = low-flow average as of Q4 2024 Trigger 2: 0 = lowest recorded low flow sampling period amount Flow to be provided: 0.5 gpm	Piping water from new or existing source. Mitigation measures at this site will be coordinated with mitigations at other Dixie Creek sites.
Dix-4C	Lower Dixie Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 168 = low-flow average as of Q4 2024 Trigger 2: 9.2 = lowest recorded low flow sampling period amount Flow to be provided: 9.2 gpm	Piping water from new or existing source. Mitigation measures at this site will be coordinated with mitigations at other Dixie Creek sites.
Dix-5	Lower Dixie Creek	Yes	No data available	None	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is not present.	None	TBD. Mitigation measures at this site will be coordinated with mitigations at other Dixie Creek sites.
SP53	South Fork Trout Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP54	South Fork Trout Creek Headwaters	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP55	South Fork Trout Creek Headwaters	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP56	South Fork Trout Creek Headwaters	No	Yes	TBD	Insufficient data	TBD	TBD
SP57	South Fork Trout Creek Headwaters	Yes	Yes	TBD	Insufficient data	TBD	TBD

## Monitoring and Contingent Mitigation Plan

### Triggers and Mitigation Recommendations

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
Dix-2	Unnamed Tributary to Dixie Creek	Yes	No data available	None	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is not present.	None	TBD. Mitigation measures at this site will be coordinated with mitigations at other Dixie Creek sites.
Dix-3	Unnamed Tributary to Dixie Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 465 = low-flow average as of Q4 2024 Trigger 2: 9.2 = lowest recorded low flow sampling period amount Flow to be provided: 9.2 gpm	Piping water from new or existing source. Mitigation measures at this site will be coordinated with mitigations at other Dixie Creek sites.
Dix-6	Unnamed Tributary to Dixie Creek	Yes	No data available	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 382.7 = low-flow average as of Q4 2024 Trigger 2: 19 = lowest recorded low flow sampling period amount Flow to be provided: 19 gpm	Piping water from new or existing source. Mitigation measures at this site will be coordinated with mitigations at other Dixie Creek sites.
PG3	Unnamed Tributary to Dixie Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing

## Monitoring and Contingent Mitigation Plan

### Triggers and Mitigation Recommendations

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
PG4	Unnamed Tributary to Dixie Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
PG5	Unnamed Tributary to Dixie Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
SP31	Unnamed Tributary to Dixie Creek	No	Yes	TBD	Insufficient data	TBD	TBD
SP35	Unnamed Tributary to Dixie Creek	No	No	TBD	Insufficient data	TBD	TBD
SP4	Unnamed Tributary to Dixie Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 30.6 = low-flow average as of Q4 2024 Trigger 2: 0 = lowest recorded low flow sampling period amount Flow to be provided: 0.5 gpm	Piping water from new or existing source
SP4A	Unnamed Tributary to Dixie Creek	Yes	No data available	TBD	Insufficient data	TBD	TBD

## Monitoring and Contingent Mitigation Plan

### Triggers and Mitigation Recommendations

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
SP5	Unnamed Tributary to Dixie Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
SP6	Unnamed Tributary to Dixie Creek	No	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
SP7	Unnamed Tributary to Dixie Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
ST2	Unnamed Tributary to Dixie Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing

## Monitoring and Contingent Mitigation Plan

### Triggers and Mitigation Recommendations

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
ST6	Unnamed Tributary to Dixie Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 338 = low-flow average as of Q4 2024 Trigger 2: 140 = lowest recorded low flow sampling period amount Flow to be provided: 140 gpm	Piping water from new or existing source
ST8	Unnamed Tributary to Dixie Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 184.4 = low-flow average as of Q4 2024 Trigger 2: 45 = lowest recorded low flow sampling period amount Flow to be provided: 45 gpm	Piping water from new or existing source
SP10	Unnamed Tributary to Trout Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
SP11	Unnamed Tributary to Trout Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing

## Monitoring and Contingent Mitigation Plan

### Triggers and Mitigation Recommendations

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
SP12	Unnamed Tributary to Trout Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 24.4 = low-flow average as of Q4 2024 Trigger 2: 6.4 = lowest recorded low flow sampling period amount Flow to be provided: 6.4 gpm	Piping water from new or existing source
SP13	Unnamed Tributary to Trout Creek	Yes	Yes	Vegetation-based	Measurable flow is inconsistently available (less than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year and hydrophytic vegetation is present.	Flow to be provided should be sufficient to maintain hydrophytic vegetation at the site. This is anticipated to be about 0.50 gpm.	Enhanced development or fencing
SP14	Unnamed Tributary to Trout Creek	No	Yes	TBD	Insufficient data	TBD	TBD
SP15	Unnamed Tributary to Trout Creek	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 2 = low-flow average as of Q4 2024 Trigger 2: 0 = lowest recorded low flow sampling period amount Flow to be provided: 0.5 gpm	Piping water from new or existing source
SP30	Unnamed Tributary to Trout Creek	No	No	TBD	Insufficient data	TBD	TBD
Dix-1	Upper Dixie Creek North	Yes	Yes	Flow-based	Measurable flow is consistently available (more than 50% of the time) within the site's dataset during low-flow periods (Q3 and Q4) of the year.	Trigger 1: 135.3 = low-flow average as of Q4 2024 Trigger 2: 0 = lowest recorded low flow sampling period amount Flow to be provided: 0.5 gpm	Piping water from new or existing source. Mitigation measures at this site will be coordinated with mitigations at other Dixie Creek sites.

## Monitoring and Contingent Mitigation Plan

### *Triggers and Mitigation Recommendations*

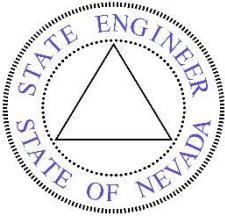
Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
SP48	Upper Dixie Creek North	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP49	Upper Dixie Creek North	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP50	Upper Dixie Creek North	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP82	Upper Dixie Creek North	No	Yes	TBD	Insufficient data	TBD	TBD
SP85	Upper Dixie Creek North	Yes	Yes	TBD	Insufficient data	TBD	TBD
Dix-8	Upper Dixie Creek South	Yes	Yes	TBD	Insufficient data	TBD	TBD. Mitigation measures at this site will be coordinated with mitigations at other Dixie Creek sites.
SP52	Upper Dixie Creek South	No	Yes	TBD	Insufficient data	TBD	TBD
SP64	Upper Dixie Creek South	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP65	Upper Dixie Creek South	No	Yes	TBD	Insufficient data	TBD	TBD
SP66	Upper Dixie Creek South	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP67	Upper Dixie Creek South	No	Yes	TBD	Insufficient data	TBD	TBD
SP69	Upper Dixie Creek South	Yes	Yes	TBD	Insufficient data	TBD	TBD
SP70	Upper Dixie Creek South	No	Yes	TBD	Insufficient data	TBD	TBD

## Monitoring and Contingent Mitigation Plan

### *Triggers and Mitigation Recommendations*

Location ID	Area	Flow Recorded	Hydrophytic Vegetation	Trigger Type	Trigger Type Justification	Flow-based Threshold (gpm) and Minimum amount of Flow for Mitigation	Potential Contingency Mitigation Measures
SP71	Upper Dixie Creek South	Yes	No	TBD	Insufficient data	TBD	TBD
SP72	Upper Dixie Creek South	No	Yes	TBD	Insufficient data	TBD	TBD
SP73	Upper Dixie Creek South	No	Yes	TBD	Insufficient data	TBD	TBD





Nevada Division of  
**WATER RESOURCES**

**STATE OF NEVADA**  
**Department of Conservation and Natural Resources**  
Joe Lombardo, *Governor*  
James A. Settelmeyer, *Director*  
Adam Sullivan, P.E., *State Engineer*

November 12, 2025

Mr. Don Dwyer  
General Manager  
ORLA Mining Ltd.  
2320 Last Chance Road  
Elko NV, 89801

(Sent Via E-mail)

**Re: NDWR response to Gold Standard Venture's model revisions and memo response to NDWR's review of South Railroad Mine Project Groundwater model Version 1 related to applications 91529-91539**

Dear Mr. Dwyer,

This memo is NDWR's response to Gold Standard Venture's model revisions and memo response to NDWR's review of the South Railroad Project Groundwater model version 1 (ORLA response memo). For the most part, we consider the responses and model updates satisfy our comments and recommendations. In particular, the more detailed description and approach for model calibration is much improved and the analytical approach to estimating impacts to SP-4 is also much improved.

However, our review indicates that the analysis on applications 91529 – 91539 is inconsistent with the submitted applications and we are asking for clarification to the differences, or that the analysis be updated to be consistent with the applications. Additionally, we would also like to request the updated calibrated model and analysis model files be submitted for additional inspection. Mainly to ensure that boundary conditions of particular interest are adequately represented and that stated scenarios are correctly implemented.

**Capture analysis**

The capture analysis presented in the ORLA response memo requires additional explanation and clarification and may require re-analysis and another memo.

Two primary scenarios were evaluated with this updated model. Scenario TPS-3 is intended to evaluate impacts associated with applications 91529 – 91539 with consideration of the application 94310 being available to pump from the existing POD under permit 81046 (Tomera well). Scenario TPS-4 is intended to evaluate the applications 91529 - 91539 with consideration of application 94310 being available and pumped from existing well DWW17-01 which is on the project site near the proposed mining area.

For the purpose of this review, I am only describing my review of scenario TPS-4 with understanding that most of these identified issues are the same as scenario TPS-3. The description of the capture analysis (on pages 17, 18, and 19) was very difficult to follow and understand at times and so some of these comments may be due to lack of understanding on my part.

- I like how Table 11 presents simulated flows and discharges in Part A of the table for various water resource features, and how these values are compared with the Steady State Flows to compute the 'change or capture' in flow or discharge which is presented in Part B of the table. I also like how part C is used to determine if mitigation would be required (although as commented later, I don't understand what is meant by 'comparison to 10% of Pumping (95.5 afy)').
- The TPS-4 Scenario presented in Table 11 does not appear to be consistent with the applications. As listed in Table 11, scenario TPS-4 has a total pumping rate of between 3,276 and 3,290 afy. The applications are for a total pumping of 4,214 afy. Total pumping should be 4,214 afy for years 1 – 5 with 3,258 afy being non-consumptive (applications 91529 – 33, 91535 – 36, 91538 – 39) and 956 afy being consumptive (applications 91534 and 91837).
- The discharge to Dixie Creek should be equivalent to the non-consumptive pumping rate of 3,258 afy. It is listed in table 9 as being 2,298 afy and in table 11 as between ~2,279 and 2,204 afy. This seems to be an error or are missing explanation where the remainder of the non-consumptive pumping is going.
- The period of consumptive pumping following the dewatering period is one year longer than applied for in the applications. Scenario TPS-4 ran consumptive pumping from year 6 through the end of year 12 for a total of 7 years beyond the dewatering period. Applications 91529 - 91539 indicate in Miscellaneous Remarks in Attachment B that "... dewatering will be complete in five years and the consumptive use (from wells SW-05 and SW-08) will continue an additional six (6) years thus the use is temporary." The number of years this pumping is simulated needs to be reduced by one year or there needs to be an amendment to the applications.
- Applications 91529 – 33, 91535 – 36, 91538 – 39; which are for non-consumptive pumping, total 3,258 afy rather than 3,253 afy listed in Table 9. The consumptive use is very close to consistent with 955 afy listed in Table 9, and 956 afy in applications 91534 and 91537. Although these slight differences are likely immaterial to the overall results, it would be nice if the model scenarios evaluated the same duty as requested in the applications.
- It is unclear from response memo if application 94310 is intended to 'offset' or 'reduce' consumptive pumping from applications 91534 and 91537 or if it is in 'addition' to? This needs to be clarified.
- If consumptive pumping in the model is to be reduced because of anticipated approval of application 94310 (Tomera 81046 in memo), this should be explained in memo. Then applications should be amended to reflect change if/when application 94310 is approved. Otherwise, total pumping needs to be consistent with applications.
- The explanations for how South Fork Humboldt River capture and Total Surface Water capture in Table 11 were calculated are not clear. As such, I was unable to reproduce these calculations. How these estimates are derived from table 11 need to be re-explained to be more clear so that I can verify the calculations using the data in table 11.

- In some of the discussion and the bottom portion of Table 11 it discusses evaluating capture mitigation in “Comparison to 10% of pumping (95.5 afy)”. This does not make sense to me and we need to have better understanding of basis for mitigation requirement. This needs to be further explained and clarified.

This concludes NDWR’s review of the South Railroad Mine model revision and capture analysis. In summary, the modifications and update to the model and its calibration address NDWR’s review concerns and the model should be ready to evaluate applications 91529 – 91539. However, the capture analysis provided was inconsistent with the filed applications or explanations were not adequate to follow how analysis was conducted. Please provide a response at your convenience to all parties with clarifications needed to address my comments, or plan for redoing capture analysis and summarizing in a new memo to better explain estimated impacts from dewatering under applications 91529-91539. Thank you for this opportunity to review and comment on the ORLA response and capture analysis memo.

Sincerely,

Kip Allander  
Chief of Hydrology

KA/ap