

# Western Regional Water Commission

## STAFF REPORT

**DATE:** October 10, 2019  
**TO:** Chair and Members, Western Regional Water Commission ("WRWC")  
**FROM:** John B. Rhodes, WRWC Legal Counsel  
**SUBJECT:** Discussion and possible adoption of Resolution No. 7, establishing a policy restricting expenditures from the Regional Water Management Fund ("RWMF") to pay for construction projects, and providing for certain exceptions thereto; and possible direction to staff.

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### **SUMMARY**

At a concurrent meeting of the Northern Nevada Water Planning Commission ("NNWPC") and the WRWC, held March 20, 2019, the NNWPC recommended that the WRWC Board develop and adopt a policy which would restrict or prohibit the use of the RWMF to pay for construction projects. At the March 20, 2019 concurrent meeting, the WRWC Board, by motion approved unanimously, directed staff to move forward with the NNWPC recommendation, while allowing the WRWC to fund certain construction projects under certain circumstances.

### **BACKGROUND**

Section 35(1), Statutes of Nevada 2007, the Western Regional Water Commission Act (the "Act") provides authority for the WRWC Board to impose a fee to fund the planning and administration required by the Act, and the "implementation of the Comprehensive [Regional Water Management] Plan." (Emphasis added.) WRWC Resolution No 1, adopted May 16, 2008, imposed the authorized fee and created the RWMF.

Since creation of the RWMF, the WRWC has, through custom and practice, with few and limited exceptions, followed a general *de facto* policy of declining to pay for construction projects with the RWMF, even though such projects may directly relate to or assist in the implementation of the Plan.

### **PREVIOUS ACTION**

None

### **FISCAL IMPACT**

None

### **RECOMMENDATION**

Staff recommends that the WRWC approve attached Resolution No. 7, adopting the WRWC *de facto* general policy that the RWMF shall not be used to fund construction projects; provided, however, that the RWMF may be used to pay for certain construction projects, if the WRWC Board makes both of the following findings; 1) the construction project directly relates to or will

assist in the implementation of the Plan; and 2) an emergency, critical need, or other extraordinary circumstances require the use of the RWMF for the proposed purpose.

**POSSIBLE MOTION**

“Move to approve and adopt Resolution No. 7.”

Attachment: Resolution No. 7

**WESTERN REGIONAL WATER COMMISSION**

**RESOLUTION NO. 7**

**A RESOLUTION ESTABLISHING A POLICY RESTRICTING EXPENDITURES FROM THE REGIONAL WATER MANAGEMENT FUND (“RMWF”) TO PAY FOR CONSTRUCTION PROJECTS, AND PROVIDING FOR CERTAIN EXCEPTIONS THERETO**

**WHEREAS**, Section 35(1), Statutes of Nevada 2007, the Western Regional Water Commission Act (the “Act”) provides authority for the Western Regional Water Commission (“WRWC”) Board of Trustees (Board”) to impose a fee to fund the planning and administration required by the Act, and the “implementation of the Comprehensive [Regional Water Management] Plan.” (Emphasis added.); and

**WHEREAS**, WRWC Resolution No 1, adopted May 16, 2008, imposed the authorized fee and created the RWMF; and

**WHEREAS**, since creation of the RWMF, the WRWC has, through custom and practice, with few and limited exceptions, followed a general *de facto* policy of declining to pay for construction projects with the RWMF, even though such projects may directly relate to or assist in the implementation of the Plan; and

**WHEREAS**, at a concurrent meeting of the Northern Nevada Water Planning Commission (“NNWPC”) and the WRWC, held March 20, 2019, the NNWPC recommended that the WRWC Board develop and adopt a policy which would restrict or prohibit the use of the RWMF to pay for construction projects; and

**WHEREAS**, at the March 20, 2019 concurrent meeting, the WRWC Board, by motion approved unanimously, directed staff to move forward with the NNWPC recommendation, while allowing the WRWC to fund certain construction projects under certain circumstances.

**NOW, THEREFORE, IT IS RESOLVED** that the WRWC *de facto* general policy that the RWMF shall not used to fund construction projects be, and is hereby, adopted and approved;

**PROVIDED, HOWEVER**, that the RWMF may be used to pay for certain construction projects, if the WRWC Board makes both of the following findings: 1) the construction project directly relates to or will assist in the implementation of the Plan; and 2) an emergency, critical need, or other extraordinary circumstances require the use of the RWMF for the proposed purpose.

**WESTERN REGIONAL WATER COMMISSION**

**RESOLUTION NO. 7, PAGE 2**

Upon motion of \_\_\_\_\_, seconded by \_\_\_\_\_, the foregoing Resolution was approved and adopted October 16, 2019, by the following vote of the Board of Trustees:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Abstain: \_\_\_\_\_ Absent: \_\_\_\_\_

\_\_\_\_\_  
Chair, WRWC Board

STATE OF NEVADA

COUNTY OF WASHOE

On the \_\_\_the day of October, 2019, personally appeared before me, a Notary Public, Vaughn Hartung, known to me to be the Chair of the Board of Trustees of the Western Regional Water Commission, who acknowledged that he executed the foregoing Resolution.

\_\_\_\_\_  
Notary Public