AGENDA ITEM REPORT for Concurrent Meeting and TMWA Meeting of 11-6-17

October 31, 2017

To: Reno City Council, Sparks City Council, Washoe County Board of Commissioners, Truckee Meadows Water Authority Board of Directors

From: Greg Lovato, Administrator, Nevada Division of Environmental Protection (NDEP)
Kevin Dick, District Health Officer, Washoe County Health District (WCHD)
Mark Foree, General Manager, Truckee Meadows Water Authority (TMWA)

Subject: Concurrent meeting agenda item: *Presentation, discussion and possible action on the status of the review and approval of "Water Projects" by the Truckee Meadows Water Authority, the Washoe County Health District, and/or the Nevada Department of Environmental Protection. [For Possible Action]*

TMWA meeting agenda item: *Presentation, discussion and possible action on the status and process for the review and approval of "Water Projects" by the Truckee Meadows Water Authority, the Washoe County Health District, and/or the Nevada Department of Environmental Protection, and possible direction to staff. [For Possible Action]*

Background

Since the late 1970's, the State Health Division, and since 2005, NDEP has had a role in maintaining requirements for delegation of the federal Safe Drinking Water Act from the Environmental Protection Agency (EPA).

The Washoe County Health District is designated by state laws and regulations, and through an interlocal agreement with NDEP, to review and approve the initial construction, or any renovation, modification, or expansion of a community water system.

NDEP maintains primacy for the State regulatory program, provides technical assistance when requested by WCHD, and ensures that oversight and regulatory determinations comply with state regulations and federal delegation requirements.

The Nevada Revised Statutes (NRS) require WCHD approval of "substantial" additions or alterations to water systems.

The Nevada Administrative Code (NAC) requires WCHD approval of all water projects regardless of size, unless a waiver is granted for water main additions of 500 lineal feet or less.

The TMWA water collection, treatment, and distribution system is regulated as a Public Water System under federal and state laws and regulations. TMWA operates under permits issued by NDEP.

A water project is defined in the NAC:

NAC 445A.66585 "Water project" defined. (NRS 445A.860) "Water project" means the initial construction, or any renovation, modification or expansion, of:

1. Each portion of a public water system that begins operation after February 20, 1997; or
2. Each portion of a public water system that began operation on or before February 20, 1997, if the portion of the public water system is involved in:

(a) The collection, pumping, treatment, storage or distribution of water; or

(b) The boosting, sustaining or reducing of water pressure,

➥ except any construction, renovation, modification or expansion approved by the Division of Public and Behavioral Health, the appropriate district board of health or other appropriate governmental entity before February 20, 1997.

(Added to NAC by Bd. of Health, eff. 2-20-97; A by Environmental Comm'n by R194-08, 10-27-2009)

Additional summary of relevant statutes and regulations is provided in **Attachment 1 - "Summary of Nevada Drinking Water Statutes and Regulations – NDEP and WCHD Roles"**.

Discussion of Issues

In regard to WCHD review and approval of "water projects", it is important to note the following changes have occurred since January 2016:

- WCHD was directed by NDEP/EPA to modify plan review to be consistent with state drinking water regulations in NAC 445A
- The former Washoe County Water Resources and the South Truckee Meadows GID water systems had recently been consolidated into TMWA's water system
- TMWA requested an addendum and update to the TMWA water system waiver which was denied by WCHD based on inconsistencies with state drinking water regulations NAC 445A
- Transition from stagnant to high economic development/plan submittal activity

Modified plan review by WCHD as directed by NDEP/EPA and review and modifications of interpretation/application of NAC regulations resulted in more plans returned for correction than normal. Because the modification of the plan review process was not effectively communicated to stakeholders and corrections were required to individual plans for specific issues, this resulted in delay of approvals in the early part of calendar year 2017 (second half of FY2017).

After this occurred, Director level meetings between WCHD, NDEP and TMWA were initiated to improve the situation and streamline communication and approval. Regular meetings of agency staff were also initiated. Several meetings with City and County management, TMWA, and WCHD were also held to discuss and address water project issues. The following changes have been put into place:

- Potable water supplied irrigation separations from water mains/services – prior interpretations were modified to provide more design flexibility
- Private fire hydrants vs. public fire hydrants and required backflow prevention – agreement for TMWA to have maintenance responsibility of future private fire hydrants (removed requirement for backflow assemblies on private hydrants)
- Easements for TMWA facilities must be noted on plans – agreement that easements would be submitted to WCHD at project completion
- WCHD received NDEP approval to discontinue reviewing plans to TMWA standards and only review to NAC regulations going forward
- Streamlined approval process for single service of 2-inch diameter and below, not requiring a "water project" submittal for those projects, only a one page project data sheet
- NDEP providing WCHD more decision-making authority without NDEP consultation
- Director level review of potential conflicting interpretations

It should be noted that some delays have also been caused by the applicant's and their contractors' and engineers' failure to begin work with TMWA early in the process. **Attachment 2 shows flow diagrams prepared by WCHD showing "Current Submittal Flow" and "Ideal Submittal Flow"** that if followed by the applicant can greatly streamline the review and approval process.

Recent Improvement in project turnaround times

As discussed above, changes in the early part of calendar year 2017 (second half of FY2017) resulted in delays in approval of water projects. Since that time (FY2018 YTD), with the items addressed noted above, we have seen some significant improvement in water project turnaround times from 1) TMWA's review (from complete application by design engineer to redline return to design engineer), 2) WCHD's review (from TMWA submitted water project to WCHD to WCHD comments return to TMWA/design engineer) and 3) design engineer return of plan revisions to both TMWA and WCHD. This is shown in **Attachment 3 - "TMWA-WCHD Water Project Review Periods"**.

Next Steps

NDEP plans to initiate the process of revising NAC 445A regulations with the goal of clarifying certain requirements, eliminating ambiguities, providing more flexibility in system design, and providing expanded waivers for systems with engineering review programs. **Attachment 4 - "Anticipated Drinking Water Regulation Revisions (Nevada Administrative Code 445A)"** shows the proposed scope and schedule for the revision process. WCHD, NDEP and TMWA are also working to reinstate a waiver to TMWA for water main additions of 500 lineal feet or less.

Attachment 1

Summary of NV Drinking Water Statutes and Regulations

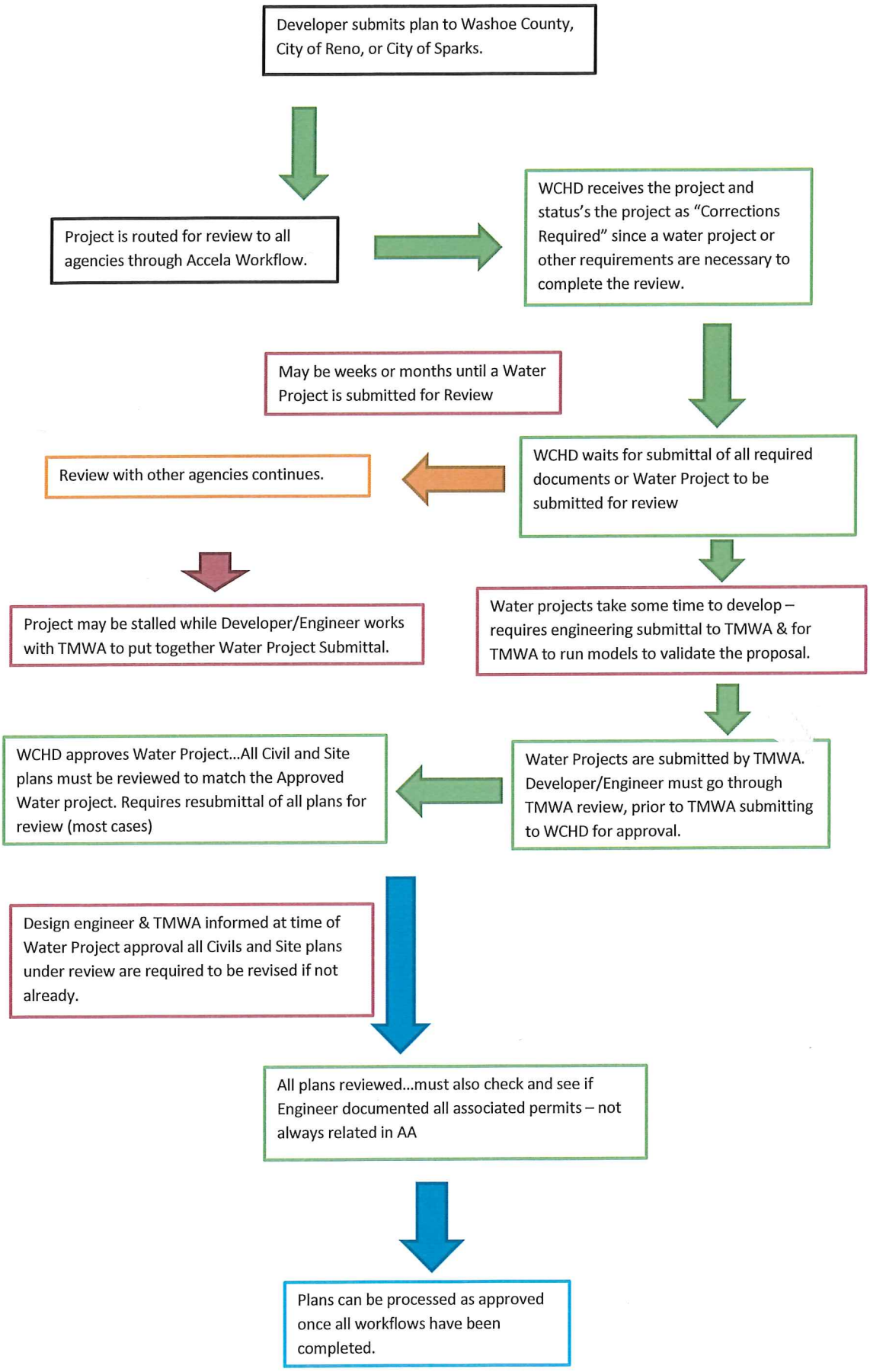
NDEP and WCHD Roles

TOPIC	AUTHORITIES
1. Roles of WCHD and NDEP under NV Public Water System Law Authority to issue orders and levy administrative fines or seek civil penalties for violations of NV laws and regulations rests with NDEP. WCHD has a designated role in inspecting water systems, approving plans, and ensuring compliance with NV laws and regulations. WCHD can apply to the Court for an injunction related to non-compliance.	NRS 445A.925, 930, 943, 945, 950
2. Enforcement of federal Safe Drinking Water Act Authority to enforce federal Safe Drinking Water Act delegated to state in 1978, not delegable to WCHD	42 U.S.C. § 300(g)(2)
3. SDWA requirement for assurance related to design and construction Under SDWA delegation, NDEP required to establish an activity to assure that design and construction of substantially modified public water system facilities are capable of compliance with State primary drinking water regulations	40 CFR § 142.10(b)(5)

TOPIC	AUTHORITIES
4. WCHD Regulates TMWA as a public water system under NRS and under the NDEP program TMWA is a public water system under NDEP's federal delegation where WCHD has state-assigned enforcement responsibility	NRS 445A.925 and 42 U.S.C. § 300(g)(2)
5. WCHD Tentative Subdivision map review requirement WCHD required to review tentative maps for: • water supply • water meeting applicable health standards • availability and accessibility of water for prevention and containment of fires.	NRS 278.335(2-3), 278.349(3)(a), (b), (j)
6. WCHD Final Subdivision map review requirements WCHD required to review final maps for: • Easements for public utilities that provide water services • Water quality and supply WCHD required to review improvement plans: • Showing the systems of water supply and sewage disposal	NRS 278.372, 377(1)(a), NAC 278.290
7. Review and approval of plans and specifications by NDEP or WCHD Plans and specification for substantial addition or alteration of a public water system must be submitted to NDEP or WCHD for review and approval	NRS 445A.920

TOPIC	AUTHORITIES
8. Definition of Water Project Initial construction, or any renovation, modification or expansion of: • Collection • Pumping • Treatment • Storage • Distribution • Water pressure boosting, sustaining or reducing	NAC 445A.66585
9. NDEP and WCHD requirement to approve water projects NDEP or WCHD shall not approve a water project unless the application for approval demonstrates that the project will comply with applicable provisions of NAC 445A.65505 – 6731. Applications must contain: • Complete plans, including details of improvements • Complete specifications to supplement the plans • Design report • Requirements for fire flow and demand • Other pertinent information	NAC 445A.66695, 6671
10. Waiver for projects less than 500 feet NDEP or WCHD may waive water project application and approval for projects involving 500 feet or less of distribution system, or affecting less than 5% of the total service connections	NAC 445A.6669(2)

Current Submittal Flow



Ideal Submittal Flow

Developer initiates review with TMWA to begin getting the Water Project created and ready for submittal.

Water projects take some time to develop – requires engineering submittal to TMWA & for TMWA to run models to validate the proposal.

Developer submits grading, site, civil plans for review to Washoe County, City of Reno, or City of Sparks

Developer/Engineer and TMWA would submit Water Project at the same time as the Project submitted for Permit review (grading, site, civils, etc.)

Project routed through Accela Workflow

Water Project review by WCHD occurring concurrently with project review by all agencies

Project review by all agencies and comments or approval provided

WCHD will review both projects and provide the correct comments to all associated plan reviews. Requires all projects are related in Accela.

All plans reviewed, since review was concurrent all plans were checked to ensure they matched and all associated reviews completed at same time.

Plans are approved and processed through workflow more efficiently and all plans are processed.

This process reduces some of the potential for multiple re-submittal and/or revisions since all reviews are concurrent and can therefore be coordinated. Creates better efficiency and allows for a quicker review process.

Attachment 3

TMWA-WCHD Water Project Review Periods

Project Type	FY 17				FY 18 YTD			
	Ave. Days	<15 Days	<30 Days	<60 Days	Ave. Days	<15 Days	<30 Days	<60 Days
TMWA's New Business Review Goals								
Comm. Service			75%	100%			75%	100%
Main Extension			75%	100%			75%	100%
Subdivision			75%	100%			75%	100%
TMWA Review Time Frame								
Comm. Service	13		83%	99%	13		100%	N/A
Main Extension	21		98%	100%	15		100%	N/A
Subdivision	26		71%	98%	22		96%	100%
Design Engineer Revisions (following TMWA Review) to Submittal to WCHD								
Comm. Service	41				49			
Main Extension	57				35			
Subdivision	76				18			
WCHD Water Project Review Goals								
TMWA Water Projects			100%				100%	
WCHD Review Time Frame								
TMWA Water Projects	18	77%	100%	N/A	12	80%	98%	
Design Engineer Revisions (following WCHD Review) to resubmittal to WCHD								
TMWA Water Projects	20				12			

WCHD Has Approved > 130 Water Projects since Jan 1, 2017. No Water Projects have been denied.

Attachment 4

ANTICIPATED DRINKING WATER REGULATION REVISIONS (Nevada Administrative Code 445A)

POTENTIAL AREAS FOR REVIEW AND REVISION

1. Scope of waiver for systems with engineering review programs
2. Crossing requirements and mitigation
3. Separation distances
4. Adoption by reference – most stringent guidance applicability
5. Others

SCHEDULE AND PROCESS FOR REVISION

NOV	Coordinate with Workgroup Participants
DEC - MAR	Convene Workgroup Meetings to Receive Input
APR	Draft Regulations to Legislative Counsel Bureau (LCB)
MAY	LCB drafting revisions completed (30 days from receipt)
JUN	Public Workshops (Public Noticed 15 days prior)
SEP	State Environmental Commission Hearing
OCT	Legislative Commission Review