

The following written public comment was received from Matthew DeMartini on May 4, 2021.

This comment is for the May 5, 2021 Northern Nevada Water Planning Commission Meeting, Agenda item 6, and is being prepared on behalf of the owners of water rights permit 31321 and applications 87257, 87265, 87358 for water and flood protection in closed basins in the North Valleys. The owners are City of Reno residents.

Comment,

1. Without knowing what is going on behind the scenes and which legal counsel is preparing the documents there is no intent to waive any objection to an actual or apparent conflict of Michael Pagni and/or the McDonald Carano firm legally representing TMWA, NNWPC, WRWC, and Heinz Ranch Land Company, LLC. Mr. Pagni representing Heinz Ranch Land Company, LLC in regards to pending Supreme Court of the State Nevada Case No. 82331, District Court Case No. CV2000096 where one of the issues briefed in the District Court was in regards to the Western Regional Water Commission Act ("WRWCA") Sec. 51(1) and 51(3) and Heinz Ranch Land Company, LLC's compliance, or lack thereof, with the procedures related to conformance review. It seems highly irregular and may be a conflict for Mr. Pagni to represent Heinz Ranch Land Company, LLC, while also making recommendations to the NNWPC, and representing the NNWPC and WRWC in attempting to modify the very procedures, compliance, and facilities subject to the pending case. Although it appears that Mr Pagni's firm has now disclosed that himself and his firm is involved in some litigation concerning that, and on the subject of conformance review procedures much of the staff report and resulting proposed REVISED Facility Conformance Review Procedures appear to have carried over from previous periods of representation. There is further concern regarding modifying procedures of this nature during a pending Supreme Court case.

2. WRWCA Sec. 51(3) provides in pertinent part that "A proposal to construct a facility described in subsection 1 within the planning area **must** be submitted to the Water Planning Commission for review and recommendation to the Board concerning the conformance of the proposal with the Comprehensive Plan." (**emphasis added**). More simply the WRWC (i.e. the "Board") is the entity that makes the decision on conformance of the proposal with the comprehensive plan and the NNWPC does not appear to be empowered to make **final** decisions as proposed in the modified resolution. The WRWCA Sec. 51(4) is in regards to "**classes** of proposed facilities" not the actual "proposal to construct a facility" or the facilities themselves. (**emphasis added**). As such, it doesn't seem to make sense to modify the resolution as proposed. The current proposed revisions suggest that the NNWPC is empowered to make **final** decisions on proposals to construct facilities rather than "**review and recommendation**" as required by the WRWCA.

3. Finally the examples of facilities that may affect the working of the Plan as determined by Resolution No. 5 dated April 16, 2014 are helpful. It is understood that there are existing projects that shouldn't be precluded from implementation due to any modification of the plan.

Please accept my comment into the record, provide to commissioners accordingly, and post to the website meeting materials. Thank you kindly.

Sincerely,
Matthew DeMartini