

as to groundwater pumping on the Nevada side of the border. The committed groundwater resource in the form of permits and certificates issued by the Office of the State Engineer to appropriate water from the Cold Spring – Long Valley Hydrographic Basin currently exceeds 1,906 acre-feet annually.¹³ The State Engineer finds currently an imbalance exists between the perennial yield of the Long Valley Hydrographic Basin and its committed groundwater resource. The State Engineer finds that previous applications to appropriate water within the Cold Spring – Long Valley Hydrographic Basin have been denied.¹⁴

XI.

Nevada Revised Statute § 533.335 provides that an applicant must provide a description of the proposed works of diversion, the estimated costs of such works, the estimated time required to construct the works and the estimated time required to complete the application of the water to beneficial use. Nevada Revised Statute § 533.370 requires that an applicant provide proof satisfactory to the State Engineer of his intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence, and his financial ability and reasonable expectation to actually construct the work and apply the water to the intended beneficial use with reasonable diligence. These statutory provisions are an indication that an applicant must satisfactorily demonstrate to the State Engineer the specific project where the water will be beneficially used and how the water is to be provided for the specific project.

The Applicant provided a witness, Mr. Robert Lissner, in an attempt to demonstrate what the beneficial use would be of the water applied for under Application 70486. Mr. Lissner indicated that the Applicant owns a couple thousand acres of land in Cold Spring Valley that is suitable for residential, commercial and industrial development, but the witness never made any demonstration as to where the 120 acre-feet of water rights being applied for would specifically be used or for what project it would be used, but only indicated a desire to use the water anywhere in the Nevada part of the Cold Spring Hydrographic Basin.¹⁵ The witness indicated that the Applicant

¹³ Special Hydrologic basin abstract, Water Rights Database, September 5, 2005, official records in the Office of the State Engineer.

¹⁴ State Engineer's Ruling No. 4673, dated October 28, 1998, official records in the Office of the State Engineer.

¹⁵ Transcript, pp. 58 – 99.

would not be providing the water to whatever project would be developed, but rather indicated the water provider would be determined as the result of a lawsuit instigated by an entity related to the Applicant and involving UIN and Washoe County. The State Engineer finds the proposed place of use under Application 70486 is more than 4,000 acres of land and the Applicant indicated an intent to build something either residential, commercial or industrial using 120 acre-feet annually somewhere within that more than 4,000 acres. The State Engineer finds the Applicant did not demonstrate who would provide water to whatever the project would be, but rather indicated the project was to be served water by someone to be determined in the future. The State Engineer finds the Applicant did not provide anything specific as to what would be built and where. The State Engineer finds this is not the kind of specificity required under a water right application. The Applicant needs to identify a specific project on which the quantity of water requested for appropriation would be used. The State Engineer finds this Applicant is not like a municipality that proposes water use somewhere within its service area, but rather it is like a quasi-municipal application, which must demonstrate the project to be served with more specificity than provided here.

XII.

Testimony and evidence provided indicates that if water is to be exported out of Sierra County, California it is subject to a permit from the Long Valley Groundwater Management District.¹⁶ At the time of the administrative hearing, the Applicant had not complied with the Sierra County ordinances regarding the exportation of water. The testimony indicated that there are strong policies of the groundwater management district that are fairly negative about water exportation projects.¹⁷ Additionally, that even if an exportation project was approved, if a condition of overdraft of the groundwater basin or some other issues arises that causes the Long Valley Groundwater Management District to believe it is necessary to reduce groundwater pumping in the hydrographic basin, water exportation projects are the first to be cut off.¹⁸ The State Engineer finds the project proposed under Application 70486 is for the exportation of water from California to

¹⁶ Transcript, pp. 207 - 224, Exhibit No. 9.

¹⁷ Transcript, p. 208.

¹⁸ Exhibit No. 9.

Nevada to support residential, commercial and industrial development. The State Engineer finds Nevada has already determined that existing permits and certificates exceed the perennial yield of the hydrographic basin. The State Engineer finds that if the Long Valley Groundwater Management District determines a condition of over-draft exists in the groundwater basin or if some other issue arises that causes the groundwater management district to reduce groundwater pumping, the exportation project proposed under this application would be the first to be cut off from pumping.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.¹⁹

II.

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:²⁰

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes this Applicant did not adequately demonstrate a specifically identifiable project. The State Engineer concludes to grant a permit where the Applicant has not adequately demonstrated a specific project as required under NRS § 533.335 would threaten to prove detrimental to the public interest. The State Engineer concludes this Applicant did not provide satisfactory proof of his intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence, and a reasonable expectation to actually construct the work and apply the water to the intended beneficial use with reasonable

¹⁹ NRS chapters 533 and 534.

²⁰ NRS § 533.370(5).

Ruling
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diligence as required under NRS § 533.370. The State Engineer concludes the Applicant has failed to demonstrate a specific project where the water will be beneficially used or how water would be provided to the specific project and granting a permit under those circumstances is in contradiction to the water law and would threaten to prove detrimental to the public interest.

IV.

The State Engineer concludes that the Office of the State Engineer has already determined that the existing permits and certificates exceed the perennial yield of the hydrographic basin. The State Engineer concludes to allow additional development in Nevada under a water right that would be the first water right cut off from pumping if there is a determination of overdraft by the Long Valley Groundwater Management District in Sierra County, California, when no other source of water is identified that would be used to serve those homes and businesses built under the Nevada permit would threaten to prove detrimental to the public interest.

RULING

Application 70486 is hereby denied on the grounds that its issuance would threaten to prove detrimental to the public interest. No ruling is made on the merits of other grounds of protest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/SJT/jm

Dated this 21st day of
April, 2006

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS 72848)
THROUGH 72863, 74408, 74409, 74410, FILED TO)
APPROPRIATE THE UNDERGROUND WATERS)
OF THE KUMIVA VALLEY HYDROGRAPHIC)
BASIN (79) AND APPLICATIONS 76302,)
THROUGH 76308 FILED TO APPROPRIATE THE)
UNDERGROUND WATERS OF THE GRANITE)
SPRINGS VALLEY HYDROGRAPHIC BASIN (78),)
PERSHING AND CHURCHILL COUNTIES,)
NEVADA.)

RULING

#6063

GENERAL

I.

Applications 72848 through 72863, inclusive, were filed on May 26, 2005, by Aqua Trac, LLC to appropriate a total of 45 cubic feet per second (cfs), not to exceed 30,800 acre-feet annually (afa), of the underground water of the Kumiva Valley Hydrographic Basin for quasi-municipal purposes within the hydrographic basins identified as the Fernley Area (76), Tracy Segment (83), Warm Springs Valley (84), Spanish Springs Valley (85), and Truckee Meadows (87).¹ The applications were timely protested by Pershing County, the United States Department of Interior Bureau of Land Management, and C-Punch Ranch, Inc.

II.

Applications 74408, 74409 and 74410 were filed on June 26, 2006, by Aqua Trac, LLC to appropriate a total of 29.7 cfs, not to exceed 30,800 afa, of the underground water of the Kumiva Valley Hydrographic Basin for quasi-municipal purposes within the hydrographic basins identified as the Fernley Area (76), Tracy Segment (83), Warm Springs Valley (84), Spanish Springs Valley (85), and Truckee Meadows (87).² The applications were timely protested by Pershing County, the United States Department of Interior Bureau of Land Management, and C-Punch Ranch, Inc.

¹ File Nos. 72848, 72849, 72850, 72851, 72852, 72853, 72854, 72855, 72856, 72857, 72858, 72859, 72860, 72861, 72862 and 72863, official records in the Office of the State Engineer.

² File Nos. 74408, 74409 and 74410, official records in the Office of the State Engineer.

III.

Applications 76302 through 76308 were filed on September 19, 2007, by Aqua Trac, LLC to appropriate a total of 105 cfs (76,000 afa, expanded) of the underground water of the Granite Springs Valley Hydrographic Basin for quasi-municipal purposes within the hydrographic basins identified as White Plains (74), Brady Hot Springs Area (75), Femley Area (76), Fireball Valley (77), Granite Springs Valley (78), Kumiva Valley (79), Winnemucca Lake Valley (80), Pyramid Lake Valley (81), Dodge Flat (82), Tracy Segment (83), Warm Springs Valley (84), Spanish Springs Valley (85), Sun Valley (86), Truckee Meadows (87), Pleasant Valley (88), Washoe Valley (89), Lake Tahoe Basin (90), Truckee Canyon Segment (91), Lemmon Valley (92), Antelope Valley (93), Bedell Flat (94), Dry Valley (95), Newcomb Lake Valley (96), Red Rock Valley (99), Cold Spring Valley (100), Carson Desert (101), Churchill Valley (102), Dayton Valley (103), Eagle Valley (104), Carson Valley (105), Antelope Valley (106), Smith Valley (107), and Mason Valley (108).³ The applications were timely protested by Churchill County, Pershing County, the United States Department of Interior Bureau of Land Management, Kumiva Group, LLC and C-Punch Ranch, Inc., and Frank and Karen Lipera.

IV.

Protestant C-Punch Ranch, Inc. and Kumiva Group, LLC (hereinafter collectively referred to as "C-Punch") filed a Motion to Deny Applications or in the Alternative, Motion for Applicant to Define Project and Provide Information on its Ability to Finance and Construct Works to Put Water to Beneficial Use (hereinafter "Motion").^{1,2,3} The Motion pertains to all of the applications filed by Aqua Trac within the Kumiva Valley and Granite Springs Valley Hydrographic Basins and referenced above. Churchill County joined the Motion as it relates to Applications 76302-76308 within Granite Springs Valley Hydrographic Basin (hereinafter "Joinder").

Initially, the Applicant did not file a response to the motion. However, on July 9, 2010, the State Engineer ordered the Applicant to file a response to the Motion and on August 9, 2010, the Applicant filed a Response to Motion to Deny Applications (hereinafter "Response").⁴ On

³ File Nos. 76302, 76303, 76304, 76305, 76306, 76307 and 76308, official records in the Office of the State Engineer.

⁴ See, Interim Order, July 9, 2010, File No. 72848, official records in the Office of the State Engineer.

August 17, 2010, the Protestant filed a Reply of C-Punch Ranch to Response to Motion to Deny Applications (hereinafter "Reply").¹

FINDINGS OF FACT

I.

In the Motion to Deny, the Protestant requests that the applications be denied or alternatively that the Applicant be required to submit additional information regarding the specifics of the project. In support of the Motion, C-Punch quotes from the transcript of a pre-hearing conference held on January 12, 2010, in the matter of Applications 72848 through 72863 and 74408 through 74410,⁵ citing to statements from the Applicant and its legal counsel that appear to indicate a lack of specificity as to a project. The statements also indicate that given the current economic situation that the Applicant has concerns about moving forward with a project at this time.⁶ By Interim Order,⁴ which instructed the Applicant to file a response to the Motion, the State Engineer found based on the Applicant's statements at the pre-hearing conference that sufficient concerns were raised to necessitate the submittal of additional information in support of the applications. The State Engineer found that the various applications have been on file anywhere from 2½ years to over 5 years, which should be adequate time to formulate specific plans to provide the State Engineer with a full and complete understanding of the applications.

The Applicant's response to the Motion does not provide information on the ultimate beneficial use of the water and does not identify any specific project for which the water would be used or the quantity of water that would be necessary for any such project. The Response states that until such time as a study of the basins can be completed and findings made regarding the amount of water that may be available for appropriation, the additional resources necessary to pursue these applications, i.e., expenditures of money beyond the study costs and obtaining commitments from end users, would be futile. The Response also indicates that the current economic situations have caused the Applicant to reassess some specifics of the project and until those economic conditions change, the ultimate plan for putting water to use must, of necessity, remain somewhat in flux. It is the Applicant's belief that determining the quantity of water available is a prerequisite and only then will the Applicant be able to fully advise the State

⁵ Transcript, public administrative pre-hearing conference before the State Engineer, January 12, 2010, official records in the Office of the State Engineer (hereafter, "Transcript").

⁶ Transcript, pp. 5, 7, 11, 18, 29 and 30.

Engineer as to all the particulars of the heretofore undisclosed project. The Response reiterates that given the uncertainties of the resource and the uncertainty of current economic conditions, detailed plans for placing the water to beneficial use cannot be supplied at this time. The Applicant requests that the State Engineer deny the Motion and allow the Applicant to complete the hydrologic study ordered by the State Engineer before it is required to proceed further with its applications. While the Applications were filed for quasi-municipal purposes, the Applicant stated:

The way the world is today, there may be a more beneficial use of the water by the time we get the studies done. We are currently working on other projects, making biomass or bio fuel from algae which we are having a great deal of success with right now. We're not printing ourselves in the newspapers and we were not going to, but there's a lot of different uses that may be alternative uses in the future still of a commercial nature that would be more beneficial than what we are talking about right now. Nevada may never grow again.⁷

Nevada Revised Statute (NRS) § 533.030 provides that water may only be appropriated for a beneficial use and not otherwise. Nevada Revised Statute § 533.370(1)(c) provides that when approving or rejecting an application the applicant must provide proof satisfactory of his intention in good faith to construct any work necessary to apply water to the intended beneficial use with reasonable diligence and his financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence. Additionally, NRS § 533.375 allows for the State Engineer to require the applicant to submit additional information to enable him to properly guard the public interest.

The State Engineer finds that the beneficial use requirement provides that the Applicant must demonstrate an actual beneficial use for the water applied for and does not allow for an applicant to tie up water for some project it might find in the future. The State Engineer finds the Nevada legislature has demonstrated its concern with speculating in water rights by enacting NRS § 533.370(1)(c), which requires that an Applicant provide proof satisfactory of a good faith intention to actually construct the project with reasonable diligence and that it has the financial ability and reasonable expectation actually to construct the project.

The State Engineer finds while it is useful to have new studies of water availability for Nevada's future growth, it threatens to prove detrimental to the public interest to allow an

⁷ Transcript, p. 18.

applicant to hold on to a water right application when it is unable to demonstrate an actual project for which the water will be used or to fail to provide information required under Nevada water law. The State Engineer finds that the Applicant did not provide any evidence of the actual beneficial use to be made, and did not provide any evidence that specifically supports the quantity of water applied for under these applications. The State Engineer finds that the Applicant asserts that economic conditions must change before a plan to put water to beneficial use is made and this indicates that the Applicant does not have the financial ability to proceed with a project at this time and there is not a reasonable expectation to place water to the intended beneficial use with reasonable diligence. The State Engineer finds that the Applicant has no discernable project at this time and the applications are filed for speculative purposes.

II.

The Response indicates that the Applicant believes the Motion is premature, specifically, because the State Engineer has entered an order requiring a study of the subject basins be conducted pursuant to NRS § 533.368. Prior to the filing of the Motion, pursuant to the authority set forth in NRS § 533.368, on May 3, 2010, the State Engineer ordered a hydrologic study of the Kumiva Valley and Granite Springs Valley Hydrographic Basins. At this time, the study is only in the scoping stages. However, since that time the Motion has been filed and the State Engineer must consider the merits of the Motion. At the pre-hearing conference of January 12, 2010, the Applicant was specifically informed that the study is crucial to the hydrological knowledge needed, but the Applicant would still have to address all other statutory criteria required for an application to appropriate water.⁸

The State Engineer finds that the provisions of NRS § 533.368 do not preclude the State Engineer from considering the other statutory criteria, particularly in light of the pending Motion. The State Engineer further finds that to proceed with the time and expense of a hydrologic study, where the Applicant is unable or unwilling to specify a beneficial use for the water, would threaten to prove detrimental to the public interest.

⁸ Transcript, p. 17.

III.

In the broadest terms, the Motion, Joinder, and Reply allege that the applications are filed for speculative purposes. The issue of speculating in water rights has been previously addressed in numerous State Engineer Rulings.⁹

In State Engineer's Ruling No. 4192, the State Engineer addressed the filing by a private entity of 39 applications for municipal purposes that each requested a diversion rate of 10.0 cfs. The total quantity of water based on diversion rate expanded was over 280,000 afa of underground water from Elko, Eureka, Humboldt, Lander and Pershing Counties. Because the Applicant was not a municipality, the State Engineer requested, among other things, the Applicant submit information as to contracts, agreements or options with municipalities that would be able to place water to beneficial use for municipal purposes. No adequate response was received and nothing was contained in the records that indicated that the Applicant had the ability itself to develop the water and place it to beneficial use. The State Engineer concluded, in part, that the applications were filed for possible resale and speculation and it was not in the public interest to approve applications where the Applicant could not demonstrate the ability to place the water to beneficial use.

In State Engineer's Ruling No. 4548, the State Engineer addressed the filing by a private entity of five applications each for a diversion rate of 8.0 cfs totaling over 25,000 afa of underground water from the Amargosa Valley Hydrographic Basin within Nye County, Nevada. These applications were also filed for municipal purposes with a place of use described in general terms as the Amargosa Valley and Clark County. After the Clark County Commission voted to reject any plans for taking any of the developed water, the Applicant filed change applications to change the manner of use to wildlife purposes with an ultimate goal of leaving the water in the ground and selling the rights to the Federal Government for the protection of endangered and indigenous species. Within State Engineer's Ruling No. 4548, it was noted that the Nevada Legislature had become increasingly concerned over applications filed for speculative purposes where the sole intent of the applicant is not to place the water to beneficial use, but merely to provide a profit from the sale of water to interested parties. In 1993, the Nevada Legislature amended the provisions of Nevada water law to address the issue by adding

⁹ State Engineer Ruling Nos. 4192, 4307, 4548, 5612, 5782 and 5997, official records in the Office of the State Engineer.

the language now found in NRS § 533.370(1)(c), which provides that the Applicant must provide proof satisfactory to the state engineer of: (1) his intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and (2) his financial ability and reasonable expectation to actually construct the work and apply the water to the intended beneficial use with reasonable diligence. In State Engineer's Ruling No. 4548, the State Engineer found that the Applicant was trying to find a project to support its applications and justify their continuance, and that the Applicant went after the water merely in hopes of selling it to someone else for a profit upon finding a project in which the water could be used; and thus, denied the applications on the ground they were speculative.

In State Engineer's Ruling No. 5612, the Applicant requested 2.0 cfs of underground water for quasi-municipal purposes within Washoe County. Citing to NRS §§ 533.335 and 533.370, it was determined that the Applicant must satisfactorily demonstrate to the State Engineer the specific project where the water will be beneficially used and how the water is to be provided for the specific project. The Applicant was unable to demonstrate where the 120 afa of water being applied for would be specifically used or for what project it would be used, but only indicated a desire to use the water anywhere in the Nevada part of the Cold Spring Hydrographic Basin. The State Engineer found that the place of use was over 4,000 acres of land and the Applicant intended to build something residential, commercial, or industrial using the 120 afa somewhere within the acreage. The State Engineer found that the Applicant did not demonstrate who would provide water to whatever the project would be, but rather indicated the project was to be served water by someone to be determined in the future. The State Engineer found that the Applicant did not provide anything specific as to what would be built and where. The State Engineer found that the Applicant needed to identify a specific project on which the quantity of water requested for appropriation would be used. The State Engineer concluded that to grant a permit where the Applicant has not adequately demonstrated a specific project as required under NRS § 533.335 would threaten to prove detrimental to the public interest and not meet the requirements of NRS § 533.370.

In State Engineer's Ruling No. 5782, Aqua Trac, the same Applicant as in this matter, had filed applications in Granite Springs Valley to appropriate large quantities of groundwater for quasi-municipal purposes. The State Engineer concluded that the Applicant did not provide sufficient evidence of the amount of water reasonably required for any specific beneficial use

and to grant water rights under these conditions would violate the anti-speculation doctrine and threaten to prove detrimental to the public interest. The applications were denied, in part, on the grounds that no demonstration was made of the actual project to be constructed; therefore, no beneficial use of the water was identified and no evidence was provided as to the amount of water reasonably required for any specific project.

Applications 72848 through 72863, 74408, 74409, 74410, 76302 through 76308 were filed for 30,800 afa of groundwater from Kumiva Valley and 105 cfs (approximately 76,000 afa expanded) from Granite Springs Valley. The proposed place of use is extensive and for Applications 72848 through 72863, 74408, 74409 and 74410 covers approximately 600,000 acres and for Applications 76302 through 76308, covers approximately 6,160,000 acres.

Speculation is the act of acquiring a resource for the purpose of subsequent use or resale, in hopes of profiting from future price fluctuations.¹⁰ The law of all western states prohibits speculation, either explicitly or through requirements such that water be applied continuously to actual, beneficial use. The act of speculation would allow a person or entity to lock up scarce and essential water resources from use by individuals and communities who have a need to provide water for crops or municipal uses, for example, in Nevada, the waters of all sources of water supply within the boundaries of the state whether above or beneath the surface of the ground, belongs to the public.¹¹

The State Engineer finds that similar applications were denied wholly or in part on the grounds the applications were speculative where there was no definitive project or use of water specified and the amount of water required for any identifiable project could not be justified. The State Engineer finds that the Applicant has made no demonstration of the actual project to be constructed; therefore, no beneficial use of the water is identified and no evidence can be provided as to the amount of water reasonably required for any specific project. The State Engineer finds that the Applicant did not provide any evidence on where water would be used within the place of use and in what quantities; thus, there is no evidence of the actual beneficial use. The State Engineer finds that the proposed use of water for a project only described as quasi-municipal use somewhere within the vast place of use of approximately 600,000 acres and 6,160,000 acres, is too vague to properly evaluate potential conflicts with existing rights,

¹⁰ Black's Law Dictionary 1435 (8th ed. 2004).

¹¹ NRS § 533.025.

protectible interests in domestic wells, and whether the use would threaten to prove detrimental to the public interest.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.¹²

II.

Nevada Revised Statute § 533.035 provides that beneficial use shall be the basis, the measure and the limit of the right to the use of water. Nevada Revised Statute § 533.060 provides that the right to use water must be limited and restricted to as much as may be necessary when reasonably and economically used for a beneficial purpose. Nevada Revised Statute § 533.070 provides that the quantity of water that may be appropriated is limited to such water as shall be reasonably required for the beneficial use to be served. Nevada Revised Statute § 533.335(4) provides that each application for a permit to appropriate water state the purpose for which the application is made. Nevada Revised Statute § 533.370(1) requires that an applicant provide the State Engineer with proof satisfactory of his intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence and the financial ability and reasonable expectation to actually construct the work and apply the water to the intended beneficial use with reasonable diligence.

Nevada Revised Statute § 533.370(6) provides that in determining whether an application for an interbasin transfer of groundwater must be rejected, the State Engineer shall consider: (a) Whether the applicant has justified the need to import the water from another basin; (b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out; (c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported; (d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and (e) Any other factor the State Engineer determines to be relevant.

¹² NRS chapters 533 and 534.

The Nevada Supreme Court in *Bacher v. State Engineer*, 122 Nev. Adv. Op. No. 95, 146 P.2d 793 (November 22, 2006) held that an applicant can satisfy the "need to import water" requirement of NRS § 533.370(6)(a) by providing evidence of third-party need. The court concluded that an agent may request a water right permit based on the ultimate user's need for water, but also adopted the anti-speculation doctrine, which requires the agent to have a contractual or agency relationship with the water's appropriator. The court concluded nearly 100 years ago "that he who applies the water to the soil, for a beneficial purpose, is in fact the actual appropriator."¹³ In the *Bacher* opinion, the court addressed absolute fundamentals of Nevada water law such as, the right to use water for a beneficial use depends on a party actually using the water, and once beneficial use is established, the quantity of water appropriated shall be limited to the amount reasonably required for the beneficial use to be served, and the court found that an applicant's ability to satisfy NRS § 533.370(6)(a)'s requirement by demonstrating third-party need is limited by the "anti-speculation doctrine."

This doctrine precludes speculative water right acquisitions without a showing of beneficial use. Precluding applications by persons who would only speculate on need ensures satisfaction of the beneficial use requirement that is so fundamental to our State's water law jurisprudence. Thus, we agree with this limit on an applicant's showing of third-party need and adopt the anti-speculation doctrine's formal relationship requirement for Nevada. Further, we note that our adoption of this doctrine comports with the language and goals of NRS 533.370(1)(c)(2), which, to protect against speculation, requires the applicant to show both financial ability and a reasonable expectation with respect not only to constructing any work needed to apply the water, but also to "apply the water to the intended beneficial use with reasonable diligence."

The State Engineer concludes that to consider applications where the Applicant has not adequately demonstrated a specific project as required under NRS § 533.335 would threaten to prove detrimental to the public interest and not meet the requirements of NRS § 533.370. The State Engineer concludes that the Applicant did not provide any evidence of the amount of water reasonably required for the beneficial use to be served per NRS § 533.070(1). The State Engineer concludes that since Aqua Trac did not provide evidence of where the water would actually be used or in what quantities, there is not sufficient evidence to overcome a conclusion that the applications are filed for speculative purposes.

¹³ *Prosole v. Steamboat Canal Co.*, 37 Nev. 254, 258-259, 140 P. 720, 722 (1914).

III.

The State Engineer concludes the Applicant did not provide sufficient evidence of the beneficial use of the water applied for under these applications. Under NRS § 533.070 the quantity of water which may be appropriated in this state shall be limited to such water as shall reasonably be required for the beneficial use to be served. The State Engineer concludes the Applicant did not provide sufficient evidence of the amount of water reasonably required for any specific beneficial use and to allow the applications to proceed under these conditions would violate the anti-speculation doctrine and threaten to prove detrimental to the public interest.

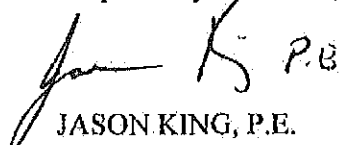
IV.

Based on the findings, the statutory authorities cited in the above conclusions, and the merits of the Motion, the State Engineer concludes that the Motion to deny the applications is meritorious and the Motion may be granted.

RULING

The Motion to deny Applications 72848 through 72863, 74408, 74409, 74410, 76302 through 76308 is granted on the grounds that the applications were filed for speculative purposes and violate the provisions of Nevada water law.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 18th day of
October, 2010.

Senate Bill No. 487-Committee on Natural Resources

CHAPTER.....

AN ACT relating to water; providing for the regional management and conservation of water resources in certain portions of Washoe County; creating the Western Regional Water Commission; setting forth the powers and duties of the Western Regional Water Commission; creating the Northern Nevada Water Planning Commission to advise and assist the Western Regional Water Commission; repealing certain provisions relating to regional planning and management of water in certain counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing general law provides for regional planning and management of water by a water planning commission in counties whose population is 100,000 or more but less than 400,000 (currently Washoe County). Under that general law, a board of county commissioners is required to adopt a comprehensive plan for the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm water and control of floods and is required to take action by a two-thirds majority. This general law also provides for a water planning commission, which reports to and advises the board of county commissioners concerning issues relating to water resources. (NRS 540A.010-540A.310)

This bill repeals various provisions of that general law and creates by special legislation a new structure for regional planning of water resources in certain portions of Washoe County based on the unique conditions and circumstances existing in those areas. Under the Nevada Constitution, the Legislature may pass a special or local law if the subject matter of the law does not fall within one of certain enumerated categories and a general law cannot be made applicable because of special circumstances and conditions. (Nev. Const. Art. 4, §§ 20, 21) Section 4 of this bill specifies the unique conditions and circumstances in these portions of Washoe County that justify special legislation for the purpose of regional planning and management of water resources.

Sections 23 and 25-28 of this bill create the Western Regional Water Commission (Regional Water Commission), which is governed by a Board of Trustees consisting of representatives of various public entities and interests. Sections 36-41 of this bill create the Northern Nevada Water Planning Commission (Water Planning Commission), which reports to and advises the Board of Trustees of the Regional Water Commission.

Section 24 of this bill authorizes the City of Reno, City of Sparks, Washoe County, Sun Valley General Improvement District, South Truckee Meadows General Improvement District and Truckee Meadows Water Authority to provide certain additional power and duties to the Regional Water Commission by cooperative agreement. The cooperative agreement must be entered into before April 1, 2008.

Sections 34-52 of this bill require the development and adoption of a comprehensive plan for the area over which the Regional Water Commission has jurisdiction, which must address the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm water and control of floods. Sections 30-35 of this bill authorize the Board of Trustees to:



(1) plan for the implementation of a mechanism for scheduling the delivery of water supplies held by certain water purveyors before April 1, 2008; (2) develop a plan for the establishment of service territories by which those purveyors may provide new water service provided on and after April 1, 2008, if each of the public purveyors agree to the plan; (3) impose a fee for the planning and administration of certain activities; and (4) plan for water conservation by various means.

Section 56 of this bill creates a temporary statutory legislative committee to oversee the programs and activities of the Regional Water Commission.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 533.550 is hereby amended to read as follows:

533.550 1. Notwithstanding any other provision of law, a public body shall not sell or lease for a term of more than 5 years a water right owned by the public body unless the public body, after holding at least one public hearing at which public comment was solicited, has issued written findings that:

(a) The sale or lease of the water right is consistent with the prudent, long-term management of the water resources within the jurisdiction of the public body;

(b) The sale or lease of the water right will not deprive residents and businesses within the jurisdiction of the public body of reasonable access to water resources for growth and development;

(c) The sale or lease of the water right is a reasonable means of promoting development and use of the water right; and

(d) The means by which the water right is sold or leased reasonably ensures that the public body will receive the actual value of the water right or comparable economic benefits.

2. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions. The term does not include a water district organized pursuant to a special act of the Legislature or a water authority organized as a political subdivision created by a cooperative agreement ~~{}~~ *or created by a special act of the Legislature.*

Sec. 2. NRS 540A.010 is hereby amended to read as follows:

540A.010 As used in this chapter, unless the context otherwise requires:

1. "Board" means the board of county commissioners.

2. "Commission" means the ~~{water-planning-commission}~~
Northern Nevada Water Planning Commission created by ~~{NRS 540A:080.}~~ *section 36 of this Act.*



3. "Comprehensive plan" or "plan" means the plan developed ~~{pursuant to NRS 540A.130.}~~ *by a regional water commission created by special act.*

4. "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 3. Sections 3 to 53, inclusive, of this Act may be cited as the Western Regional Water Commission Act.

Sec. 4. 1. The Legislature hereby finds that:

(a) The provisions of section 22 of this Act describe a hydrologically unique area which is distinguished by the presence of Lake Tahoe and the Truckee River, a water system which is governed by a unique combination of state and federal law, by federal decree and by the Truckee River Operating Agreement; and

(b) The unique hydrological conditions of the area described in section 22 of this Act and the complex legal framework governing the use of water within that area are special circumstances and conditions to which a general law cannot be made applicable and necessitate this special Act which provides for a special structure for the coordinated planning and management of water resources in that area.

2. It is hereby declared as a matter of legislative determination that:

(a) The organization of the Western Regional Water Commission having the purposes, powers, rights, privileges and immunities provided in this Act will serve a public use and will promote the general welfare by facilitating unified and cooperative efforts to secure and develop additional water supplies, maintain and cooperatively establish policies for managing existing water resources and water supplies, provide for integrated regional water resources and management of water supplies, provide for integration of efforts to manage storm water, provide for protection of watersheds and provide for regional conservation efforts, subject to and in accordance with the Truckee River Operating Agreement.

(b) The planning for the acquisition, development, management and conservation of regional water supplies and any associated facilities by the Regional Water Commission is for a public and governmental purpose and a matter of public necessity.

(c) The geographical boundaries of the Regional Water Commission are within the area described in section 22 of this Act.

(d) The Regional Water Commission shall, in carrying out the provisions of this Act:

(1) Make full use of any available resources for sustainability, economic viability and maintenance of environmental values;



(2) Communicate the decisions and policies of the Regional Water Commission in an effective manner;

(3) Provide for a centralized system of decision making;

(4) Facilitate the effective coordination of land use and resource planning;

(5) Facilitate the effective and efficient planning, management and operation of facilities; and

(6) Plan for the effective stewardship of water resources, including, without limitation, ensuring the quantity and quality of surface water and groundwater and the control point and nonpoint sources of pollution.

(e) For the accomplishment of the purposes stated in this subsection, the provisions of this Act shall be broadly construed.

Sec. 5. As used in this Act, unless the context otherwise requires, the words and terms defined in sections 6 to 21, inclusive, of this Act have the meanings ascribed to them in those sections.

Sec. 6. "Board of Trustees" or "Board" means the Board of Trustees of the Regional Water Commission.

Sec. 7. "City of Reno" means the municipal corporation in Washoe County, created and existing pursuant to the provisions of chapter 662, Statutes of Nevada 1971, as amended.

Sec. 8. "City of Sparks" means the municipal corporation in Washoe County, created and existing pursuant to the provisions of chapter 470, Statutes of Nevada 1975, as amended.

Sec. 9. "Comprehensive Plan" means the plan developed pursuant to sections 34 to 52, inclusive, of this Act.

Sec. 10. "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 11. "Facilities" means any facility necessary for the beneficial use of water supplies, including, without limitation, any diversion, dam, reservoir, other water storage facility for the water supplies, water conveyance, well, pump, treatment facility, storage tank, pipe, turnout and any other facility required to provide water services or to provide for the conservation of water or enhanced control of floods.

Sec. 12. "Planning area" means the area described in section 22 of this Act.

Sec. 13. "Public purveyor" means:

1. The Truckee Meadows Water Authority, or its successor;
2. The Washoe County Department of Water Resources, or its successor;
3. The South Truckee Meadows General Improvement District, or its successor;



4. The Sun Valley General Improvement District, or its successor; or

5. Any other governmental entity engaged in the retail delivery of potable water in the planning area.

Sec. 14. "Regional Water Commission" means the Western Regional Water Commission created pursuant to section 23 of this Act.

Sec. 15. "Truckee Meadows Water Authority" means the political subdivision of the State of Nevada created by a cooperative agreement effective December 4, 2000, pursuant to the provisions of NRS 277.080 to 277.180, inclusive.

Sec. 16. "Truckee River Operating Agreement" means all agreements relating to the implementation of Public Law 101-618, 104 Stat. 3324, as amended, including, without limitation, the Operating Agreement referenced in section 205(a) of Public Law 101-618, 104 Stat. 3324, as amended, whether entered into before, on or after April 1, 2008, to which the Truckee Meadows Water Authority, its predecessor or its successor, if any, is a party.

Sec. 17. "Washoe County" means the county created by and described in NRS 243.340.

Sec. 18. "Water Planning Commission" means the Northern Nevada Water Planning Commission created pursuant to section 36 of this Act.

Sec. 19. "Water Quality Settlement Agreement" means the Agreement entered into on October 10, 1996, by the City of Reno, the City of Sparks, Washoe County, the United States Department of the Interior, the United States Department of Justice, the United States Environmental Protection Agency, the Division and the Pyramid Lake Paiute Tribe, and any agreements entered into to implement that Agreement including, without limitation, any applicable provisions of the Truckee River Operating Agreement.

Sec. 20. "Water right" means any entitlement to the beneficial use of surface water or groundwater supplies, including, without limitation, an entitlement that exists by contract, by interest in real property, by decree or by rights granted or recognized by the State of Nevada, the State of California or any other governmental agency.

Sec. 21. "Water supplies" means surface water, groundwater, wastewater or effluent capable of being put to beneficial use.

Sec. 22. 1. The planning area in which plans for the use, management and conservation of water are to be made, pursuant to this Act, is the entire area within the boundaries of Washoe County except:



(a) Any land within the region defined by NRS 277.200, the Tahoe Regional Planning Compact;

(b) Land located within any Indian reservation or Indian colony which is held in trust by the United States;

(c) Land located within the Gerlach General Improvement District or its successor created pursuant to chapter 318 of NRS;

(d) Land located within the following administrative groundwater basins established by the United States Geological Survey and the Division of Water Resources of the State Department of Conservation and Natural Resources:

(1) Basin 22 (San Emidio Desert);

(2) Basin 23 (Granite Basin); and

(3) Basin 24 (Hualapai Flat); and

(e) Any land excluded by the Board pursuant to subsection 2 and not otherwise included pursuant to subsection 3.

2. The Board may exclude from the planning area any land which it determines is unsuitable for inclusion because of its remoteness from the water supplies which are the subject of the Comprehensive Plan or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the planning area.

3. The Board may include within the planning area any land otherwise excluded pursuant to subsection 2 if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or requires another benefit from planning or management performed in the planning area.

Sec. 23. 1. The Western Regional Water Commission is hereby created. The Regional Water Commission is a body corporate and politic and a municipal corporation.

2. The property and revenues of the Regional Water Commission, any interest of any creditor therein and any possessory interest in or right to use that property which the Regional Water Commission may grant are exempt from all state, county and municipal taxation.

Sec. 24. By entering into a cooperative agreement pursuant to NRS 277.080 to 277.180, inclusive, the City of Reno, City of Sparks, Washoe County, Sun Valley General Improvement District, South Truckee Meadows General Improvement District and Truckee Meadows Water Authority may jointly authorize the Regional Water Commission to exercise such powers, privileges or authority that each of those entities may individually exercise pursuant to the laws of this State which are not inconsistent with the provisions of this Act.



Sec. 25. 1. The Regional Water Commission must be directed and governed by a Board of Trustees composed of the following nine members appointed pursuant to this section:

- (a) Two members of the City Council of the City of Reno;
- (b) Two members of the City Council of the City of Sparks;
- (c) Two members of the Board of County Commissioners of Washoe County;
- (d) One member representing the Truckee Meadows Water Reclamation Facility or its successor;
- (e) One member designated by the Board of Trustees of the South Truckee Meadows General Improvement District or its successor; and
- (f) One member of the Board of Trustees of the Sun Valley General Improvement District or its successor.

2. The City Council of the City of Reno, the City Council of the City of Sparks and the Board of County Commissioners of Washoe County shall each appoint one trustee from their membership for an initial term of 2 years.

3. The Board of Directors of the Truckee Meadows Water Authority or its successor shall appoint from its membership, for initial terms of 3 years:

- (a) One trustee who is a member of the City Council of the City of Reno;
- (b) One trustee who is a member of the City Council of the City of Sparks; and
- (c) One trustee who is a member of the Board of County Commissioners of Washoe County.

↪ The trustees appointed pursuant to this subsection must be different persons than those appointed pursuant to subsection 2.

4. The Board of Trustees of the Sun Valley General Improvement District or its successor and the Board of Trustees of the South Truckee Meadows General Improvement District or its successor shall each appoint one trustee from its membership for an initial term of 3 years.

5. The owners of the Truckee Meadows Water Reclamation Facility or its successor shall jointly appoint one trustee for an initial term of 2 years.

6. After the initial terms, each trustee who is appointed to the Board serves for a term of 2 years. A trustee may be reappointed.

7. All trustees must be elected officials. No trustee may serve beyond his term of office.

8. The position of a trustee must be considered vacated upon his loss of any of the qualifications required for his appointment,



and in such event, the appointing authority shall appoint a successor to fill the remainder of the unexpired term.

Sec. 26. Each member of the Board shall file with the County Clerk of Washoe County:

1. His oath of office.
2. A corporate surety bond furnished at the Regional Water Commission's expense, in an amount not to exceed \$5,000, and conditioned for the faithful performance of his duties as a member of the Board.

Sec. 27. 1. The Board shall elect one of its members as Chairman and one of its members as Vice Chairman, and shall elect a Secretary and a Treasurer, who may be members of the Board. The Secretary and the Treasurer may be the same person. The terms of the officers expire on December 31 of each year.

2. The Secretary shall keep audio recordings or transcripts of all meetings of the Board and, in a well-bound book, a record of all the proceedings of the Board, minutes of all meetings, certificates, contracts, bonds given by employees and all other acts of the Board. Except as otherwise provided in NRS 241.035, the minute book, audio recordings, transcripts and records must be open to the inspection of all interested persons, at all reasonable times and places.

3. The Treasurer shall keep, in permanent records, strict and accurate accounts of all money received by and disbursed for and on behalf of the Board and the Regional Water Commission.

Sec. 28. 1. The Board shall meet regularly at a time and in a place to be designated by the Board. The Board shall provide for the calling of a special meeting when action is required before a regular meeting would occur.

2. Except as otherwise provided in this subsection, a majority of the members of the Board constitutes a quorum at any meeting. Each motion and resolution of the Board must be adopted by at least a majority of the members present at the meeting.

Sec. 29. The Regional Water Commission is a public employer within the meaning of NRS 286.070, and the provisions of chapter 286 of NRS apply to the Regional Water Commission and its employees.

Sec. 30. The Regional Water Commission may do all things necessary to accomplish the purposes of this Act. The Regional Water Commission has perpetual succession and, except as otherwise provided in sections 33 of this Act, has the following powers to:

1. Sue and be sued.



2. Enter into agreements with Washoe County, the Cities of Reno and Sparks, and any public purveyor.

3. Prepare, adopt, update and oversee the implementation of the Comprehensive Plan pursuant to sections 34 to 52, inclusive, of this Act.

4. Plan for the implementation of a mechanism for:

(a) Scheduling the delivery of water supplies held by public purveyors to maximize the yield of regional water supplies and facilitate the cooperative administration of regional water conveyance and treatment facilities for the benefit of the public purveyors.

(b) Maximizing conjunctive use by the public purveyors. As used in this paragraph, "conjunctive use" means the combined use of surface water and groundwater systems to optimize resource use.

5. Prepare, adopt and update a water conservation plan for the use of municipal, industrial and domestic water supplies within the planning area, and make recommendations for water conservation agreements among water purveyors and local governmental entities.

6. Study and recommend to the Board of County Commissioners of Washoe County, the City Council of the City of Reno and the City Council of the City of Sparks ordinances for the implementation of a water conservation plan adopted pursuant to subsection 5 and the Comprehensive Plan.

7. Contract with public purveyors or any other public entity for the provision of services to or by the Regional Water Commission and, in the performance of its functions, use the officers, agents, employees, services, facilities, records and equipment of any public purveyor, Washoe County, the City of Reno or the City of Sparks, with the consent of the respective public purveyor or governmental entity, and subject to such terms and conditions as may be agreed upon.

8. Employ or contract with such persons as it deems necessary and hire and retain officers, agents and employees, including fiscal advisers, engineers, attorneys or other professional or specialized personnel.

9. Seek, apply for and otherwise solicit and receive from any source, public or private, such contributions, gifts, grants, devises and bequests of money and personal property, or any combination thereof, as the Regional Water Commission determines is necessary or convenient for the exercise of any of its powers.

10. Participate with relevant agencies of the United States, the State of Nevada and other entities on issues concerning the supply of water.



11. Adopt such rules and regulations for the conduct of the affairs of the Regional Water Commission or of the Board as the Board may deem necessary or desirable.

12. Perform such other functions conferred on the Regional Water Commission by the provisions of this Act.

Sec. 31. The Board may develop a plan for the establishment of service territories within the planning area in which the public purveyors and all systems for the supply of water which are controlled or operated by the public purveyors may, on and after April 1, 2008, provide new retail or wholesale water services to new customers. A plan developed pursuant to this section does not apply to any public purveyor unless each public purveyor agrees to the provisions of the plan. The provisions of this section do not affect the ability of public purveyors to continue to provide retail and wholesale water services to customers who received that type of service before April 1, 2008, or pursuant to agreements for water service existing before April 1, 2008. In developing the plan, the Board shall:

1. Seek to ensure the coordination of the delivery of water at the lowest reasonable cost, considering all the facilities, improvement and operations required to provide that water as measured by the net present value of those facilities, improvements and operations existing at the time of the determination, generally using current dollars;

2. Seek to ensure that existing or future customers are not affected inequitably;

3. Seek to provide for the most effective management, development and integration of systems for the efficient use of water supplies and associated facilities; and

4. Consider:

(a) Any specific planning conducted by public purveyors before April 1, 2008, for existing or new customers;

(b) The topography of the service territories and the readiness and ability of public purveyors to serve customers with existing facilities;

(c) Any policies for land use that affect the service territories; and

(d) The rate of growth within the service territories projected over a reasonable period.

Sec. 32. The Board has and may exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this Act. Such specific powers are not a limitation upon any power necessary or appropriate to carry out the purposes and intent of this Act.



Sec. 33. Notwithstanding the provisions of this Act, the Truckee Meadows Water Authority or its successor is and shall remain the entity with the sole and exclusive power and authority to negotiate and execute and to implement its obligations under that Agreement, as the successor in interest to Sierra Pacific Power Company. All water supplies provided or available to the Truckee Meadows Water Authority or its successor pursuant to the Truckee River Operating Agreement must be considered as acquired before April 1, 2008, and must be managed, scheduled and operated in accordance with that Agreement. Nothing in this Act alters the rights and obligations of the Water Quality Settlement Agreement, and all water supplies must be managed, scheduled and operated in accordance with the Water Quality Settlement Agreement.

Sec. 34. The Board may, upon the recommendation of the Water Planning Commission:

1. Adopt and revise the Comprehensive Plan;
2. Make recommendations concerning methods for conserving existing water supplies which are consistent with any other plans required by law;
3. Make recommendations concerning methods of collecting and treating sewage to protect and conserve water supplies;
4. Provide information to members of the public regarding present and potential uses of water; and
5. Make recommendations concerning the management and use of water within the planning area to:
 - (a) The governing body and the Planning Commission of Washoe County and the Cities of Reno and Sparks;
 - (b) The Governing Board for Regional Planning and the Regional Planning Commission established in Washoe County pursuant to NRS 278.0264 and 278.0262, respectively;
 - (c) The State Engineer;
 - (d) The Federal Government; and
 - (e) Such other entities as the Board deems appropriate.

Sec. 35. 1. To fund the planning and administration required by this Act and the implementation of the Comprehensive Plan, the Board may impose a fee at a rate not to exceed 1.5 percent of the amount otherwise billed, to be collected by each public purveyor and supplier of water from customers within the planning area. If the Board determines to impose such a fee, the Board must impose the fee by resolution after holding a hearing.

2. A public purveyor or supplier of water must state separately on its billings to customers the amount charged as a result of any fee imposed pursuant to subsection 1.



Sec. 36. 1. The Northern Nevada Water Planning Commission is hereby created in the planning area. The Water Planning Commission must consist of the following voting members who are residents of Nevada:

(a) The Director of Public Works for the City of Reno, or his designee;

(b) The Director of Public Works for the City of Sparks, or his designee;

(c) The Director of Water Resources for Washoe County, or his designee;

(d) A member of the South Truckee Meadows General Improvement District or its successor;

(e) The General Manager of the Sun Valley General Improvement District or its successor, or his designee;

(f) The General Manager of the Truckee Meadows Water Authority or its successor, or his designee;

(g) The General Manager of the Truckee Meadows Wastewater Reclamation Facility or its successor, or his designee;

(h) One member appointed by the governing body of the Indian reservation which is the largest in area in the planning area, if the planning area contains an Indian reservation, or, if there is not an Indian reservation located within the planning area or the governing body of the reservation does not appoint a member, one member appointed by the Board to represent the public at large;

(i) One member of the public at large appointed by the Board to represent environmental, biological, conservation or public concerns;

(j) One member appointed by the Board to represent owners of domestic wells;

(k) One member appointed by the Board of Supervisors of the Washoe Storey Conservation District or its successor; and

(l) Such additional members with expertise in any area that the Board determines is necessary, appointed by the Board.

➤ The terms of the ex officio members described in paragraphs (a) to (g), inclusive, are concurrent with the employment of those members in the respective positions specified in those paragraphs. The members appointed pursuant to paragraphs (h) to (l), inclusive, serve initial terms of 2 years.

2. After the initial terms, the term of office of each member appointed pursuant to paragraphs (h) to (l), inclusive, of subsection 1 is 3 years. A member may be reappointed. A vacancy must be filled for the unexpired term by the appointing entity.

Sec. 37. In addition to the voting members, the Water Planning Commission includes the following nonvoting members:



1. One member appointed by the Public Utilities Commission of Nevada;
2. One member appointed by the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General;
3. One member appointed by the Administrator of the Division;
4. One member appointed by the State Engineer;
5. One member appointed by the Chief of the Water Planning Section of the Division of Water Resources of the State Department of Conservation and Natural Resources;
6. One member appointed by the board of directors of the water conservancy district which is largest in area in the planning area;
7. One member appointed by the county or district board of health;
8. One member of the public at large appointed by the affirmative vote of a majority of the voting members; and
9. Additional members with expertise in an area that the majority of the voting members determines is necessary, appointed by the affirmative vote of a majority of the voting members.

Sec. 38. The members of the Water Planning Commission appointed pursuant to paragraphs (h) to (l), inclusive, of subsection 1 of section 36 of this Act or any alternative designees appointed pursuant to paragraphs (a) to (g), inclusive, of subsection 1 of section 36 of this Act may not hold any elective governmental office but may be engaged or employed in private enterprise or be employees of state or local government, and each member must be qualified pursuant to at least one of the following subsections:

1. A professional engineer licensed pursuant to the provisions of chapter 625 of NRS;
2. Experienced in comprehensive planning, natural resources or environmental protection;
3. A specialist in hydrologic science;
4. Experienced in law, management or planning related to water;
5. Experienced in municipal finance or resource economics;
6. Experienced in construction, planning or operation of facilities or systems for supplying or treating water, for collecting or treating sewage, for drainage of storm water or for control of floods; or
7. Knowledgeable in the areas of water conservation, biology, natural systems, water quality and water management.



Sec. 39. The Water Planning Commission shall establish a schedule for the selection of its Chairman for a term of 1 year, in rotation, from among the members.

Sec. 40. 1. The Water Planning Commission shall meet at the call of the Chairman or any three members. The Water Planning Commission shall establish a schedule of regular meetings and provide for the calling of a special meeting when action is required before a regular meeting would occur.

2. A quorum consists of a majority of the members. The affirmative vote of a majority of the members present is required to take action, unless a larger proportion is required by this Act for a particular action.

3. A member of the Water Planning Commission is not entitled to compensation for his services as a member.

Sec. 41. 1. The Water Planning Commission shall develop, and as necessary recommend revisions to, a Comprehensive Plan for the planning area covering the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm waters and control of floods. The initial Comprehensive Plan must be developed on or before January 1, 2011. The provisions of the comprehensive plan developed and revised pursuant to the former provisions of NRS 540A.130 before April 1, 2008, remain in effect until the Board adopts the initial Comprehensive Plan.

2. The Comprehensive Plan must consist of written text, appropriate maps and goals and policies to deal with current and future problems affecting the planning area as a whole with respect to the subjects of the Comprehensive Plan set forth in subsection 1. In developing the Comprehensive Plan, the Water Planning Commission shall consider any water resource plan developed by a public purveyor and, to the extent feasible and consistent with the objectives of the Regional Water Commission, seek to incorporate such a plan.

3. The Comprehensive Plan must:

(a) Describe the problems and needs of the planning area relating to the subjects of the Comprehensive Plan set forth in subsection 1;

(b) Identify the providers of services relating to the subjects of the Comprehensive Plan within the planning area and the area within which each provides service, including service territories of public utilities and public purveyors;

(c) Identify alternatives to reduce demand or increase water supply;



(d) Identify and provide for existing and future sources of water needed to meet the present or future needs of the planning area, including, without limitation, existing and future demand for water within each public purveyor's service territory;

(e) Define priorities and general location for additional major facilities needed to provide services relating to the subjects of the Comprehensive Plan set forth in subsection 1;

(f) Describe programs to mitigate drought, achieve conservation of water, protect wellheads and otherwise manage water;

(g) Provide for the development, acquisition and stabilization of surface water and groundwater supply in the planning area, including policies regarding dedication of privately held water resources by applicants for water service;

(h) Provide for the oversight of, protection of, regional management of and maximization of efficient conjunctive use of, the supply of surface water and groundwater and major water resource facilities in the planning area, including use of reclaimed water and recharge and recovery or underground storage and recovery of water, and the scheduling of the delivery of water supplies held by public purveyors;

(i) Identify and provide for the extent to which reuse or effluent water is to be put to beneficial use or discharged, directly or indirectly, into the Truckee River;

(j) Provide for the regional conservation and prevention of long-term depletion of surface water and groundwater resources in the planning area in support of the Comprehensive Plan;

(k) Provide for adequate supplies of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm waters and control of floods within the planning area;

(l) Identify and provide for the peaking capacity required for delivery of water supplies to each public purveyor, if applicable, and the means by which such requirements will be met;

(m) Include a water budget identifying water supplies available to each public purveyor from all sources; and

(n) Seek to make full use of any unused capacity of facilities that are owned by public purveyors, if such use is otherwise economical and efficient.

4. The Water Planning Commission shall make recommendations to the Board for the adoption of, and any revisions to, the Comprehensive Plan.



Sec. 42. The Comprehensive Plan must include the following elements:

1. Quality of surface water, which must include, without limitation:

- (a) Compliance with standards of quality for bodies of water;
- (b) Locations and capacities of plants to treat wastewater;
- (c) Intended quantity and quality of discharge from those plants and its reuse, service areas and interceptors; and
- (d) Programs to attain protection from pollution by both concentrated and diffuse sources.

2. Quality of groundwater, which must include, without limitation:

- (a) Compliance with standards of quality for hydrographic basins and septic tanks;
- (b) Capacities for withdrawal of water from hydrographic basins;
- (c) Programs to protect wellheads;
- (d) Programs to clean up contaminated groundwater from hydrographic basins; and
- (e) Programs to attain protection from pollution by both concentrated and diffuse sources.

3. Supply of surface water, which must include, without limitation:

- (a) Existing and planned sources of surface water;
- (b) Existing and planned uses for all surface water, including municipal and industrial uses, requirements for return flow, reserves for drought and future growth, uses to improve the quality of water, uses to provide habitat and uses in conjunction with underground water;
- (c) Major facilities to convey and store surface water;
- (d) Standards, service areas, rates of flow and reserves for storage; and
- (e) Facilities to treat surface water.

4. Supply of underground water, which must include, without limitation:

- (a) Existing and planned sources of underground water;
- (b) Existing and planned uses for all underground water, including municipal and industrial uses, maintenance of minimum groundwater level and the need for recharge, reserves for drought and future growth, uses to improve the quality of water, uses to provide habitat and uses in conjunction with surface water;
- (c) Major facilities to extract and convey underground water;
- (d) Compliance with standards for treated and nontreated water, service areas, rates of flow and reserves for storage; and



(e) Facilities to treat and store underground water.

5. Control of floods and drainage of storm water, as it relates to surface water, which must include, without limitation:

(a) Minimum standards of design for controlling floods in the planning area;

(b) Nonstructural alternatives and standards for facilities to control floods in the planning area and single drainage basins;

(c) Regional facilities to control floods; and

(d) Generalized facilities and standards of design for single drainage basins.

6. Control of floods and drainage of storm water, as it relates to underground water, which must include, without limitation:

(a) Groundwater level and capacity for additional storage of water underground as a means of mitigating floods;

(b) Location and capacities of major facilities for controlling floods which utilize storage of water underground to mitigate floods; and

(c) Standards of design for devices to infiltrate storm water and other minor facilities for controlling floods which utilize storage of water underground to mitigate floods.

7. Cost and financing, which must include an estimate of the cost of each major facility, source of water or other requirement of the Comprehensive Plan and an analysis of alternatives for financing and funding the facility, source or other requirement, or alternatives thereto, as well as the effect of the funding alternatives on other facilities included in the Comprehensive Plan. The estimate of cost must state the financial impact on persons within the planning area, including, without limitation, all direct and indirect costs of connecting to a system for supplying water, if applicable.

8. Recommendations for developing and implementing consistent policies of, and among, public purveyors concerning regional drought reserve standards, developer costs, impact fees, dedication of water rights and standards for the drainage of water.

9. Evaluation and recommendations regarding the consolidation of public purveyors in the planning area, which must include costs and benefits of consolidation, the feasibility of various consolidation options, analysis of water supplies, operations, facilities, human resources, assets, liabilities, bond covenants, and legal and financial impediments to consolidation and methods, if any, for addressing any such impediments.

Sec. 43. 1. The Comprehensive Plan must be consistent with and carry out the provisions of the Comprehensive Regional Plan adopted by the Governing Board for Regional Planning in Washoe County pursuant to NRS 278.0276 and the master plans and any



other plans for the use of land which are adopted by governmental entities within the planning area.

2. The Comprehensive Plan must be consistent with and carry out or support the carrying out of all aspects of the Truckee River Operating Agreement and Water Quality Settlement Agreement.

3. The Comprehensive Plan must be consistent with the state water plan that is in effect at the time that the Comprehensive Plan is adopted.

Sec. 44. In developing the Comprehensive Plan, the Water Planning Commission shall:

1. Receive and consider information from public purveyors, public utilities and other entities supplying municipal and industrial water within the planning area;

2. Receive and consider information from entities providing sanitary sewerage, treatment of sewage, drainage of storm water and control of floods within the planning area;

3. Receive and consider information from entities concerned with water quality within the planning area;

4. Review and consider any plan or recommendation of the State Engineer concerning the development, conservation and use of water resources, existing water conservation plans, the regional plan and any master plan that has been adopted pursuant to the provisions of chapter 278 of NRS and any similar plan of a local government which applies to any area in the planning area, and may seek and consider the advice of each local planning commission and any other affected entity;

5. Coordinate and make consistent the elements of the Comprehensive Plan set forth in section 42 of this Act;

6. Consider existing applicable laws;

7. Recognize and coordinate the needs of the incorporated areas of the planning area with the needs of the unincorporated areas of the planning area; and

8. Receive and consider information from other interested persons.

Sec. 45. 1. Before submitting the Comprehensive Plan to the Board, the Water Planning Commission shall hold at least one public hearing on the Comprehensive Plan within the planning area.

2. Before acting on a proposed amendment to the adopted Comprehensive Plan, the Water Planning Commission shall hold at least one public hearing on the proposed amendment at a location in the planning area relevant to the proposed amendment.

3. Notice of the time and place of each hearing must be given by publication in a newspaper of general circulation in the planning area at least 10 days before the day of the hearing. If there is more



than one newspaper of general circulation in the planning area, notice must be given by publication in at least two such newspapers.

4. The decision to submit the proposed Comprehensive Plan or any amendment to the adopted Comprehensive Plan to the Board must be made by resolution of the Commission carried by the affirmative votes of a majority of the total voting members of the Water Planning Commission. The resolution must refer expressly to the text, maps and descriptive or other matter intended by the Water Planning Commission to constitute the Comprehensive Plan or an amendment thereto.

Sec. 46. 1. An attested copy of the proposed Comprehensive Plan or an amendment thereto must be submitted by the Water Planning Commission to the Board.

2. Before taking any action on the proposed Comprehensive Plan or an amendment thereto, the Board shall convene a public hearing.

3. Notice of the hearing must be given at least 10 days before the date of the hearing. The notice must include, without limitation:

- (a) A statement of the time, place and nature of the hearing;
- (b) A statement of the legal authority under which the hearing is to be held; and
- (c) A reference to the particular sections of any applicable laws.

4. Not less than 30 days before the hearing, the Board shall cause to be placed a copy of the proposed Comprehensive Plan or amendment thereto in the office of the County Clerk of Washoe County and publish notice that the Comprehensive Plan or amendment thereto is available for public inspection.

5. Each notice required by this section must be published in a newspaper of general circulation in the planning area. If there is more than one newspaper of general circulation in the planning area, notice must be given by publication in at least two such newspapers. The notice must be a display advertisement not less than 3 by 5 inches in size.

Sec. 47. 1. The Board shall not change or add to the proposed Comprehensive Plan or an amendment thereto as submitted by the Water Planning Commission until it has submitted the substance of the proposed change or addition to the Water Planning Commission in writing with its reasons for the change or addition.

2. The Water Planning Commission shall, if it agrees to the change or addition, revise the submitted Comprehensive Plan or amendment thereto accordingly. If the Water Planning Commission does not agree, it shall report to the Board in writing its reason for disagreeing and any alternative proposal.



3. In either case, the Water Planning Commission shall present its revision or report to the Board within 40 days after the Board's change or amendment is submitted to the Water Planning Commission.

4. If the Water Planning Commission does not agree with the proposed change or addition and the Board refuses to rescind its proposal or to accept an alternative proposal of the Water Planning Commission, the Water Planning Commission shall revise the originally submitted Comprehensive Plan or amendment thereto to incorporate the change or addition proposed by the Board.

Sec. 48. 1. After adoption by the Board, the Comprehensive Plan or an amendment thereto must be submitted for review to the Regional Planning Commission in Washoe County established pursuant to NRS 278.0262. The Regional Planning Commission shall review the Comprehensive Plan or amendment thereto only for consistency with the Comprehensive Regional Plan adopted pursuant to NRS 278.0276 and the master plans and any other plans for the use of land which are adopted by local governmental entities within the planning area. The Regional Planning Commission shall review the Comprehensive Plan or amendment thereto at one or more public hearings. Notice of the time and place of a hearing must be given in accordance with NRS 278.0276.

2. If the Regional Planning Commission fails to make a determination within 40 days after the submission of the Comprehensive Plan or amendment thereto, the Comprehensive Plan or amendment thereto shall be deemed to be consistent with the Comprehensive Regional Plan.

3. If the Regional Planning Commission determines that the Comprehensive Plan or amendment thereto is not consistent with the Comprehensive Regional Plan, it shall state its reasons why the Comprehensive Plan or amendment thereto is not consistent. Unless an appeal is filed pursuant to section 49 of this Act, the Water Planning Commission and the Board shall respectively develop and adopt, in accordance with sections 44 to 47, inclusive, of this Act, proposed revisions to the Comprehensive Plan or amendment thereto, and the Board shall resubmit the revised Comprehensive Plan or amendment thereto to the Regional Planning Commission.

Sec. 49. 1. An affected entity that disagrees with the reasons given by the Regional Planning Commission for its determination of consistency or inconsistency pursuant to section 48 of this Act may file an appeal with the Governing Board for Regional Planning in Washoe County not later than 10 days after the determination of consistency or inconsistency. As used in this subsection, "affected



entity" means Washoe County, the City of Reno, the City of Sparks or any other governmental entity or public purveyor or a public utility providing services relating to the subject matter of the Comprehensive Plan within the planning area.

2. Within 45 days after its receipt of an appeal, the Governing Board for Regional Planning shall consider the appeal and issue its decision. If the decision of the Governing Board for Regional Planning is that the Comprehensive Plan or amendment thereto is not consistent with the Comprehensive Regional Plan, it shall state its reasons why the Comprehensive Plan or amendment thereto is not consistent. The Water Planning Commission and the Board shall then respectively develop and adopt, in accordance with sections 44 to 47, inclusive, of this Act, proposed revisions to the Comprehensive Plan or amendment thereto, and the Board shall resubmit the revised Comprehensive Plan or amendment thereto to the Regional Planning Commission for review.

Sec. 50. The adopted Comprehensive Plan must be reviewed by the Water Planning Commission on a schedule to be established by the Board, which must at least provide for review of the Comprehensive Plan within 5 years after its adoption and at least every 5 years thereafter. After each review, the Water Planning Commission shall submit to the Board any proposed amendment to the Comprehensive Plan or report that there are no amendments.

Sec. 51. 1. Except as otherwise provided in subsection 2, on and after the date the initial Comprehensive Plan is finally approved, no facility intended to provide a service relating to a subject of the Comprehensive Plan within the planning area may be constructed, if the facility is of such a kind or size as to affect the working of the Comprehensive Plan as distinct from providing normal service to customers, unless it is included in the Comprehensive Plan or has been reviewed and approved as provided in subsection 3.

2. The Comprehensive Plan may allow for the construction of facilities not included within the Comprehensive Plan in order to meet an emergency as defined in the Comprehensive Plan.

3. 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. The review must include an evaluation of stranded costs, the need for the facility within the planning area and the impact that construction of the facility will have on any potential consolidation of public purveyors. If the Water Planning Commission fails to make such a recommendation within 30 days after the proposal is submitted to it, the Water Planning Commission



shall be deemed to have made a recommendation that the proposal conforms to the Comprehensive Plan. The Board shall consider the recommendation of the Water Planning Commission and approve or disapprove the proposal as conforming to the Comprehensive Plan. Any disapproval must be accompanied by recommended actions to be taken to make the proposal conform to the Comprehensive Plan. The Water Planning Commission and the Board shall limit their review to the substance and content of the Comprehensive Plan and shall not consider the merits or deficiencies of a proposal in a manner other than is necessary to enable them to make a determination concerning conformance with the Comprehensive Plan.

4. The Board shall provide, by resolution after holding a hearing, for the Water Planning Commission or its staff to make final decisions concerning the conformance of classes of proposed facilities to the Comprehensive Plan. A resolution adopted pursuant to this section must provide an opportunity for the applicant or a protestant to appeal from a decision of the Water Planning Commission or its staff to the Board.

Sec. 52. Any water right or source of water belonging to a governmental entity within the planning area must be used in accordance with the Comprehensive Plan.

Sec. 53. The provisions of this Act do not supersede the authority granted by law to the State Engineer, the State Environmental Commission and the State Department of Conservation and Natural Resources.

Sec. 54. NRS 540A.060, 540A.070, 540A.080, 540A.090, 540A.100, 540A.110, 540A.120, 540A.130, 540A.140, 540A.150, 540A.160, 540A.170, 540A.180, 540A.190, 540A.200, 540A.210, 540A.220, 540A.230, 540A.290, 540A.300 and 540A.310 are hereby repealed.

Sec. 55. The fee authorized pursuant to NRS 540A.070 must remain in effect and be collected by Washoe County and transferred to the Western Regional Water Commission, created pursuant to section 23 of this act, until such time as the Board of Trustees of the Regional Water Commission adopts a resolution pursuant to section 35 of this act imposing a new fee.

Sec. 56. 1. There is hereby created the Legislative Committee to Oversee the Western Regional Water Commission created pursuant to section 23 of this act. The Committee must:

(a) Consist of six Legislators as follows:

(1) One member of the Senate appointed by the Chairman of the Senate Committee on Natural Resources;



(2) One member of the Assembly appointed by the Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining;

(3) One member of the Senate appointed by the Majority Leader of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) One member of the Assembly appointed by the Speaker of the Assembly; and

(6) One member of the Assembly appointed by the Minority Leader of the Assembly.

(b) Insofar as practicable, represent the various areas within the planning area.

(c) Elect a Chairman and a Vice Chairman from among its members. The Chairman must be elected from one House of the Legislature and the Vice Chairman from the other House. After the initial selection of a Chairman and a Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

2. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

3. Vacancies on the Committee must be filled in the same manner as original appointments.

4. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

5. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

6. The Committee shall prescribe regulations for its own management and government.

7. Except as otherwise provided in subsection 8, four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

8. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

9. Except during a regular or special session of the Legislature, the members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session,



the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

10. The Committee shall review the programs and activities of the Western Regional Water Commission. The review must include an analysis of potential consolidation of the retail distribution systems and facilities of all public purveyors in the planning area, which is described in section 22 of this act.

11. The Committee may:

(a) Conduct investigations and hold hearings in connection with its powers pursuant to this section.

(b) Direct the Legislative Counsel Bureau to assist in the study of issues related to oversight of the Western Regional Water Commission.

12. In conducting the investigations and hearings of the Committee:

(a) The Secretary of the Committee or, in his absence, any member of the Committee may administer oaths.

(b) The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

13. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena issued pursuant to this section, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.



14. Upon a petition pursuant to subsection 13, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

15. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

16. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.

17. On or before January 15 of each odd-numbered year, the Committee shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the review conducted pursuant to subsection 10 and any recommendations for legislation.

Sec. 57. 1. This section and section 56 of this act become effective on July 1, 2007.

2. Sections 1 to 23, inclusive, and 25 to 55, inclusive, of this act become effective on April 1, 2008.

3. Section 24 of this act:

(a) Becomes effective on:

(1) July 1, 2007, for the purposes of authorizing the entities set forth in that section to enter into the cooperative agreement specified in that section; and

(2) April 1, 2008, for all other purposes, if the cooperative agreement specified in that section is entered into before that date.

(b) Expires by limitation on April 1, 2008, if the cooperative agreement specified in that section has not been entered into before that date.

4. Section 56 of this act expires by limitation on July 1, 2013.



N E L I S

DETAIL LISTING
FROM FIRST TO LAST STEP

TODAY'S DATE: Jan. 31, 1994
TIME : 2:28 pm
LEG. DAY: 93 Regular
PAGE : 1 OF 1

1993

AB 624 By Nat Res, Agri & Min WATER

Revises procedures concerning applications for water rights. (BDR 48-1979)

Fiscal Note: Effect on Local Government: No. Effect on the State or on Industrial Insurance: No.

05/13 72 Read first time. Referred to Committee on Government Affairs. To printer.
05/14 73 From printer. To committee.
05/14 73 Dates discussed in committee: 5/27, 6/4 (A&DP)
06/19 99 From committee: Amend, and do pass as amended.
06/19 99 (Amendment number 746.)
06/19 99 Placed on Second Reading File.
06/19 99 Read second time. Amended. To printer.
06/21 100 From printer. To engrossment.
06/21 100 Engrossed. First reprint.
06/21 100 Placed on General File.
06/21 100 Read third time.
06/21 100 Taken from General File. Placed on Chief Clerk's desk.
06/21 100 Taken from Chief Clerk's desk. Placed on General File.
21 100 Read third time. Passed, as amended. Title approved, as amended. (42 Yeas, 0 Nays, 0 Absent, 0 Excused, 0 Not Voting.) To Senate.
06/22 100 In Senate.
06/22 100 Read first time. Referred to Committee on Natural Res. To committee.
06/22 100 Dates discussed in Committee: 6/25, 6/30 (A&DP)
07/01 108 From committee: Amend, and do pass as amended.
07/01 108 (Amendment number 1266.)
07/01 108 Placed on Second Reading File.
07/01 108 Read second time. Amended. To printer.
07/01 108 From printer. To re-engrossment.
07/01 108 Re-engrossed. Second reprint.
07/01 108 Declared an emergency measure under the Constitution.
07/01 108 Read third time. Passed, as amended. Title approved, as amended. (21 Yeas, 0 Nays, 0 Absent, 0 Excused, 0 Not Voting.) To Assembly.
07/01 110 In Assembly.
07/02 111 Senate amendment concurred in. To enrollment.
07/06 0 Enrolled and delivered to Governor.
07/12 0 Approved by the Governor.
07/13 0 Chapter 572.

Effective October 1, 1993.

(* = instrument from prior session)

A.B. 624 (Chapter 572)

Assembly Bill 624 amends the statutes governing applications for water rights to require the proof of reasonable diligence in perfecting an application. The measure defines "reasonable diligence" as the steady application of effort to perfect the application in a reasonably expedient and efficient manner under the circumstances.

The measure requires an applicant for a water permit to provide satisfactory proof to the State Engineer of the applicant's good faith intention to construct, with reasonable diligence, any necessary work to apply the water to the intended beneficial use. In addition, an applicant proposing to divert at least 1 second foot of water must show the financial ability to construct the work.

Additionally, A.B. 624 prohibits the State Engineer from granting an extension of time within which construction must be completed or water must be applied to a beneficial use unless the State Engineer determines, from submitted evidence, that the applicant is proceeding in good faith and with reasonable diligence to perfect the application.

Finally, A.B. 624 authorizes the State Engineer to use money in a particular basin well account to support an activity outside the basin in which the money is collected if the activity bears a direct relationship to the responsibilities or activities of the State Engineer regarding that particular basin.

Referred to Assembly Committee on Government Affairs

ASSEMBLY VOTE: 42-0-0

Referred to Senate Committee on Natural Resources

SENATE VOTE: 21-0-0

Effective October 1, 1993

ASSEMBLY BILL NO. 624—COMMITTEE ON NATURAL RESOURCES,
AGRICULTURE AND MINING

MAY 13, 1993

Referred to Committee on Government Affairs

SUMMARY—Revises procedures concerning applications for water rights. (BDR 48-1979)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to water; revising procedures concerning applications for water rights; requiring proof of reasonable diligence in pursuing perfection before an extension of time may be granted; increasing under certain circumstances the fee for filing an application for an extension of time within which to file proof; clarifying the manner in which money in certain accounts may be used; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 533.295 is hereby amended to read as follows:

533.295 1. The water district account must be used exclusively for expenses incurred in the administration, operation and maintenance of the particular stream system from which the money is budgeted and collected. *The state engineer may use money from a water district account to support an activity outside the district or basin in which the money is collected if the activity bears a direct relationship to the responsibilities or activities of the state engineer regarding the particular stream system.*

2. The term "expenses" referred to in NRS 533.270 to 533.290, inclusive, includes salaries, hydrographic surveys, per diem expenses, car rental, equipment, including necessary automobiles, supplies and materials incidental to the proper administration and distribution of water.

Sec. 2. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in NRS 533.345, 533.371 and 533.372 and this section, the state engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees; [and]

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the district's efficiency in its delivery or use of water [.] ;
and

(c) The applicant provides proof satisfactory to the state engineer of:

1 (1) His intention in good faith to construct any work necessary to apply
2 the water to the intended beneficial use with reasonable diligence; and

3 (2) If the application proposes to divert 1 second foot of water or more,
4 his financial ability to construct the work with reasonable diligence.

5 2. Except as otherwise provided in subsection 5, the state engineer shall
6 either approve or reject each application within 1 year after the final date for
7 filing protest. However:

8 (a) Action can be postponed by the state engineer upon written authoriza-
9 tion to do so by the applicant or, in case of a protested application, by both
10 the protestant and the applicant; and

11 (b) In areas where studies of water supplies are being made or where court
12 actions are pending, the state engineer may withhold action until it is deter-
13 mined there is unappropriated water or the court action becomes final.

14 3. Except as otherwise provided in subsection 5, where there is no unap-
15 propriated water in the proposed source of supply, or where its proposed use
16 or change conflicts with existing rights, or threatens to prove detrimental to
17 the public interest, the state engineer shall reject the application and refuse to
18 issue the permit asked for. Where a previous application for a similar use of
19 water within the same basin has been rejected on these grounds, the new
20 application may be denied without publication.

21 4. The rejection or approval of an application must be endorsed on a copy
22 of the original application, and a record made of the endorsement in the
23 records of the state engineer. The copy of the application so endorsed must be
24 returned to the applicant. If the application is approved, the applicant may, on
25 receipt thereof, proceed with the construction of the necessary works and take
26 all steps required to apply the water to beneficial use and to perfect the
27 proposed appropriation. If the application is rejected the applicant may take
28 no steps toward the prosecution of the proposed work or the diversion and use
29 of the public water so long as the rejection continues in force.

30 5. The provisions of subsections 1, 2 and 3 do not apply to an application
31 for an environmental permit.

32 Sec. 3. NRS 533.380 is hereby amended to read as follows:

33 533.380 1. Except as otherwise provided in subsection 5, in his endorse-
34 ment of approval upon any application, the state engineer shall:

35 (a) Set a time before which the construction of the work must be com-
36 pleted, which must be within 5 years after the date of approval.

37 (b) Except as otherwise provided in this paragraph, set a time before which
38 the complete application of water to a beneficial use must be made, which
39 must not exceed 10 years after the date of the approval. The time set under
40 this paragraph respecting an application for a permit to apply water to a
41 municipal or quasi-municipal use on any land:

42 (1) For which a final subdivision map has been recorded pursuant to
43 chapter 278 of NRS;

44 (2) For which a plan for the development of a project has been approved
45 by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

46 (3) On any land for which a plan for the development of a planned unit
47 development has been recorded pursuant to chapter 278A of NRS,
48 must not be less than 5 years.

2. The state engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise provided in paragraph (b) of subsection 1, to a shorter time for the perfecting of the application than named in the application.

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the state engineer may, for good cause shown, extend the time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by him, but an application for the extension must in all cases be [made] :

(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410 [.] ; and

(b) Accompanied by proof and evidence of the reasonable diligence with which the applicant is pursuing the perfection of the application.

The state engineer shall not grant an extension of time unless he determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

4. Except as otherwise provided in subsection 5 and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in paragraph (b) of subsection 1, or for any use which may be served by a county, city, town, public water district or public water company, requests an extension of time to apply the water to a beneficial use, the state engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS, if any, for completing the development of the land.

5. The provisions of subsections 1 and 4 do not apply to an environmental permit.

6. For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a

1 project or integrated system is comprised of several features, work on one
2 feature of the project or system must be considered in finding that reasonable
3 diligence has been shown in the development of water rights for all features of
4 the entire project or system.

5 Sec. 4. NRS 533.395 is hereby amended to read as follows:

6 533.395 1. If, at any time in the judgment of the state engineer, the
7 holder of any permit to appropriate the public water is not proceeding in good
8 faith and with reasonable diligence to perfect the appropriation, the state
9 engineer [may require at any time] shall require the submission of such proof
10 and evidence as may be necessary to show a compliance with the law. If, in
11 his judgment, the holder of a permit is not proceeding in good faith and with
12 reasonable diligence to perfect the appropriation, the state engineer shall
13 cancel the permit, and advise the holder of its cancellation. The failure to
14 provide the proof and evidence required pursuant to this subsection is prima
15 facie evidence that the holder is not proceeding in good faith and with
16 reasonable diligence to perfect the appropriation.

17 2. If any permit is canceled under the provisions of NRS 533.390, this
18 section or 533.410, the holder of the permit may within 60 days of the
19 cancellation of the permit file a written petition with the state engineer
20 requesting a review of the cancellation by the state engineer at a public
21 hearing. The state engineer may, after receiving and considering evidence,
22 affirm, modify or rescind the cancellation.

23 3. If the decision of the state engineer modifies or rescinds the cancellation
24 of a permit, the effective date of the appropriation under the permit is vacated
25 and replaced by the date of the filing of the written petition with the state
26 engineer.

27 4. The cancellation of a permit may not be reviewed or be the subject of
28 any judicial proceedings unless a written petition for review has been filed
29 and the cancellation has been affirmed, modified or rescinded pursuant to
30 subsection 2.

31 5. For the purposes of this section, the measure of reasonable diligence is
32 the steady application of effort to perfect the appropriation in a reasonably
33 expedient and efficient manner under all the facts and circumstances. When a
34 project or integrated system is comprised of several features, work on one
35 feature of the project or system must be considered in finding that reasonable
36 diligence has been shown in the development of water rights for all features of
37 the entire project or system.

38 Sec. 5. NRS 533.435 is hereby amended to read as follows:

39 533.435 1. The state engineer shall collect the following fees:

40 For examining and filing an application for a permit to	
41 appropriate water	\$200.00
42 This fee includes the cost of publication,	
43 which is \$50.	
44 For examining and acting upon plans and specifications	
45 for construction of a dam	500.00
46 For examining and filing an application for each permit	
47 to change the point of diversion, manner of use, or	
48 place of use of an existing right	100.00

	1	This fee includes the cost of the publication of	
	2	such an application, which is \$50.	
	3	For issuing and recording each permit to appropriate	
	4	water for any purpose, except for generating hydro-	
	5	electric power which results in nonconsumptive use	
	6	of the water or watering livestock or wildlife	
	7	purposes	150.00
	8	plus \$1 per acre-foot approved or fraction	
	9	thereof.	
	10	For issuing and recording each permit to change an	
	11	existing right whether temporary or permanent for	
	12	any purpose, except for generating hydroelectric	
	13	power which results in nonconsumptive use of the	
	14	water, for watering livestock or wildlife purposes	
	15	which change the point of diversion or place of use	
	16	only, or for irrigational purposes which change the	
	17	point of diversion or place of use only	100.00
	18	plus \$1 per acre-foot approved or fraction	
	19	thereof.	
	20	For issuing and recording each permit to change the point	
	21	of diversion or place of use only of an existing right	
	22	whether temporary or permanent for irrigational	
	23	purposes	200.00
	24	For issuing and recording each permit to appropriate or	
	25	change the point of diversion or place of use of an	
	26	existing right only whether temporary or permanent	
	27	for watering livestock or wildlife purposes for each	
	28	second-foot of water approved or fraction	
	29	thereof	50.00
	30	For issuing and recording each permit to appropriate or	
	31	change an existing right whether temporary or per-	
	32	manent for water for generating hydroelectric	
	33	power which results in nonconsumptive use of the	
	34	water for each second-foot of water approved or	
	35	fraction thereof	100.00
	36	This fee must not exceed \$1,000.	
	37	For filing a secondary application under a reservoir	
	38	permit	200.00
	39	For approving and recording a secondary permit under a	
	40	reservoir permit	200.00
	41	For reviewing each tentative subdivision map	150.00
	42	plus \$1 per lot.	
	43	For storage approved under a dam permit for privately	
	44	owned nonagricultural dams which store more than	
	45	50 acre-feet	100.00
	46	plus \$1 per acre-foot storage capacity. This	
	47	fee includes the cost of inspection and	
	48	must be paid annually.	

1	For filing proof of completion of work	10.00	1
2	For filing proof of beneficial use	50.00	2
3	For filing any protest	10.00	3
4	For filing, <i>within 8 years after the original application</i>		4
5	<i>was approved, any application for extension of time</i>		5
6	<i>within which to file proofs</i>	100.00	6
7	For filing, <i>8 or more years after the original application</i>		7
8	<i>was approved, any application for extension of time</i>		8
9	<i>within which to file proofs</i>	500.00	9
10	For filing any assignment or water right deed, for each		10
11	water right assigned, actual cost of the work up		11
12	to	10.00	12
13	For filing any other instrument	1.00	13
14	For making copy of any document recorded or filed in his		14
15	office, for the first 100 words	1.00	15
16	For each additional 100 words or fraction		16
17	thereof20	17
18	For certifying to copies of documents, records or maps,		18
19	for each certificate	1.00	19
20	For each blueprint copy of any drawing or map, per		20
21	square foot50	21
22	The minimum charge for a blueprint copy, per print	3.00	22

23 2. When fees are not specified in subsection 1 for work required of his
24 office, the state engineer shall collect the actual cost of the work.

25 3. Except as otherwise provided in this subsection, all fees collected by
26 the state engineer under the provisions of this section must be deposited in the
27 state treasury for credit to the general fund. All fees received for blueprint
28 copies of any drawing or map must be kept by him and used only to pay the
29 costs of printing, replacement and maintenance of printing equipment. Any
30 publication fees received which are not used by him for publication expenses
31 must be returned to the persons who paid the fees. If, after exercising due
32 diligence, the state engineer is unable to make the refunds, he shall deposit
33 the fees in the state treasury for credit to the general fund. The state engineer
34 may maintain, with the approval of the state board of examiners, a checking
35 account in any bank qualified to handle state money to carry out the provi-
36 sions of this subsection. The bank account must be secured by a depository
37 bond satisfactory to the state board of examiners to the extent the account is
38 not insured by the Federal Deposit Insurance Corporation.

39 Sec. 6. NRS 534.040 is hereby amended to read as follows:

40 534.040 1. Upon the initiation of the administration of this chapter in
41 any particular basin, and where the investigations of the state engineer have
42 shown the necessity for the supervision over the waters of that basin, the state
43 engineer may employ a well supervisor and other necessary assistants, who
44 shall execute the duties as provided in this chapter under the direction of the
45 state engineer. The salaries of the well supervisor and his assistants must be
46 fixed by the state engineer. The well supervisor and his assistants are exempt
47 from the provisions of chapter 284 of NRS.

1 2. The board of county commissioners shall levy a special tax annually, or
2 at such time as the tax is needed, upon all taxable property situated within the
3 confines of the area designated by the state engineer to come under the
4 provisions of this chapter in such an amount as is necessary to pay those
5 salaries, together with necessary expenses, including the compensation and
6 other expenses of the state well drillers' advisory board if the money availa-
7 ble from the license fees provided for in NRS 534.140 is not sufficient to pay
8 those costs. In designated areas within which the use of ground water is
9 predominantly for agricultural purposes the levy must be charged against
10 each water user who has a permit to appropriate water or a perfected water
11 right, and the charge against each water user must be based upon the propor-
12 tion which his water right bears to the aggregate water rights in the desig-
13 nated area. The minimum charge is \$1.

14 3. The salaries and expenses may be paid by the state engineer from the
15 water distribution revolving account pending the levy and collection of the tax
16 as provided in this section.

17 4. The proper officers of the county shall levy and collect the special tax
18 as other special taxes are levied and collected, and the tax is a lien upon the
19 property.

20 5. The tax provided for, when collected, must be deposited with the state
21 treasurer for credit to the water district account to be accounted for in basin
22 well accounts.

23 6. Upon determination and certification by the state engineer of the
24 amount to be budgeted for the current or ensuing fiscal year for the purpose
25 of paying the per diem and travel allowances of the ground water board and
26 employing consultants or other help needed to fulfill its responsibilities, the
27 state controller must transfer that amount to a separate operating account for
28 that fiscal year for the ground water basin. Claims against the account must
29 be approved by the ground water board and paid as other claims against the
30 state are paid. *The state engineer may use money in a particular basin well*
31 *account to support an activity outside the basin in which the money is col-*
32 *lected if the activity bears a direct relationship to the responsibilities or*
33 *activities of the state engineer regarding the particular ground water basin.*

(30)

ASSEMBLY BILL 624 - Revises procedures concerning applications
for water rights.

Assemblyman Vivian Freeman, District 24, presented testimony as a proponent of AB 624. She indicated this bill was drafted after the hearing on AB 337 which recently passed through the committee. Mrs. Freeman said the particular goal or purpose of drafting AB 624 was to try to prevent speculation on water in Nevada. Mrs. Freeman indicated Fred Welden had worked on the drafting of AB 624 along with the water engineer's participation. Mrs. Freeman then gave a brief review of the bill (Exhibit C).

Chairman Garner wanted to know if the fees in AB 624 would be in conflict with the proposed fees in AB 314 which was on general file. Mrs. Freeman said yes, Fred Welden replied a conflict notice would be distributed as there were two different amendments to the same section of statute. However, the fee change in AB 624 was a different specific fee than the others which were changed in AB 314.

Mr. Garner said his concern pertained to the state engineer's budget. The fees in AB 314 had to be reconciled by the Committee on Ways and Means, therefore, he was curious how the same kind of problem would be resolved in AB 624.

Mr. Neighbors referenced Page 6, line 7, and asked if it applied to public utilities and counties holding applications. Mr. Welden responded the way the bill was currently drafted the language would apply to all applicant holders seeking an extension eight years or more after receiving original approval.

Mike Turnipseed, State Engineer, explained AB 314 amended sections of the law dealing with fees applicable to applications to appropriate water, permit fees and the fee charged to protestants. AB 624 changed a different section of the fee structure in dealing with extensions of time. He said AB 314 had generated a great deal of sentiment in the Senate and the Assembly as it was felt the fees would generate enough money to retain current employees and to rehire the seven employees lost during the last biennium. The fee in AB 624 would add \$150,000 to the general fund. Mr. Turnipseed then provided additional comments as he reviewed the legislation with the committee. In conclusion, Mr. Turnipseed stated he supported AB 624 wholeheartedly.

Mrs. de Braga pointed to Page 1, the new language, and asked what kind of situations were covered by the language. Mr.

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Turnipseed said there was an office in Elko which was partly funded by the Elko stream system account and the general fund. The secretary and the supervising water commissioner were general fund employees. Using an example requiring a field check, Mr. Turnipseed explained why, under current law, it was necessary to send a general fund employee to perform the field check. Humboldt funds could not be used.

Mrs. de Braga next wanted to know for how many years the water could be tied up. Mr. Turnipseed answered, "Since I became state engineer, I have amended our application form (Exhibit D) for an extension of time....This helps us in delineating how much activity has taken place to date, how much money has been expended, how much is expected to be spent in the next year, and how much will be spent before billing out. I think this extension form goes a long way toward helping us to meet the intent of the bill." He then discussed the various projects which required different time frames due to size and said the bill would increase the fees for extensions beyond eight years from the time the original appropriation was made.

Mrs. de Braga next asked what the time frame was from the time a permit was approved until an activity was started and was it possible to lose the permit if one did not act within a certain period of time. Mr. Turnipseed replied, "It is pretty much up to my judgment. It kind of depends on where it is in the state and how much other competition there is for the water." He then gave various examples of factors which contributed to his decisions.

Mrs. Lambert gave an illustration and asked Mr. Turnipseed if he thought it was reasonable diligence. Mr. Turnipseed answered he would have to examine other factors as well, just as he had done in a recent court case with similar circumstances. When asked if he had been upheld in the supreme court for canceling the permit, he replied yes. Continuing, he pointed out how developers were now utilizing a new loophole to get around the extensions of time, but he too had found a way to contract them. When asked if he was doing that under current law, Mr. Turnipseed said yes, but AB 624 might help him on appeal.

Mr. Hettrick drew attention to Page 1, the districts regulated by court decrees, and asked if the language, which was permissive, would present a problem. Mr. Turnipseed stated no, with explanation. He added he was not opposed to the language but it did make him nervous. When questioned if he would prefer to have lines 5 through 8 deleted, Mr. Turnipseed agreed but

said he did not want similar language on Page 7, lines 30 through 33 removed.

Mr. Neighbors declared he had water rights pending but he intended to vote in favor of the bill. He then wanted to know if Page 6, line 7, would be retroactive, Mr. Turnipseed answered yes. Further discussion followed regarding the applications filed by Las Vegas Valley Water District and the impact on the state.

Mrs. de Braga asked Mrs. Freeman what was intended by the language on Page 1, lines 5 - 8. Mrs. Freeman replied the goal of AB 624 was to put the onus of due diligence or reasonable diligence onto the applicant and to provide funding for the state engineer to allow him to represent the people who live in the state in terms of water rights. In addition, the legislation would prevent water speculators from moving into a particular area and to take away the water which was available. Mrs. Freeman told the committee she would be willing to make a change if Mr. Turnipseed had a problem with the language.

Mr. Hettrick stated he too had an interest in two entities owning water rights but AB 624 would not affect him differently from anyone else, therefore, he would be voting in favor of the bill.

Mrs. Lambert referenced Mr. Turnipseed's comment pertaining to municipalities holding water for planned growth and asked Mrs. Freeman if that was a reasonable thing for the municipalities to do. Mrs. Freeman said it was not one of the goals of the bill. She asked for the opportunity to sit down with Mr. Turnipseed to discuss language which would be agreeable and return to the committee. When pressed for an answer to the question, Mrs. Freeman answered it might be a reasonable length of time but she needed to review it. Mr. Turnipseed added AB 624 did not stifle holding water but after 8 years it would cost the municipality \$500 instead of \$100 every year for an extension of time.

Busan Oldham, Sierra Pacific Power Company, asked for an amendment to AB 624. She agreed the objectives of due diligence and protection against water speculation were honorable and should remain in the bill. But the problem she had difficulty with was raising the filing fee after 8 years. She said if the project passed the due diligence requirement there was no reason to raise the fee, adding it would only discourage "doing big things in this state." She next gave examples of different applications which would be affected and said her organization

was in opposition to the section on Page 6, regarding the extension of time for filing fees.

Mrs. Lambert queried what the legal difference was between changing the word "must" to "may" on Page 4, lines 2 and 35. Ms. Oldham replied it would provide a greater amount of discretion on Mr. Turnipseed's part. Also, the state engineer needed the ability to consider all of the circumstances, in total, to make his decision, therefore, she was of the opinion it would be appropriate to change the language to "may." To say "must," on appeal, would open the argument the state engineer had to take whatever particular piece of the project into account which he felt, in total, was not reasonable diligence.

Mr. Bache queried if the applications referenced had been approved, Ms. Oldham responded no. A discussion ensued regarding when applications would be affected.

Chairman Garner appointed Mrs. Freeman to the established committee looking into water speculation and asked her to delve into specific differences before bringing AB 624 back to the committee.

Again, Mr. Neighbors stated he did not have a problem with the fees although he would be one of the people who would have to pay the extra \$400.

The hearing on AB 624 was closed with no action taken.

SENATE BILL NO. 425 - Extends date upon which public service commission of Nevada must report to legislature concerning alternative plan for regulating public utilities that provide telecommunication services.

Brian Herr, Nevada Bell, supported SB 425 and introduced Margaret McMillan. He said SB 425 extended a legislative report prepared by the Public Service Commission to the dates February, 1995 and 1997. Mr. Herr then gave the committee the background associated with the bill and concluded his testimony by saying there had been no opposition in the Senate.

Margaret McMillan, Sprint-Central Telephone Company (Centel), testified Centel was not under the alternative regulation plan, explaining the reasons why. But she did agree it was important the Public Service Commission continue the reporting because, in the event Centel opted into the plan, Centel would like its

INTRODUCTORY COMMENTS FOR
ASSEMBLY BILL 624

ASSEMBLY BILL 624 PRIMARILY ADDRESSES THE TOPIC OF "REASONABLE DILIGENCE" AS IT RELATES TO WATER PERMITS. IN ADDITION TO ENSURING CONSISTENT PROGRESS TOWARD PUTTING WATER TO BENEFICIAL USE, REQUIREMENTS OF "REASONABLE DILIGENCE" PROVIDE ONE MECHANISM FOR MINIMIZING SPECULATION IN WATER RIGHTS.

A SECOND ASPECT OF THE BILL AUTHORIZES THE STATE ENGINEER TO USE MONEY FROM DISTRICT AND BASIN ACCOUNTS FOR ACTIVITIES OUTSIDE THE BASIN IN WHICH THE REVENUE IS COLLECTED, IF THE ACTIVITIES ARE DIRECTLY RELATED TO HIS RESPONSIBILITIES INSIDE THAT PARTICULAR BASIN. SECTIONS 1 AND 6 OF THE BILL INCORPORATE THIS LATTER PROVISION IN STATUTE.

SECTION 2 RELATES TO ORIGINAL APPLICATIONS TO APPROPRIATE WATER AND APPLICATIONS TO CHANGE THE POINT OF DIVERSION, PLACE OF USE, OR MANNER OF USE FOR EXISTING PERMITS OR RIGHTS. THE APPLICANT

IS REQUIRED TO PROVIDE PROOF OF: (1) HIS INTENTION IN GOOD FAITH TO CONSTRUCT ANY WORK NECESSARY TO APPLY THE WATER TO THE INTENDED BENEFICIAL USE WITH REASONABLE DILIGENCE; AND (2) IF THE APPLICATION PROPOSES TO DIVERT 1 SECOND FOOT OF WATER OR MORE, HIS FINANCIAL ABILITY TO CONSTRUCT THE WORK WITH REASONABLE DILIGENCE. THE 1 SECOND FOOT CRITERION ALLOWS THE STATE ENGINEER TO ACT UPON SMALLER PROPOSALS (SUCH AS STOCK WATERING AND SMALL COMMERCIAL APPLICATIONS) WITHOUT THE APPLICANT HAVING TO PROVIDE, AND THE STATE ENGINEER HAVING TO REVIEW, FINANCIAL STATEMENTS. THE PROVISIONS IN SECTION 2 ARE MODELED PRIMARILY AFTER OREGON LAW.

SECTION 3 REQUIRES PROOF OF "REASONABLE DILIGENCE" BEFORE APPROVAL OF AN EXTENSION OF TIME MAY BE GRANTED, SIMILAR TO PROVISIONS IN NEW MEXICO AND UTAH STATUTES. THE SECTION FURTHER SPECIFIES THAT FAILURE TO PROVIDE PROOF OF "REASONABLE DILIGENCE" IS PRIMA FACIE EVIDENCE THAT THE APPLICANT IS NOT PROCEEDING IN GOOD FAITH AND WITH REASONABLE DILIGENCE, AS IN OREGON LAW. AND,

A SPECIFIC DEFINITION OF "REASONABLE DILIGENCE" IS BASED UPON COLORADO LAW.

SECTION 4 APPLIES THE CLAUSE CONCERNING PRIMA FACIE EVIDENCE AND THE DEFINITION TO THE EXISTING NEVADA STATUTE WHICH DIRECTS THE STATE ENGINEER TO CANCEL A PERMIT IF HE FINDS THAT THE HOLDER IS NOT PROCEEDING WITH "REASONABLE DILIGENCE" TO PERFECT THE WATER RIGHT.

SECTION 5 ADDS A NEW FEE TO THE STATE ENGINEER'S PROGRAM. THE EXISTING FEE OF \$100 FOR AN EXTENSION OF TIME IS RETAINED AS IT APPLIES TO APPLICATIONS FILED DURING THE FIRST 8 YEARS AFTER APPROVAL OF THE INITIAL PERMIT. FOR APPLICATIONS TO EXTEND THE TIME PAST 8 YEARS, HOWEVER, THE FEE IS INCREASED TO \$500. THE GOAL OF THE INCREASE IS TO PROVIDE AN INCENTIVE FOR THE PERMIT HOLDER TO PROCEED WITH DILIGENCE AND TO MINIMIZE SPECULATION.

I:\Wenr\W93-1403.1,1b

BEFORE THE STATE ENGINEER OF THE STATE OF NEVADA
APPLICATION FOR EXTENSION OF TIME

Owner of Record.....

IN THE MATTER OF PERMIT NO.....FILED TO APPROPRIATE / CHANGE THE WATERS OF

(Name of stream, lake, spring, underground or other source)

THIS APPLICATION IS RESPECTFULLY SUBMITTED.

Comes now....., the
Person Signing Application Permittee or Agent

under Permit No....., who after being first duly sworn and answering to the best of their knowledge the following questions in compliance with the requirements as set forth in the permit terms:

1. If this permit has multiple owners, is this request for an extension of time submitted on behalf of all the owners?
☐ YES ☐ NO (Check the Appropriate Box)
2. If "NO", on whose behalf is this extension being filed?.....
3. How much time is needed to finish this project?.....
4. To date, what is the total expenditure on this project?.....
5. In order to complete this project as set forth in the permit terms, what additional funds will be spent?.....
6. The permittee requests an extension of time for.....(Not to exceed 1 year) within which to comply with the provisions for filing the.....(Proof of completion of work and/or proof of beneficial use)
7. Explain in detail why this request for an extension of time is being submitted (Use additional sheets if necessary):
.....
.....
.....

Signed.....
Permittee or Agent

Subscribed and sworn to before me this.....day of.....
....., 19.....

Address.....
Street No. or P.O. Box No.
City, State, Zip Code No.

Phone.....

Notary Public in and for the County of.....

State of.....

My commission expires....., 19.....

\$100 FILING FEE MUST ACCOMPANY THIS APPLICATION FOR EXTENSION OF TIME.
AN APPLICATION MUST BE FILED FOR EACH SEPARATE PERMIT.

Assembly Committee on Government Affairs
June 4, 1993
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ASSEMBLYMAN KENNY MOVED AMEND & DO PASS ON AB 641.

ASSEMBLYMAN BACHE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ASSEMBLY CONCURRENT RESOLUTION 35 -

Urges persons in charge of state buildings to display flag of National League of Families of American Prisoners and Missing in Southeast Asia.

Mr. Hettrick referenced Exhibit D, the revised amendment, and said it answered the questions which had been raised. He then explained what changes had been made.

ASSEMBLYMAN BACHE MOVED AMEND AND ADOPT ACR 36.

ASSEMBLYMAN ERNAUT SECONDED THE MOTION.

THE MOTION CARRIED.

ASSEMBLY BILL NO. 624 - Revises procedures concerning applications for water rights.

Mr. Bennett referred to Exhibit E, a memo from Fred Welden with proposed amendments, explaining the subcommittee had met and had agreed to the direction which would be taken. He then reviewed the changes with the committee.

ASSEMBLYMAN BENNETT MOVED TO AMEND AND DO PASS ON AB 624.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

In further discussion of the motion, various members of the committee voiced positive opinions regarding Honey Lake, water speculation, and the handling of the issues by means of AB 624.

THE MOTION CARRIED UNANIMOUSLY.

SENATE BILL NO. 49 -

Revises procedure for payment of claim from state treasury made pursuant to legislative appropriation or authorization.

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710
Fax No.: (702) 687-5962

LEGISLATIVE COMMISSION (702) 687-6800
RAYMOND C. SHAFFER, *Senator, Chairman*
John R. Crossley, *Director, Secretary*

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WILLIAM J. RAGOIO, *Senator, Chairman*
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Mark W. Stevens, *Fiscal Analyst*



JOHN R. CROSSLEY, *Director*
(702) 687-6800

Wm. GARY CREWS, *Legislative Auditor* (702) 687-6815
ROBERT E. ERICKSON, *Research Director* (702) 687-6825
LORNE J. MALKIEWICH, *Legislative Counsel* (702) 687-6830

MEMORANDUM

DATE: June 3, 1993
TO: Assemblyman Rick Bennett
FROM: Fred Welden, Chief Deputy Research Director *FW*
SUBJECT: Incorporation of State Engineer's Comments into
Suggested Amendments to Assembly Bill 624

Upon receiving my memorandum concerning possible amendments to A.B. 624 relative to "reasonable diligence" in water rights, you asked me to obtain comments from the State Engineer. His recommendations for language necessary to achieve the goal associated with increasing the fees are incorporated into the following concepts for amendments:

POSSIBLE LANGUAGE FOR AMENDMENTS

In preparing possible language, three components of the amendments were simple, but one aspect proved to be more complicated, as follows:

- Page 1, lines 1-12

Delete Section 1 of the bill.

- Page 2, line 3

Replace the words "second foot" with the words "cubic foot per second".

- Page 4, lines 2 and 35

Replace the word "must" with the word "may".

SPI APP 384

2019
EXHIBIT E
JA0438
SE ROA 396

- Page 6, lines 4-9

Delete the language on these lines and add:

For filing:

(a) By an agency of the United States Government, a political subdivision of this state or a public utility as defined in NRS 704.020, any application for extension of time within which to file proofs....100.00;

(b) By an entity other than those defined in (a):

(1) Within 8 years after the approval of a permit to appropriate water or a permit to change a perfected water right, an application for extension of time within which to file proofs associated with such a permit....100.00;

(2) Eight years or more after the approval of a permit to appropriate water or a permit to change a perfected water right, an application for an extension of time within which to file proofs associated with such a permit....500.00;

(3) Within 8 years after granting of the original appropriation, an application for extension of time within which to file proofs associated with a permitted change of an appropriation that has not been perfected....100.00; or

(4) Eight years or more after granting of the original appropriation, an application for extension of time within which to file proofs associated with a permitted change of an appropriation that has not been perfected....500.00; or

(c) An application for extension of time to prevent the working of a forfeiture pursuant to NRS 534.090....500.00.

CONCLUDING COMMENT

I trust that this possible language will assist in your deliberations. If I can provide further assistance, please call upon me.

FW/gj:W03-1211.3,29

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT

A.B. 624

ASSEMBLY BILL NO. 624—COMMITTEE ON NATURAL RESOURCES,
AGRICULTURE AND MINING

MAY 13, 1993

Referred to Committee on Government Affairs

SUMMARY—Revises procedures concerning applications for water rights. (BDR 48-1979)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to water; revising procedures concerning applications for water rights; requiring proof of reasonable diligence in pursuing perfection before an extension of time may be granted; increasing under certain circumstances the fee for filing an application for an extension of time within which to file proof; clarifying the manner in which money in basin well accounts may be used; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 533.295 is hereby amended to read as follows:
2 533.295 1. [The] *Except as otherwise provided in NRS 534.040, money*
3 *in the water district account must be used exclusively for expenses incurred in*
4 *the administration, operation and maintenance of the particular stream system*
5 *from which the money is budgeted and collected.*
6 2. The term "expenses" referred to in NRS 533.270 to 533.290, inclu-
7 sive, includes salaries, hydrographic surveys, per diem expenses, car rental,
8 equipment, including necessary automobiles, supplies and materials incident-
9 tal to the proper administration and distribution of water.
10 **Sec. 2.** NRS 533.370 is hereby amended to read as follows:
11 533.370 1. Except as otherwise provided in NRS 533.345, 533.371 and
12 533.372 and this section, the state engineer shall approve an application
13 submitted in proper form which contemplates the application of water to
14 beneficial use if:
15 (a) The application is accompanied by the prescribed fees; [and]
16 (b) The proposed use or change, if within an irrigation district, does not
17 adversely affect the cost of water for other holders of water rights in the
18 district or lessen the district's efficiency in its delivery or use of water [.] ;
19 and
20 (c) *The applicant provides proof satisfactory to the state engineer of:*
21 (1) *His intention in good faith to construct any work necessary to apply*
22 *the water to the intended beneficial use with reasonable diligence; and*

(2) If the application proposes to divert 1 or more cubic feet per second of water, his financial ability to construct the work with reasonable diligence.

2. Except as otherwise provided in subsection 5, the state engineer shall either approve or reject each application within 1 year after the final date for filing protest. However;

(a) Action can be postponed by the state engineer upon written authorization to do so by the applicant or, in case of a protested application, by both the protestant and the applicant; and

(b) In areas where studies of water supplies are being made or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection 5, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights, or threatens to prove detrimental to the public interest, the state engineer shall reject the application and refuse to issue the permit asked for. Where a previous application for a similar use of water within the same basin has been rejected on these grounds, the new application may be denied without publication.

4. The rejection or approval of an application must be endorsed on a copy of the original application, and a record made of the endorsement in the records of the state engineer. The copy of the application so endorsed must be returned to the applicant. If the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water so long as the rejection continues in force.

5. The provisions of subsections 1, 2 and 3 do not apply to an application for an environmental permit.

Sec. 3. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, in his endorsement of approval upon any application, the state engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval. The time set under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS, must not be less than 5 years.

2. The state engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise

1 provided in paragraph (b) of subsection 1, to a shorter time for the perfecting
2 of the application than named in the application.

3 3. Except as otherwise provided in subsection 4 and NRS 533.395 and
4 533.4377, the state engineer may, for good cause shown, extend the time
5 within which construction work must be completed, or water must be applied
6 to a beneficial use under any permit therefor issued by him, but an application
7 for the extension must in all cases be [made] ;

8 (a) Made within 30 days following notice by registered or certified mail
9 that proof of the work is due as provided for in NRS 533.390 and 533.410 [.]
10 ; and

11 (b) Accompanied by proof and evidence of the reasonable diligence with
12 which the applicant is pursuing the perfection of the application.

13 The state engineer shall not grant an extension of time unless he determines
14 from the proof and evidence so submitted that the applicant is proceeding in
15 good faith and with reasonable diligence to perfect the application. The
16 failure to provide the proof and evidence required pursuant to this subsection
17 is prima facie evidence that the holder is not proceeding in good faith and
18 with reasonable diligence to perfect the application.

19 4. Except as otherwise provided in subsection 5 and NRS 533.395, when-
20 ever the holder of a permit issued for any municipal or quasi-municipal use of
21 water on any land referred to in paragraph (b) of subsection 1, or for any use
22 which may be served by a county, city, town, public water district or public
23 water company, requests an extension of time to apply the water to a benefi-
24 cial use, the state engineer shall, in determining whether to grant or deny the
25 extension, consider, among other factors:

26 (a) Whether the holder has shown good cause for not having made a
27 complete application of the water to a beneficial use;

28 (b) The number of parcels and commercial or residential units which are
29 contained in or planned for the land being developed or the area being served
30 by the county, city, town, public water district or public water company;

31 (c) Any economic conditions which affect the ability of the holder to make
32 a complete application of the water to a beneficial use;

33 (d) Any delays in the development of the land or the area being served by
34 the county, city, town, public water district or public water company which
35 were caused by unanticipated natural conditions; and

36 (e) The period contemplated in the:

37 (1) Plan for the development of a project approved by the local govern-
38 ment pursuant to NRS 278.010 to 278.460, inclusive; or

39 (2) Plan for the development of a planned unit development recorded
40 pursuant to chapter 278A of NRS,
41 if any, for completing the development of the land.

42 5. The provisions of subsections 1 and 4 do not apply to an environmental
43 permit.

44 6. For the purposes of this section, the measure of reasonable diligence is
45 the steady application of effort to perfect the application in a reasonably
46 expedient and efficient manner under all the facts and circumstances. When a
47 project or integrated system is comprised of several features, work on one
48 feature of the project or system may be considered in finding that reasonable

1 diligence has been shown in the development of water rights for all features of
2 the entire project or system.

3 Sec. 4. NRS 533.395 is hereby amended to read as follows:

4 533.395 1. If, at any time in the judgment of the state engineer, the
5 holder of any permit to appropriate the public water is not proceeding in good
6 faith and with reasonable diligence to perfect the appropriation, the state
7 engineer [may require at any time] shall require the submission of such proof
8 and evidence as may be necessary to show a compliance with the law. If, in
9 his judgment, the holder of a permit is not proceeding in good faith and with
10 reasonable diligence to perfect the appropriation, the state engineer shall
11 cancel the permit, and advise the holder of its cancellation. *The failure to*
12 *provide the proof and evidence required pursuant to this subsection is prima*
13 *facie evidence that the holder is not proceeding in good faith and with*
14 *reasonable diligence to perfect the appropriation.*

15 2. If any permit is canceled under the provisions of NRS 533.390, this
16 section or 533.410, the holder of the permit may within 60 days of the
17 cancellation of the permit file a written petition with the state engineer
18 requesting a review of the cancellation by the state engineer at a public
19 hearing. The state engineer may, after receiving and considering evidence,
20 affirm, modify or rescind the cancellation.

21 3. If the decision of the state engineer modifies or rescinds the cancellation
22 of a permit, the effective date of the appropriation under the permit is vacated
23 and replaced by the date of the filing of the written petition with the state
24 engineer.

25 4. The cancellation of a permit may not be reviewed or be the subject of
26 any judicial proceedings unless a written petition for review has been filed
27 and the cancellation has been affirmed, modified or rescinded pursuant to
28 subsection 2.

29 5. *For the purposes of this section, the measure of reasonable diligence is*
30 *the steady application of effort to perfect the appropriation in a reasonably*
31 *expedient and efficient manner under all the facts and circumstances. When a*
32 *project or integrated system is comprised of several features, work on one*
33 *feature of the project or system may be considered in finding that reasonable*
34 *diligence has been shown in the development of water rights for all features of*
35 *the entire project or system.*

36 Sec. 5. NRS 533.435 is hereby amended to read as follows:

37 533.435 1. The state engineer shall collect the following fees:

38 For examining and filing an application for a permit to
39 appropriate water \$200.00

40 This fee includes the cost of publication,
41 which is \$50.

42 For examining and acting upon plans and specifications
43 for construction of a dam 500.00

44 For examining and filing an application for each permit
45 to change the point of diversion, manner of use, or
46 place of use of an existing right 100.00

47 This fee includes the cost of the publication of
48 such an application, which is \$50.

For issuing and recording each permit to appropriate water for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water or watering livestock or wildlife purposes	150.00
plus \$1 per acre-foot approved or fraction thereof.	
For issuing and recording each permit to change an existing right whether temporary or permanent for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water, for watering livestock or wildlife purposes which change the point of diversion or place of use only, or for irrigational purposes which change the point of diversion or place of use only	100.00
plus \$1 per acre-foot approved or fraction thereof.	
For issuing and recording each permit to change the point of diversion or place of use only of an existing right whether temporary or permanent for irrigational purposes	200.00
For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right only whether temporary or permanent for watering livestock or wildlife purposes for each second-foot of water approved or fraction thereof	50.00
For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water for each second-foot of water approved or fraction thereof	100.00
This fee must not exceed \$1,000.	
For filing a secondary application under a reservoir permit	200.00
For approving and recording a secondary permit under a reservoir permit	200.00
For reviewing each tentative subdivision map	150.00
plus \$1 per lot.	
For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet	100.00
plus \$1 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.	
For filing proof of completion of work	10.00
For filing proof of beneficial use	50.00

1	For filing any protest	10.00
2	For filing , <i>except as otherwise provided in this section,</i>	
3	<i>any application for an extension of the time within</i>	
4	<i>which to file proofs</i>	500.00
5	For filing, by an agency of the Federal Government, a	
6	political subdivision of this state or a public utility,	
7	as defined in NRS 704.020, any application for an	
8	extension of the time within which to file proofs ..	100.00
9	For filing, by any person or entity other than an agency of	
10	the Federal Government, a political subdivision of	
11	this state or a public utility, as defined in NRS	
12	704.020, within 8 years after the approval of a	
13	permit to appropriate water or to change the place	
14	of diversion, manner of use or place of use of a	
15	perfected water right, an application for an exten-	
16	sion of the time within which to file proofs regard-	
17	ing that permit	100.00
18	For filing an application for an extension of the time	
19	necessary to work a forfeiture pursuant to NRS	
20	534.090	500.00
21	For filing any assignment or water right deed, for each	
22	water right assigned, actual cost of the work up	
23	to	10.00
24	For filing any other instrument	1.00
25	For making copy of any document recorded or filed in his	
26	office, for the first 100 words	1.00
27	For each additional 100 words or fraction	
28	thereof20
29	For certifying to copies of documents, records or maps,	
30	for each certificate	1.00
31	For each blueprint copy of any drawing or map, per	
32	square foot50
33	The minimum charge for a blueprint copy, per print	3.00
34	2. When fees are not specified in subsection 1 for work required of his	
35	office, the state engineer shall collect the actual cost of the work.	
36	3. Except as otherwise provided in this subsection, all fees collected by	
37	the state engineer under the provisions of this section must be deposited in the	
38	state treasury for credit to the general fund. All fees received for blueprint	
39	copies of any drawing or map must be kept by him and used only to pay the	
40	costs of printing, replacement and maintenance of printing equipment. Any	
41	publication fees received which are not used by him for publication expenses	
42	must be returned to the persons who paid the fees. If, after exercising due	
43	diligence, the state engineer is unable to make the refunds, he shall deposit	
44	the fees in the state treasury for credit to the general fund. The state engineer	
45	may maintain, with the approval of the state board of examiners, a checking	
46	account in any bank qualified to handle state money to carry out the provi-	
47	sions of this subsection. The bank account must be secured by a depository	

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1 bond satisfactory to the state board of examiners to the extent the account is
2 not insured by the Federal Deposit Insurance Corporation.

3 Sec. 6. NRS 534.040 is hereby amended to read as follows:

4 534.040 1. Upon the initiation of the administration of this chapter in
5 any particular basin, and where the investigations of the state engineer have
6 shown the necessity for the supervision over the waters of that basin, the state
7 engineer may employ a well supervisor and other necessary assistants, who
8 shall execute the duties as provided in this chapter under the direction of the
9 state engineer. The salaries of the well supervisor and his assistants must be
10 fixed by the state engineer. The well supervisor and his assistants are exempt
11 from the provisions of chapter 284 of NRS.

12 2. The board of county commissioners shall levy a special tax annually, or
13 at such time as the tax is needed, upon all taxable property situated within the
14 confines of the area designated by the state engineer to come under the
15 provisions of this chapter in such an amount as is necessary to pay those
16 salaries, together with necessary expenses, including the compensation and
17 other expenses of the state well drillers' advisory board if the money availa-
18 ble from the license fees provided for in NRS 534.140 is not sufficient to pay
19 those costs. In designated areas within which the use of ground water is
20 predominantly for agricultural purposes the levy must be charged against
21 each water user who has a permit to appropriate water or a perfected water
22 right, and the charge against each water user must be based upon the propor-
23 tion which his water right bears to the aggregate water rights in the desig-
24 nated area. The minimum charge is \$1.

25 3. The salaries and expenses may be paid by the state engineer from the
26 water distribution revolving account pending the levy and collection of the tax
27 as provided in this section.

28 4. The proper officers of the county shall levy and collect the special tax
29 as other special taxes are levied and collected, and the tax is a lien upon the
30 property.

31 5. The tax provided for, when collected, must be deposited with the state
32 treasurer for credit to the water district account to be accounted for in basin
33 well accounts.

34 6. Upon determination and certification by the state engineer of the
35 amount to be budgeted for the current or ensuing fiscal year for the purpose
36 of paying the per diem and travel allowances of the ground water board and
37 employing consultants or other help needed to fulfill its responsibilities, the
38 state controller must transfer that amount to a separate operating account for
39 that fiscal year for the ground water basin. Claims against the account must
40 be approved by the ground water board and paid as other claims against the
41 state are paid. *The state engineer may use money in a particular basin well*
42 *account to support an activity outside the basin in which the money is col-*
43 *lected if the activity bears a direct relationship to the responsibilities or*
44 *activities of the state engineer regarding the particular ground water basin.*

(30)

MINUTES OF THE
SENATE COMMITTEE ON NATURAL RESOURCES

Sixty-seventh Session
June 25, 1993

The Senate Committee on Natural Resources was called to order by Chairman R. Hal Smith, at 8:43 a.m., on Friday, June 25, 1993, in Room 224 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator R. Hal Smith, Chairman
Senator Dean A. Rhoads, Vice Chairman
Senator Ernest E. Adler
Senator Thomas J. Hickey
Senator Mark A. James
Senator Joseph M. Neal, Jr.
Senator Dina Titus

GUEST LEGISLATORS PRESENT:

Assemblyman Vivian L. Freeman, Assembly District 24

STAFF MEMBERS PRESENT:

Caren Jenkins, Senior Research Analyst
Fred Walden, Chief Deputy Research Director
Rayanne Francis, Senate Committee Secretary

OTHERS PRESENT:

Mike Turnipseed, State Engineer, Division of Water Resources,
Department of Conservation and Natural Resources
Joe Johnson, Lobbyist, Sierra Club
Jim Weisaupt, Manager, Walker River Irrigation District

Chairman Smith called the meeting to order. The first item of business was Assembly Bill (A.B.) 624.

ASSEMBLY BILL 624: Revises procedures concerning applications for water rights.

Assemblyman Vivian L. Freeman, Assembly District 24, testified in support of the bill. She stated she has a major concern with the speculation of water. The bill was designed and drafted

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June 25, 1993
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with the cooperation of the state water engineer. Mrs. Freeman submitted written testimony (Exhibit C) and explained the bill primarily addresses the topic of reasonable diligence as it relates to water permits.

Senator Rhoads questioned the origin of the term "reasonable diligence." Fred Welden, Chief Deputy Research Director, Legislative Counsel Bureau, answered the term is already in Nevada's statutes. Senator Rhoads ascertained there will be a definition of the term in the bill. Mr. Welden explained the definition came from Colorado statute. He said Colorado also has several court cases which further specify examples of reasonable diligence. Senator James pointed out Nevada has cases dealing with the concept, also. Mr. Welden acknowledged there are two cases in Nevada which speak to the subject, but neither address the term itself.

Senator James asked if it is Mr. Welden's understanding that the state engineer does not currently have the authority to cancel a permit for failure to proceed with reasonable diligence. Mr. Welden said the state engineer does currently have that ability. The bill will, in some instances, require him to cancel permits.

Senator Hickey questioned the need for the bill if the state engineer presently has the discretionary power to cancel permits. Mrs. Freeman responded the bill will give the state engineer additional tools to prevent any speculation on water.

Senator Hickey wondered if there will be additional costs associated with those tools. Mrs. Freeman said it is her understanding there will not be additional costs. She invited the state engineer to speak to the subject.

Mike Turnipseed, State Engineer, Division of Water Resources, Department of Conservation and Natural Resources, submitted a copy of the department's Application For Extension of Time (Exhibit D). He expressed some concern over the fees mandated in the bill. Mr. Turnipseed explained he does not think the fee structure would accomplish the purpose of the bill. Senator Hickey asked whether the fees are adequate to deter speculation. Mr. Turnipseed said a fee of \$500 would not deter the person sitting on a \$1 million water right. Senator Hickey suggested indexing the fees differently to deter the people guilty of speculating.

Senator Adler pointed out that during the sixty-sixth session the legislature had passed a \$6 per acre foot fee for transfers between counties, which must be paid back to the county of origin.

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JA0448⁴⁴
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Mr. Turnipseed said there has been speculation in water throughout the history of the state. In the 1970s and 1980s, when the Desert Land Entry Program was "going great guns" they were taking thousands of applications for desert land entries. The Department of Conservation and Natural Resources approved a few and denied a lot. They were sued many times, but won those lawsuits.

Senator Hickey said, "I don't think we're going to stop speculation. The question is, should the speculator pay for his speculation?"

Senator Neal asked what effect the term reasonable diligence would have on the person with an approved application for water rights. Mr. Turnipseed explained the term would not affect the time frame.

Senator James stated:

I really get concerned when we try to say that we should discourage all speculation in water rights. I think it's kind of, you know, if it's real property that you're dealing with you call it investment. If somebody then tries to do the same thing, investing in water rights, you call it speculation and now it's suddenly nefarious. In my experience I have run into very few people where that's the situation, but the people who need to use these things, they're trying to hold water rights so they can develop a project that takes many years, over several phases to develop, or they're trying to develop their farms, or they're moving their water rights around to try to get the most beneficial use out of them when they are perfected. I think it's very dangerous for us to consider all types of holding on to a permit before it ripens into a certificate, consider that speculation and try to prevent that from occurring. That's one problem I have with the fees because we're, in those fees, we're exempting out the federal government and the public utilities. What about the little guy who is trying to develop the water who might have more of a problem with paying the additional fees? He's the one who may need more assistance and deference in developing his water. It may take a while to place water to beneficial use.

Mr. Turnipseed agreed and called the committee's attention to page 3 of the bill which states, "...work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for

Senate Committee on Natural Resources
June 25, 1993
Page 4

all features of the entire project or system." He said if it were a multi-million dollar project, but only a small portion of it was for water, that language seemed to be counter to the intent of the bill.

Senator Neal said his understanding of the bill was such that the engineer would be given the right to cancel the permit after a permit had been in force for a period of time. Senator Neal wondered what would happen if a person bought land and obtained a permit, then did not develop the property immediately. Mr. Turnipseed agreed he would, under A.B. 624, be required to cancel the permit in absence of proof of reasonable diligence to perfect the water right.

Senator Hickey suggested addressing the speculation problem with a graduated scale. Mr. Turnipseed said he does not necessarily disagree with the idea. Senator Hickey asked Mr. Turnipseed to come up with a formula to present to the committee. Mr. Turnipseed agreed.

Mrs. Freeman stated:

I find it fascinating that the state water engineer did not speak to any of these concerns in the assembly, in the committee, or in the subcommittee. Actually, I sort of resent that. I don't mind the bill being amended in a way that could accomplish what it is we are trying to do. That's fine with me. If you can find a better way to do it, I'm all for that. I would ask for your cooperation, but I do resent the fact that he didn't express these concerns to us. We drafted the bill in good faith that we would have his support. He seems to be making the assumption that he'll always be the state water engineer. Now, I think we need to think in terms of the future for our state. There will be other state water engineers. There will be other heads of our various departments. That's what we are trying to do here today, and I would ask that you try to keep that in mind. I would be very happy to work with you in any way that I can, and the state water engineer. But, I again say that I wish he would have brought these concerns up in the assembly.

Mr. Turnipseed replied:

I didn't mean to imply that I was opposed to the bill. I told Senator Hickey that I have no problem with the first section of the bill, nor section 2 of the bill. The only part that's going to cause me any heartburn

is the fees, and we've explored that. The good parts of the bill are probably going to uphold a decision of the cancellation of a permit. On that side, it's good. I have been fairly successful in defending cancellations, but that doesn't mean I always will be. I could just as easily get beat in the supreme court or district court on a cancellation. So, the language here, being much stronger as far as defining reasonable diligence, requiring that financial statements, both at the application stage and the extension of time stage, those are all good parts. They have no impact on my agency. I did not mean to imply that was all bad language.

Senator Smith said he thinks the committee all understands that.

Joe Johnson, Lobbyist, Sierra Club, testified in favor of the bill, and agreed with Senator Hickey that the fees should be graduated.

Senator Adler suggested continuing the \$100 fee, no matter who it is, up to 5 acre feet, then prorating amounts above that.

Mr. Johnson stated that would address his organization's area of concern.

Jim Weisaupt, Manager, Walker River Irrigation District, said his only opposition to the language is in what would happen to the expenses involved in providing the proof and evidence of reasonable diligence. He stated his organization has a pending permit to construct a 200,00 acre foot reservoir at Hoyt Canyon on the West Walker River. To show good cause in the past had been relatively inexpensive. His concern is that it would not remain so.

Senator Neal asked Mr. Turnipseed to address Mr. Weisaupt's concerns. Mr. Turnipseed said the reasonable diligence clause would certainly put a heavier burden on them to show why the permit should be extended.

Senator Neal questioned the reasoning behind requiring the proof when Mr. Turnipseed already knows why the project needs a permit extension. Mr. Turnipseed explained there is currently a protest against granting the next extension for the reservoir, so he will be holding hearings at which the irrigation district will defend their need.

Senator Adler asked if the current statute is more or less stringent than the proposed language. Mr. Turnipseed stated

Senate Committee on Natural Resources
June 25, 1993
Page 6

reasonable diligence had not, in the past, been defined in statute.

Senator Smith closed the hearing on A.B. 624 and opened the hearing on A.B. 314.

ASSEMBLY BILL 314: Makes various changes regarding appropriation of public waters and increasing certain fees assessed by state engineer.

Senator Smith reminded the committee they had amended A.B. 314 at the request of Senator Neal to strengthen the administrative procedures portion of the bill.

Senator James stated he did not think the committee needed to amend the bill to deal with the Administrative Procedure Act (APA) now because they had dealt with it in Senate Bill (S.B.) 370.

SENATE BILL 370: Makes various changes relating to Administrative Procedure Act.

Senator Neal explained the committee had placed the state engineer under the APA so he would not be hampered by the litigation on the Walker River.

Mrs. Freeman said there are provisions in A.B. 314 which would address most of the concerns of the committee regarding the APA without putting the state engineer back under the code.

SENATOR HICKEY MOVED TO RESCIND THE PREVIOUS ACTION ON A.B. 314.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

SENATOR HICKEY MOVED TO DO PASS A.B. 314.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

Senator Smith stated there is a conflict notice on A.B. 314, but it is merely a mechanical conflict and would be resolved.

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JA045218
SE ROA 410

INTRODUCTORY COMMENTS FOR

ASSEMBLY BILL 624

(FIRST REPRINT)

ASSEMBLY BILL 624 PRIMARILY ADDRESSES THE TOPIC OF "REASONABLE DILIGENCE" AS IT RELATES TO WATER PERMITS. IN ADDITION TO ENSURING CONSISTENT PROGRESS TOWARD PUTTING WATER TO BENEFICIAL USE, REQUIREMENTS OF "REASONABLE DILIGENCE" PROVIDE ONE MECHANISM FOR MINIMIZING SPECULATION IN WATER RIGHTS.

A SECOND ASPECT OF THE BILL AUTHORIZES THE STATE ENGINEER TO USE MONEY FROM ~~DISTRICT AND~~ BASIN ACCOUNTS FOR ACTIVITIES OUTSIDE THE BASIN IN WHICH THE REVENUE IS COLLECTED, IF THE ACTIVITIES ARE DIRECTLY RELATED TO HIS RESPONSIBILITIES INSIDE THAT PARTICULAR BASIN. SECTIONS 1 AND 6 OF THE BILL INCORPORATE THIS LATTER PROVISION IN STATUTE.

SECTION 2 RELATES TO ORIGINAL APPLICATIONS TO APPROPRIATE WATER AND APPLICATIONS TO CHANGE THE POINT OF DIVERSION, PLACE OF USE, OR MANNER OF USE FOR EXISTING PERMITS OR RIGHTS. THE APPLICANT

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IS REQUIRED TO PROVIDE PROOF OF: (1) HIS INTENTION IN GOOD FAITH TO CONSTRUCT ANY WORK NECESSARY TO APPLY THE WATER TO THE INTENDED BENEFICIAL USE WITH REASONABLE DILIGENCE; AND (2) IF THE APPLICATION PROPOSES TO DIVERT 1 ^{cubic foot per second} ~~SECOND FOOT~~ OF WATER OR MORE, HIS FINANCIAL ABILITY TO CONSTRUCT THE WORK WITH REASONABLE DILIGENCE. THE 1 ^{cubic foot per second} ~~SECOND FOOT~~ CRITERION ALLOWS THE STATE ENGINEER TO ACT UPON SMALLER PROPOSALS (SUCH AS STOCK WATERING AND SMALL COMMERCIAL APPLICATIONS) WITHOUT THE APPLICANT HAVING TO PROVIDE, AND THE STATE ENGINEER HAVING TO REVIEW, FINANCIAL STATEMENTS. THE PROVISIONS IN SECTION 2 ARE MODELED PRIMARILY AFTER OREGON LAW.

SECTION 3 REQUIRES PROOF OF "REASONABLE DILIGENCE" BEFORE APPROVAL OF AN EXTENSION OF TIME MAY BE GRANTED, SIMILAR TO PROVISIONS IN NEW MEXICO AND UTAH STATUTES. THE SECTION FURTHER SPECIFIES THAT FAILURE TO PROVIDE PROOF OF "REASONABLE DILIGENCE" IS PRIMA FACIE EVIDENCE THAT THE APPLICANT IS NOT PROCEEDING IN GOOD FAITH AND WITH REASONABLE DILIGENCE, AS IN OREGON LAW. AND,

A SPECIFIC DEFINITION OF "REASONABLE DILIGENCE" IS BASED UPON COLORADO LAW.

SECTION 4 APPLIES THE CLAUSE CONCERNING PRIMA FACIE EVIDENCE AND THE DEFINITION TO THE EXISTING NEVADA STATUTE WHICH DIRECTS THE STATE ENGINEER TO CANCEL A PERMIT IF HE FINDS THAT THE HOLDER IS NOT PROCEEDING WITH "REASONABLE DILIGENCE" TO PERFECT THE WATER RIGHT.

SECTION 5 ADDS A NEW FEE TO THE STATE ENGINEER'S PROGRAM. THE EXISTING FEE OF \$100 FOR AN EXTENSION OF TIME IS RETAINED AS IT APPLIES TO APPLICATIONS FILED DURING THE FIRST 8 YEARS AFTER APPROVAL OF THE INITIAL PERMIT ^{and for governmental entities and public utilities.} FOR APPLICATIONS TO EXTEND THE TIME PAST 8 YEARS, HOWEVER, THE FEE IS INCREASED TO \$500. THE GOAL OF THE INCREASE IS TO PROVIDE AN INCENTIVE FOR THE PERMIT HOLDER TO PROCEED WITH DILIGENCE AND TO MINIMIZE SPECULATION.

FW/en:W93-1403.1,16

BEFORE THE STATE ENGINEER OF THE STATE OF NEVADA

APPLICATION FOR EXTENSION OF TIME

Owner of Record.....

IN THE MATTER OF PERMIT NO.....FILED TO APPROPRIATE / CHANGE THE WATERS OF

(Name of stream, lake, spring, underground or other source)

THIS APPLICATION IS RESPECTFULLY SUBMITTED.

Comes now.....the.....
Person Signing Application Permittee or Agent

under Permit No....., who after being first duly sworn and answering to the best of their knowledge the following questions in compliance with the requirements as set forth in the permit terms:

1. If this permit has multiple owners, is this request for an extension of time submitted on behalf of all the owners?
☐ YES ☐ NO (Check the Appropriate Box)

2. If "NO", on whose behalf is this extension being filed?.....

3. How much time is needed to finish this project?.....

4. To date, what is the total expenditure on this project?.....

5. In order to complete this project as set forth in the permit terms, what additional funds will be spent?.....

6. The permittee requests an extension of time for.....within which to comply
(Not to exceed 1 year)
with the provisions for filing the.....
(Proof of completion of work and/or proof of beneficial use)

7. Explain in detail why this request for an extension of time is being submitted (Use additional sheets if necessary):
.....
.....
.....

Signed.....
Permittee or Agent

Subscribed and sworn to before me this.....day of

Address.....
Street No. or P.O. Box No.

....., 19.....

.....
City, State, Zip Code No.

Phone.....

Notary Public in and for the County of.....,

State of.....

My commission expires....., 19.....

\$100 FILING FEE MUST ACCOMPANY THIS APPLICATION FOR EXTENSION OF TIME.
AN APPLICATION MUST BE FILED FOR EACH SEPARATE PERMIT.

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Senate Committee on Natural Resources
June 30, 1993
Page 2

ASSEMBLY BILL 624: Revises procedures concerning applications for water rights. (BDR 48-1979)

Senator Smith briefly described the bill, and confirmed there were no questions from the committee.

SENATOR RHOADS MOVED TO AMEND AND DO PASS A.B. 624 WITH AMENDMENT NO. 1206.

SENATOR JAMES SECONDED THE MOTION.

THE MOTION CARRIED.

* * * * *

Senator Smith opened the hearing on Assembly Bill (A.B.) 461.

ASSEMBLY BILL 461: Provides for protection of domestic wells from impairment. (BDR 48-1165)

There was brief discussion of the bill.

SENATOR HICKEY MOVED TO INDEFINITELY POSTPONE A.B. 461.

SENATOR NEAL SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RHOADS VOTED NO.)

* * * * *

There being no further business to come before the Senate Committee on Natural Resources, Senator Smith adjourned the meeting at 8:38 p.m.

RESPECTFULLY SUBMITTED:


Sherry Nesbitt,
Committee Secretary

APPROVED BY:


Senator R. Hal Smith, Chairman

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JA045723
SE ROA 415

deposit is reduced or there is an outstanding judgment of a court for which the licensee is liable under the deposit, the license is automatically suspended. The license must be reinstated if the licensee:

- (a) Files an additional bond pursuant to subsection 1;
- (b) Restores the deposit with the department to the original amount required under this section; or
- (c) Satisfies the outstanding judgment for which he is liable under the deposit.

7. A deposit made pursuant to subsection 4 may be refunded:

(a) By order of the director, 3 years after the date the licensee ceases to be licensed by the department, if the director is satisfied that there are no outstanding claims against the deposit; or

(b) By order of court, at any time within 3 years after the date the licensee ceases to be licensed by the department, upon evidence satisfactory to the court that there are no outstanding claims against the deposit.

8. Any money received by the department pursuant to subsection 4 must be deposited with the state treasurer for credit to the motor vehicle fund.

Sec. 14. NRS 482.348 is hereby repealed.

Sec. 15. 1. This section and sections 7 and 14 of this act become effective upon passage and approval.

2. Sections 1 to 6, inclusive, and 8 to 13, inclusive, of this act become effective on October 1, 1993.

Assembly Bill No. 624—Committee on Natural Resources,
Agriculture and Mining

CHAPTER 572

AN ACT relating to water; revising procedures concerning applications for water rights; requiring proof of reasonable diligence in pursuing perfection before an extension of time may be granted; clarifying the manner in which money in basin well accounts may be used; and providing other matters properly relating thereto.

[Approved July 12, 1993]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 533.295 is hereby amended to read as follows:

533.295 1. [The] *Except as otherwise provided in NRS 534.040, money in the water district account must be used exclusively for expenses incurred in the administration, operation and maintenance of the particular stream system from which the money is budgeted and collected.*

2. The term "expenses" referred to in NRS 533.270 to 533.290, inclusive, includes salaries, hydrographic surveys, per diem expenses, car rental, equipment, including necessary automobiles, supplies and materials incidental to the proper administration and distribution of water.

Sec. 2. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in NRS 533.345, 533.371 and 533.372 and this section, the state engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees; [and]

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the district's efficiency in its delivery or use of water [.]; and

(c) *The applicant provides proof satisfactory to the state engineer of:*

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) If the application proposes to divert 1 or more cubic feet per second of water, his financial ability to construct the work with reasonable diligence.

2. Except as otherwise provided in subsection 5, the state engineer shall either approve or reject each application within 1 year after the final date for filing protest. However:

(a) Action can be postponed by the state engineer upon written authorization to do so by the applicant or, in case of a protested application, by both the protestant and the applicant; and

(b) In areas where studies of water supplies are being made or where court actions are pending, the state engineer may withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection 5, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights, or threatens to prove detrimental to the public interest, the state engineer shall reject the application and refuse to issue the permit asked for. Where a previous application for a similar use of water within the same basin has been rejected on these grounds, the new application may be denied without publication.

4. The rejection or approval of an application must be endorsed on a copy of the original application, and a record made of the endorsement in the records of the state engineer. The copy of the application so endorsed must be returned to the applicant. If the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water so long as the rejection continues in force.

5. The provisions of subsections 1, 2 and 3 do not apply to an application for an environmental permit.

Sec. 3. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, in his endorsement of approval upon any application, the state engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which

must not exceed 10 years after the date of the approval. The time set under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS, must not be less than 5 years.

2. The state engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise provided in paragraph (b) of subsection 1, to a shorter time for the perfecting of the application than named in the application.

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the state engineer may, for good cause shown, extend the time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by him, but an application for the extension must in all cases be [made] :

(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410 [.] ; and

(b) Accompanied by proof and evidence of the reasonable diligence with which the applicant is pursuing the perfection of the application.

The state engineer shall not grant an extension of time unless he determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

4. Except as otherwise provided in subsection 5 and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in paragraph (b) of subsection 1, or for any use which may be served by a county, city, town, public water district or public water company, requests an extension of time to apply the water to a beneficial use, the state engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS, if any, for completing the development of the land.

5. The provisions of subsections 1 and 4 do not apply to an environmental permit.

6. *For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is comprised of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.*

Sec. 4. NRS 533.395 is hereby amended to read as follows:

533.395 1. If, at any time in the judgment of the state engineer, the holder of any permit to appropriate the public water is not proceeding in good faith and with reasonable diligence to perfect the appropriation, the state engineer [may require at any time] *shall require* the submission of such proof and evidence as may be necessary to show a compliance with the law. If, in his judgment, the holder of a permit is not proceeding in good faith and with reasonable diligence to perfect the appropriation, the state engineer shall cancel the permit, and advise the holder of its cancellation. *The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the appropriation.*

2. If any permit is canceled under the provisions of NRS 533.390, this section or 533.410, the holder of the permit may within 60 days of the cancellation of the permit file a written petition with the state engineer requesting a review of the cancellation by the state engineer at a public hearing. The state engineer may, after receiving and considering evidence, affirm, modify or rescind the cancellation.

3. If the decision of the state engineer modifies or rescinds the cancellation of a permit, the effective date of the appropriation under the permit is vacated and replaced by the date of the filing of the written petition with the state engineer.

4. The cancellation of a permit may not be reviewed or be the subject of any judicial proceedings unless a written petition for review has been filed and the cancellation has been affirmed, modified or rescinded pursuant to subsection 2.

5. *For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the appropriation in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is comprised of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.*

Sec. 5. NRS 534.040 is hereby amended to read as follows:

534.040 1. Upon the initiation of the administration of this chapter in any particular basin, and where the investigations of the state engineer have shown the necessity for the supervision over the waters of that basin, the state engineer may employ a well supervisor and other necessary assistants, who shall execute the duties as provided in this chapter under the direction of the state engineer. The salaries of the well supervisor and his assistants must be fixed by the state engineer. The well supervisor and his assistants are exempt from the provisions of chapter 284 of NRS.

2. The board of county commissioners shall levy a special tax annually, or at such time as the tax is needed, upon all taxable property situated within the confines of the area designated by the state engineer to come under the provisions of this chapter in such an amount as is necessary to pay those salaries, together with necessary expenses, including the compensation and other expenses of the state well drillers' advisory board if the money available from the license fees provided for in NRS 534.140 is not sufficient to pay those costs. In designated areas within which the use of ground water is predominantly for agricultural purposes the levy must be charged against each water user who has a permit to appropriate water or a perfected water right, and the charge against each water user must be based upon the proportion which his water right bears to the aggregate water rights in the designated area. The minimum charge is \$1.

3. The salaries and expenses may be paid by the state engineer from the water distribution revolving account pending the levy and collection of the tax as provided in this section.

4. The proper officers of the county shall levy and collect the special tax as other special taxes are levied and collected, and the tax is a lien upon the property.

5. The tax provided for, when collected, must be deposited with the state treasurer for credit to the water district account to be accounted for in basin well accounts.

6. Upon determination and certification by the state engineer of the amount to be budgeted for the current or ensuing fiscal year for the purpose of paying the per diem and travel allowances of the ground water board and employing consultants or other help needed to fulfill its responsibilities, the state controller must transfer that amount to a separate operating account for that fiscal year for the ground water basin. Claims against the account must be approved by the ground water board and paid as other claims against the state are paid. *The state engineer may use money in a particular basin well account to support an activity outside the basin in which the money is collected if the activity bears a direct relationship to the responsibilities or activities of the state engineer regarding the particular ground water basin.*

*Study of the
Use, Allocation and Management of Water*



*Legislative Counsel
Bureau*

*Bulletin No.
95-4*

December 1994

**STUDY OF THE USE, ALLOCATION
AND MANAGEMENT OF WATER**

BULLETIN NO. 95-4

**LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA**

DECEMBER 1994

SPI APP 410

**JA0464
SE ROA 422**

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Therefore, the committee agreed to:

7. Recommend that the Senate Committee on Finance and the Assembly Committee on Ways and Means consider for approval the funding of seven additional positions and certain one-shot appropriations for the Division of Water Resources to help deal with the backlog of water rights applications and improve the service capabilities of the Office of the State Engineer.

3. Definition of Subsisting Right

The Nevada Legislature in 1993 adopted Senate Bill 512 (Chapter 473, *Statutes of Nevada 1993*, page 1944) to provide an alternative method of showing a subsisting right to water livestock and to require the State Engineer to recognize such rights. This act was codified in NRS 533.492.

The State Engineer indicated to the committee that, since the law was adopted, there has been some confusion about the definition of a subsisting right. He submitted a memorandum dated February 28, 1994, by Susan Joseph-Taylor from the Office of the Attorney General entitled "Subsisting Rights Under The Stock-Watering Act." This document concluded:

that the definition of subsisting right is nothing more than existing right and that the 1993 statutory amendments were only for the purpose of making it easier to quantify prestatutory stock water rights.

The State Engineer recommended that the law be clarified to indicate directly that a subsisting right is an existing right for the purpose of watering livestock. The committee agreed and adopted the following recommendation:

8. For purposes of NRS 533.492, define in statute a "subsisting right" to water livestock as an "existing right." (BDR 48-988)

4. Speculation

As the State's population continues to grow rapidly, and the supply of water does not increase, the State Engineer and other officials are becoming more concerned about speculation--the purchase of water rights simply for the purpose of selling them to others at an increased price and without putting the water to beneficial use.

Legislation was adopted in 1993 to address some of these concerns. Assembly Bill 624 (Chapter 572, *Statutes of Nevada 1993*) amended the statutes in NRS 533.370 and 533.380 governing applications for water rights to require proof of reasonable diligence in perfecting an application. "Reasonable diligence" is defined as the steady application of effort to perfect the application in a reasonably expedient and efficient manner under the circumstances.

The law requires an applicant for a water permit to provide satisfactory proof to the State Engineer of the applicant's good faith intention to construct, with reasonable diligence, any necessary work to apply the water to the intended beneficial use. An applicant proposing to divert at least one second foot of water must show the financial ability to construct the work. The legislation further prohibits the State Engineer from granting an extension of time within which construction must be completed or water must be applied to a beneficial use unless the State Engineer determines, from submitted evidence, that the applicant is proceeding in good faith and with reasonable diligence to perfect the application.

The State Engineer advised the committee that speculation is difficult to define or interpret, and that speculation could not entirely be stopped under current provisions in the law. The committee sought to provide the State Engineer with an additional tool to fight speculation attempts by incorporating financial ability into the assessment criteria used to approve applications. The 1993 legislation appears to focus much of the preventive effort on the process of perfecting a water right, while the committee's recommendation is intended to provide the State Engineer with the capability to stop a speculative attempt earlier in the application and permitting process.

Therefore, the committee recommends that the Legislature:

9. Adopt statutory language to require that the State Engineer find, before granting a water rights permit, that the person has the financial means and the reasonable expectation of applying the water to beneficial use with reasonable diligence. (BDR 48-989)

5. "Mother-In-Law Quarters"

Current law in NRS 534.013 defines "domestic use"[and "domestic well" in NRS 534.350(7)(a)] for purposes of underground water and wells in terms of a single-family dwelling. Other provisions in NRS 534.180 and 534.185 limit the use of underground water for domestic purposes to not exceed a maximum of



DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES
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<http://water.nv.gov>

December 3, 2015

Debbie Leonard, Esq.
McDonald, Carano, Wilson, LLP
100 West Liberty Street
10th Floor
Reno, Nevada 89501

Re: Objection to Applications for Extensions of Time

Dear Ms. Leonard:

On December 2, 2015, you filed an objection to the Applications for Extensions of Time concerning Permit Nos. 64977, 64978, 66400, 66961, 72700, 73428, 73429, 73430, 74327 and 79548. There is no indication that the objection was served on the owner of record of the permits; therefore, the State Engineer requests that you serve Intermountain Water Supply, Ltd., with a copy of the objection at your earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Geddes".

Kristen Geddes
Chief, Hearing Section

KG/jm
cc: Intermountain Water Supply, Ltd.

JA0469
SE ROA 427



McDONALD·CARANO·WILSON[®]

Debbie Leonard
dleonard@mcwlaw.com

Reno Office

December 9, 2015

Kristen Geddes
Chief, Hearing Section
Dept. of Conservation and Natural Resources
Division of Water Resources
901 S. Stewart St., Suite 2002
Carson City, NV 89701

Re: Intermountain Water Supply's Permits:

64977
64978
66400
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CITE ENGINEERS OFFICE

Dear Ms. Geddes:

In response to your letter of December 3, 2015, enclosed please find a Certificate of Service. Sierra Pacific Industries' Objection to Extensions for Intermountain Water Supply's Permits, dated December 2, 1015 was hand delivered to John R. Zimmerman, attorney of record for Intermountain Water Supply, on December 8, 2015.

Sincerely,

Pamela Miller, Secretary to
Debbie Leonard

/pm
Enclosure

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD CARANO WILSON LLP and that on December 8, 2015, I hand delivered a copy Sierra Pacific Industries' Objection to Extensions for Intermountain Water Supply's Permits, dated December 2, 2015, as follows:

John R. Zimmerman
Parsons Behle & Latimer
50 West Liberty Street, Suite 750
Reno, NV 89501

A handwritten signature in black ink, appearing to read "J. Zimmerman", is written over a horizontal line.

RECEIVED
2015 DEC 11 AM 10:23
STATE ENGINEERS OFFICE

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McDONALD·CARANO·WILSON[®]

Debbie Leonard
dleonard@mcwlaw.com

Reno Office

January 6, 2016

Jason King
Nevada State Engineer
Division of Water Resources
901 S. Stewart St., Suite 2002
Carson City, NV 89701

Re: Supplement to Objection of Sierra Pacific Industries to Extensions for Intermountain Water Supply's Permits:

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Dear Mr. King:

Sierra Pacific Industries ("SPI") submits this supplement to its objection to the State Engineer granting any additional extensions of time to Intermountain Water Supply, Ltd. ("Intermountain") for groundwater permits in the Dry Valley hydrographic basin, originally filed on December 2, 2015.

The Truckee Meadows Water Authority is in the process of developing its 2016-2035 Water Resources Plan. Attached is the draft plan, which further confirms that Intermountain has

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no contract with a municipal water purveyor and must finance its own project. As to proposed importation projects, the Draft Plan states:

For this discussion it is assumed that future water resource projects will be implemented in the most economical fashion by the appropriate entity, such as Vidler, with the ability to assume the risk and invest the time and effort for permitting, design, construction, and financing of a water supply project - a function that TMWA does not currently undertake at this time due to the inherent risks of stranding investment until will-serve commitments can be sold and facility charges collected to cover the cost of developing a project. (Draft Plan, p. 131).

Further information and all appendices to the Draft Plan are available on TMWA's website, http://tmwa.com/water_system/resources/. The final plan will likewise be available on TMWA's website once it is approved.

Permitted rights are subject to cancellation where, as here, the permit holder fails to meet the statutory requirements. NRS 533.395. As a result, Intermountain's extensions should be denied and the permits cancelled. *See id.*

Thank you for your consideration of this supplement, and please contact me should you have any questions.

Sincerely,



Debbie Leonard

DAL/km

c: John Zimmerman, counsel for Intermountain Water Supply

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2016-2035

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WATER RESOURCE PLAN

JA0474
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KEY FINDINGS AND RECOMMENDATIONS

1.1 2016-2035 Water Resource Plan (“2035WRP”)

Findings:

Truckee Meadows Water Authority’s (“TMWA’s”) prior water resource plans: (1) laid the foundation for an understanding of the region’s water supply system; (2) summarized the history of municipal water supply in the Truckee Meadows up to and including the formation of TMWA; (3) presented legislative directives that modified regional water resource planning for the Truckee Meadows and led to the creation of the Western Regional Water Commission (“WRWC”); (4) analyzed economic influences at the local level that affect the growth activity and patterns for the Truckee Meadows resulting in a need to examine current population trends and their potential impact on future water demands and resource requirements; (5) confirmed the use of Truckee River flows during the historical 1987-1994 drought period as the basis for prudent water supply planning for the Truckee Meadows; and (6) provided ongoing analysis of future water supply options to meet the region’s economic development needs. This 2035WRP continues the Board’s previous direction to review conditions and influences affecting water supplies and local growth trends and what those influences may have on Truckee Meadows water resources and TMWA’s plans and/or management strategies in the context of completion of the merger of the former Washoe County water utilities into TMWA in December 2014; completion of all conditions precedent to implement the Truckee River Operating Agreement (“TROA”); and current hydrologic conditions.

Recommendation:

Continue monitoring, reviewing and revising where necessary its water resource management strategies through its planning efforts, as presented in documents such as this 2035WRP, in response to current and future conditions including but not limited to changing conditions in meteorology, hydrology, community development, institutional/regulatory constraints, customer demands, or other factors affecting TMWA’s water resource availability and delivery systems.

1.2 Consolidation of TMWA and WDWR Water Operations

Findings:

In response to the WRWC legislative directive to evaluate the potential consolidation of water purveyors in the Truckee Meadows, staffs of TMWA and Washoe County Department of Water Resources (“WDWR”) successfully merged the former Washoe County water utilities and the South Truckee Meadows General Improvement District (“STMGID”) into TMWA on December 31, 2014.

Recommendation:

No further action required on this item.

1.3 Truckee River Operating Agreement

Findings:

The Truckee River Operating Agreement ("TROA") was signed by the five Mandatory Signatory Parties on September 6, 2008 whereby TMWA, the Pyramid Lake Paiute Tribe ("PLPT"), the United States, California and Nevada set the stage for resolving river operation uncertainties; the parties are moving together to implement and make TROA effective. In August 2015, the cities of Reno and Sparks, Washoe County, and PLPT executed an agreement satisfying the last condition required before TROA could be implemented. Actions taken subsequently by the TROA Mandatory Signatory Parties to dismiss two pending litigations were completed, paving the way to implement TROA. In essence, all conditions precedent to implement TROA were completed in the fall of 2015. When implemented, TROA's framework provides flexibility for river operations to allow parties to store water they previously could not store, significantly enhances TMWA's drought reserves, allows the exchange of water to optimize the use of Truckee River supplies without injuring the water rights on which the parties rely, and resolves future regulatory uncertainties surrounding the use of the Truckee River.

Recommendation:

Continue to participate in any pending litigation or appeal that challenge the implementation of TROA.

2.1 Sustainability of Source Water Supplies - Climate Variability

Findings:

Climate change and meteorological droughts are the most significant variables with potential to change the quantity and quality of raw water supplies, particularly surface water supplies. While the weather pattern consistently provides precipitation during the winter and spring months, the type of precipitation (snow versus rain), amount of precipitation, water content of snow, and speed of snowmelt are variable from year to year. TMWA manages the uncertainty of its raw water sources through storage in upstream reservoirs, conjunctive use of surface and groundwater supplies, and continual assessment of threats to water supply reliability from weather. Studies by Desert Research Institute ("DRI") and University of Nevada, Reno ("UNR") indicate the potential for climate change to alter the timing, type of, and quantity of precipitation needs continued monitoring and study, but it is inconclusive at this time as to the magnitude that climate change will have on the region and its water resources over a long-term planning horizon. Over the past several years the use of tree ring studies have been found useful in understanding the climate history of Lake Tahoe, Truckee River, and Carson River watersheds. Through such studies a better understanding of the cycles of dry and wet years has been developed along with analyses of frequencies of occurrence, durations and magnitudes. However, the current body of research on tree ring chronologies have not been specific in the Truckee and Carson River watersheds, thus there is limited direct data on historic flows that can be used in planning.

Recommendation:

Continue to consider, when available, new findings from climate change research for the greater Truckee Meadows region and engage UNR, DRI and/or other researchers to

develop tree ring chronologies of the Truckee and Carson River watersheds for use in water resource planning and management during droughts and periods of drought recovery.

2.2 Sustainability of Source Water Supplies – Drought Periods

Findings:

The region is in its fourth consecutive, low-precipitation year. The meteorologic drought, begun in 2012, created hydrologic drought impacts in 2014 and 2015 which required TMWA to release some of its upstream drought reserves for the first time since 1992. As defined in TROA, the region has been in a Drought Situation (i.e., the level of Lake Tahoe is projected to be below elevation 6223.5 feet on November 15 of a given year per TROA) since 2014. Unfortunately, it cannot be known with certainty the duration of the current drought. In addition, analysis has shown that under TROA operations water supplies and drought reserves accumulate to TMWA's benefit under the 1987 to 1994 drought; in addition, even under a hypothetical drought hydrology which repeated 2015 hydrology at 2015 demands for 10-years, TMWA would grow its reserves.

Recommendation:

Continue to monitor TMWA's ability to meet current and future demands through the 1987 to 1994 drought period, the worst drought period of record, and based on factors such as demand growth, conservation improvements, hydrologic cycles, climate changes, etc., update the Board when future conditions change that require changes to the planning criteria or supply operation.

2.3 Sustainability of Source Water Supplies - Surface Water Contamination

Findings:

While there is a risk to surface water reliability from turbidity and toxic spill events, research conducted in 1996 and again in 2007 by UNR on behalf of TMWA has shown no recorded river contamination event from rail or highway transportation. The recent study also suggests that the area of highest risk is downstream of TMWA's treatment facilities in the City of Sparks where there is a rail yard and a large number of warehouses and shipping companies that load/unload trucks and rail cars. TMWA's Source Water Protection Program (including its Wellhead Protection Plan ("WHPP")) is designed to preserve and enhance available water supplies and to address known and potential threats to water quality. TMWA has sufficient well capacity and distribution system storage to meet reduced customer demands during a water quality emergency, and has emergency plans in place in the event of extended off-river emergencies. With the merger of WDWR and STMGID water systems into TMWA, system integration improvements will be implemented that are beneficial in terms of increasing the supply and/or quality of water supplies at minimum economic costs to ensure the delivery of water through the 20-year planning horizon and beyond.

Recommendation:

Continue to: (1) implement its source water protection strategies in cooperation with local entities; (2) maintain, as a minimum, the ability to meet daily indoor water use with its

wells; and (3), for river outages lasting up to 7 days during the summer, maintain the ability to meet average daily water demands using its wells, treated water storage, and enhanced conservation measures.

2.4 Sustainability of Source Water Supplies - Groundwater Contamination

Findings:

TMWA works closely with the Central Truckee Meadows Remediation District ("CTMRD") to characterize tetrachloroethylene ("PCE")-contaminated groundwater and remove PCE contamination at affected wells. TMWA is also working with the CTMRD to remove PCE contamination at the source, before groundwater can be impacted. A more ubiquitous contaminant, nitrate, has been impacting groundwater in several basins. A 2007 report by the WDWR funded by the Regional Water Planning Commission ("RWPC") titled, *Septic Nitrate Baseline Data and Risk Assessment Study for Washoe County, Phase I: Prioritization of Study Areas and Assessment of Data Needs*, used available data to identify potential areas of septic nitrate contamination and identify data gaps. The report identified approximately 18,300 septic systems in Washoe County, and at least sixteen areas that have septic densities high enough to impact potable water supplies. Of these, it was determined that five study areas (Spanish Springs, Cold Springs, Washoe Valley, Heppner, and Golden Valley) had sufficient evidence linking water quality degradation to septic systems and required management action. Nine additional areas (Mt. Rose, Ambrose, Hidden Valley, Huffaker, Verdi, Geiger, Island 18, Mogul, and Pleasant Valley) are currently being studied. Two municipal wells in Spanish Springs Valley have already been shut down due to septic nitrate contamination. TMWA has sufficient well capacity and distribution storage to continue to provide safe drinking water in Spanish Springs, as well as remaining areas of concern. However, until areas of high septic density are converted to sewer, the flow of nitrate-contaminated effluent to drinking water aquifers will continue and concentrations may continue to increase.

Recommendation:

Continue to: (1) provide safe drinking water in all areas affected by PCE and septic effluent; (2) investigate the impact to groundwater from PCE and septic effluent; (3) work closely with local jurisdictions to find resources and strategies to convert residences and businesses on septic to sewer; and (4) utilize artificial recharge as a remedial strategy to keep contaminated water away from production wells.

2.5 Sustainability of Source Water Supplies - Groundwater Management

Findings:

Long-term water level declines in East Lemmon Valley and South Truckee Meadows due to reduced natural recharge resulting from low-precipitation and increased pumping by all users have made groundwater production more expensive and impacts to domestic well owners more likely in these areas. TMWA's current strategy to reduce impacts to groundwater levels relies on: (1) strategic and coordinated timing of its pumping; (2) passive groundwater recharge by increasing the duration and location of deliveries of surface water as often as possible to allow wells to rest and water levels to recover; and (3) active groundwater recharge to enhance groundwater supplies and drive water level recovery.

Recommendation:

Continue to: (1) reduce impacts to groundwater by pumping municipal wells strategically; (2) allow water levels to recover through passive groundwater recharge; and (3) force water level recovery through active groundwater recharge. Increasing the breadth and scope of all three of these activities in areas formerly served by WDWR will help groundwater levels recover in areas most affected by groundwater level declines.

2.6 Sustainability of Source Water Supplies – Aquifer Storage & Recovery

Findings:

Since its inception, TMWA's aquifer storage and recovery ("ASR") program has improved or stabilized groundwater levels in and around the injection sites thereby preserving TMWA's ability to utilize its groundwater resources to meet summer peaking and/or drought situation pumping requirements without degrading groundwater quality in the process. ASR is one element of TMWA's integrated management strategy to augment drought reserve supplies for later use during a Drought Situation. ASR can increase the natural supply of groundwater by storing surface water underground when excess supply and treatment capacity exist, and by mitigating groundwater contamination. TMWA has equipped its production wells to allow for treated water to flow back into the wells under pressure during winter time operations. Through June 2015, TMWA has replenished groundwater reserves in the region (Truckee Meadows, Spanish Springs and Lemmon Valley) with over 33,500 acre feet ("AF") of treated surface water.

Recommendation:

Continue and expand the injection of treated surface water into groundwater aquifers to: (1) augment groundwater supplies which provide additional drought and peak-demand capacity; (2) reduce or eliminate water quality concerns; and (3) stabilize and increase groundwater levels. Increasing the breadth and scope of all three of these activities throughout the service area will help groundwater levels recover and may help reduce the impact from septic, industrial, and naturally-occurring contaminants.

3.1 Water Rights Availability

Findings:

TMWA's planning area grew as a result of the 2014 merger of the water systems formerly owned or operated by Washoe County. Because the majority of the water distribution system in the Truckee Meadows, Spanish Springs, Lemmon Valley and a portion of Pleasant Valley is integrated, this planning area can take advantage of Truckee River resources and the benefits of TROA. This planning area is referred to as the Truckee Resource Area ("TRA"). The remote, satellite systems in Washoe Valley and east of the Truckee Meadows in the Truckee Canyon Segment must rely solely on groundwater for their water supply. These systems are referred to as the non-Truckee Resource Area ("non-TRA")¹. The non-TRA systems have sufficient resources to meet the need within the development (or subdivision) and TMWA does not anticipate significant expansion of the systems beyond those boundaries. Within the TRA, a review

¹ Truckee Resource Area ("TRA") means the portion of TMWA's retail and wholesale service areas within which TMWA is able to accept for dedication any Truckee River water source/right for the delivery of Truckee River water to a Service Property.

of available Truckee River water rights shows a sufficient number (potentially over 45,000 AF) of water rights exist to meet future-average-year-TMWA-water-service demands through the 2016 to 2035 planning horizon. However, acquiring and transferring many of these water rights, which are fractionated and have ownership problems, will require additional time and expense before the right can be put to use. Over the past decades, demands for Truckee Meadows water rights have increased in response to a highly competitive development market, difficulties in finding willing sellers of significant quantities of water rights, and competing environmental and lower river uses of water rights for such things as Fernley's water supply or enhancing water quality both in the Lower Truckee River and groundwater aquifers. Since the number of Truckee Meadows water rights is limited, close coordination of the various river interests must occur to avoid undo stress on the water rights market. Additionally, the North Valleys Importation Project's ("NVIP") 8,000 AF of Honey Lake groundwater resource is available to meet future demands in the North Valleys.

Recommendation:

Continue to accept the dedication of Truckee River water rights in the growth prone Truckee Meadows, Spanish Springs and upper, west Pleasant Valley which water rights are sufficient to support both TROA implementation and increased future development needs within TRA; recognize NVIP is available to meet future demands in the North Valleys, and unless other resources are available in the non-TRA systems, these systems are limited to the resources dedicated for the development within the system's service area.

3.2 Current Water Resources

Findings:

TMWA has over 136,000 AF of decreed, storage, and irrigation rights to generate water supplies for customer demands. Under TROA, TMWA uses its Privately Owned Stored Water ("POSW") and a portion of its unexercised water rights to generate sufficient upstream drought reserves to meet projected drought-year demands over the planning horizon. To ensure an adequate supply of water for all customers, TMWA's Rule 7 requires that applicants for any new water service dedicate sufficient water rights to meet the demand of their development. Applicants for new service can buy water rights on the open market and dedicate sufficient, acceptable water rights to TMWA or, if the applicant chooses to acquire from TMWA, the applicant pays for a will-serve commitment based on TMWA's costs incurred to acquire and process the necessary water rights.

Recommendation:

Continue to acquire water rights to meet future water demands pursuant to its Rule 7.

3.3 Conjunctive Management of Water Resources

Findings:

TMWA's 2035 water use projection of 101,000 AF for the combined TRA and non-TRA can be satisfied with TMWA's current resources with continued dedication of river rights. Ultimately, within the TRA, TROA allows TMWA to meet a demand of 119,000 AF based on the historic drought from 1987 to 1994; this 8-year drought was the most

severe on record. Additionally, as a result of the merger, TMWA has over 20,000 AF of groundwater rights committed to areas within the TRA which are not included in the TROA resource pool and to the non-TRA satellite systems. As it pertains to TROA and future demands within the TRA, use of a more stringent drought cycle design, without data to support it, ultimately reduces the use of available resources in the long-term and burdens the region with the cost requirement to replace the constrained resource.

Recommendation:

Continue to: (1) rely on its pool of resources to meet current demands; (2) recognize TROA can provide drought-year operational benefits in excess of current drought-year reserves thereby supporting future demands; and (3) pending the outcome of the 2015/2016 winter and subsequent 2016 runoff projections, continue to base its planning on the worst drought cycle of hydrologic record for the Truckee River.

4.1 Population Projection

Findings:

TMWA's population forecast estimates total Washoe County population to increase by 95,000 from 450,000 in 2016 to 545,000 in 2035, or 21 percent; the estimated population served by TMWA will increase by 83,000 people from 392,000 in 2016 to 475,000 by 2035, or 21 percent. The population estimates may change over time as the pace of development within the region or its sub-area varies, and as the region moves towards greater intensification of land use. TMWA's forecast results compare favorably to the State Demographer's near-term projections.

Recommendation:

Accept TMWA's population forecast as a reasonable estimate of future population growth to be used by TMWA for planning purposes in its planning areas.

4.2 Water Demand Forecast

Findings:

Water demand-per-service within TMWA's service areas has been decreasing over time resulting in slower total demand growth in TMWA's extended forecast. Based on the review of current growth and economic trends in the region, future water demand is anticipated to grow in the central Truckee Meadows but at a slower pace than historically seen. The water production forecast for a typical year indicates that from 2016 to 2035, production will increase from current estimates for 2016 of approximately 83,000 AF to a projected 2035 demand of approximately 102,000 AF, or about 21,000 AF. The 2035 production is well within the maximum 119,000 AF/yr under TROA operations.

Recommendation:

Accept for planning purposes that the water demand projections are reasonable estimates for use in TWMA's planning areas.

5.1 Water Demand Management

Findings:

TMWA's Water Demand Management Programs include measures to enhance efficient use of water, reduce or eliminate water waste, and save water. Some specifics include

change-out of old meters, leak repair, water theft prevention, landscape design/retrofit materials, numerous education materials, Assigned-Day Watering, watering prohibited during the heat of the day, water audits, and Drought Situation responses. Combined, these measures are designed to satisfy the conservation goal agreed to in the 1996 Water Conservation Agreement between RSW, TMWA, PLPT and the United States. Continued levels of spending will be in accordance with that agreement. TMWA works with the WRWC in developing conservation plans for the region, and cooperates with WRWC in implementing its conservation programs. The water conservation activities embodied in this 2035WRP satisfy Article 5(i) of the Joint Powers Authority ("JPA") agreement that formed TMWA and the Nevada Division of Water Resources requirements that public water systems have a water conservation plan as set forth in NRS 540.131 through 540.151.

Recommendation:

Accept the Water Conservation Plan outlined in this 2035WRP.

6.1 Future Water Resources

Findings:

The selection of the next water supply project is strictly a function of a project's yield, ease of implementation, sustainability, and financial feasibility accompanied with existing regional economic conditions and market forces that would or would not favor the development of a future water supply project. It may be that in the future, as new technology becomes available or the political, regulatory or public opinion changes, new projects may be developed or projects previously thought infeasible may become feasible. In addition to the implementation of TROA, the NVIP was completed in 2008 and is available to supply 8,000 AF annually to the North Valleys. TMWA is an active supporter and participant in the TROA process and the implementation of TROA has numerous benefits. In addition to complying with TROA, TMWA will also pursue other resource development projects that do not conflict with TROA requirements and will be necessary in order to meet water demands beyond the 2035 planning horizon.

Recommendation:

The Board continue to investigate, evaluate, and negotiate, where appropriate, other potential water supply projects consistent with and/or in addition to TROA.

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ABBREVIATIONS

AF	Acre-Feet, an acre-foot is equal to 325,851 gallons
AF/yr	Acre-Feet/Year
Airport Authority	Reno-Tahoe Airport Authority
AMSL	Above Mean Sea Level
ASR	Aquifer Storage and Recovery
BAC	biologically activated carbon
BBER	Bureau of Business and Economic Research, University of Nevada Reno
BCC	Washoe County Board of County Commissioners
BDOC	biodegradable dissolved organic carbon
BLM	Bureau of Land Management
Board	Board of Directors for Truckee Meadows Water Authority
CC&Rs	Covenants, conditions and restrictions
cfs	cubic feet per second
Churchill	Churchill County
CIP	Capital Improvement Program
CSWRCB	California State Water Resources Control Board
CTMRD	Central Truckee Meadows Remediation District
CTP	Chalk Bluff Water Treatment Plant
DMPs	Demand-side management programs
DRI	Desert Research Institute
DWSRF	Drinking Water State Revolving Fund
eDMPs	Enhanced demand-side management programs
ELV	East Lemmon Valley
EMC	Enhanced Messaging Campaign
FSA	Future Service Area
Ft	Foot
FY	Fiscal Year
ELV	East Lemmon Valley
EPDTS	Entry Points to the Distribution System
Fallon	City of Fallon

FSR	Fish Springs Ranch
GIS	Geographic Information System
GTP	Glendale Water Treatment Plant
gdp	gross domestic product
gpcd	gallons per capita per day
GMWS	General Metered Water Service Rate Schedule
gpm	gallons per minute
HOAs	Home Owners Associations
ILA	Interlocal Agreement
IPR	Indirect potable reuse
ISA	Interim Storage Agreement, 1994
ITRDB	International Tree-Ring Data Bank
IWP	Intermountain Water Project
JPA	Joint Powers Authority
LDV	Lower Dry Valley
LSC	Lower Smoke Creek
LMB	Local Managing Board
LV	Lemmon Valley
MCL	Maximum contaminant level
mg/l	milligrams per liter or parts per million (ppm)
µg/l	micrograms per liter or parts per billion (ppb)
MF	membrane filtration
MGD	Million Gallons per Day
M&I	Municipal and Industrial
MIS	Metered Irrigation Water Services Rate Schedule
MMWS	Multi-Family Metered Water Service Rate Schedule
MSA	Metropolitan Statistical Area
NAC	Nevada Administrative Code
NDEP	Nevada Division of Environmental Protection
NDWR	Nevada Division of Water Resources
NEPA	National Environmental Policy Act
NNWPC	Northern Nevada Water Planning Commission

Non-TRA	non-Truckee Resource Area
NPS	Non-Potable Service
NRS	Nevada Revised Statutes
NTM	North Truckee Meadows
NTU	Nephelometric Turbidity Unit
NVI	North Valleys Initiative
NVIP	North Valley Importation Project
O3	Ozonation
ODPS	Orr Ditch Pump Station
O/M	Operating/Maintenance
PARs	Preliminary Assessments Reports
PCE	tetrachloroethylene, a volatile organic compound
PCSs	Potential Contaminant Sources
PL	Public Law
PLPT	Pyramid Lake Paiute Tribe
POSW	Privately-Owned Stored Water, as defined in Truckee River Agreement
POU	Place of use
PPB	Parts per billion
PSI	Pounds per square inch
PUCN	Public Utilities Commission of Nevada
RAA	Running Annual Average
Red Rock	Red Rock Valley Importation
RMWS	Residential Metered Water Service Rate Schedule
RO	Reverse osmosis
ROD	Record of Decision
RWPC	Regional Water Planning Commission
RSW	City of Reno, City of Sparks, and Washoe County
RWMP	Regional Water Management Plan
RWPC	Regional Water Planning Commission
SB	Senate Bill
SCR	Senate Continuing Resolution

SDP	State Demographer's Projection
SDWA	Safe Drinking Water Act
Settlement	Truckee River Negotiated Settlement
Settlement Act	Truckee-Carson-Pyramid Lake Water Rights Settlement Act
Settlement Agreement	PLPT Fish Springs Ranch Settlement Agreement
Sierra	Sierra Pacific Power Company (NVEnergy)
SMPs	Supply-side management programs
sq. ft.	Square Feet
SSIP	Silver State Importation Project
STM	South Truckee Meadows
STMFP	South Truckee Meadows Facility Plan, August 2002
STMGID	South Truckee Meadows General Improvement District
SSV	Spanish Springs Valley
SVGID	Sun Valley General Improvement District
TCE	Trichloroethylene, a volatile organic solvent
TCID	Truckee-Carson Irrigation District
tds	total dissolved solids
The Fund	Truckee River Fund
TMWA	Truckee Meadows Water Authority
TMWRF	Truckee Meadows Water Reclamation Facility
TMSA	Truckee Meadows Service Area
TRA	Truckee Resource Area
TROA	Truckee River Operating Agreement
TROM	Truckee River Operation Model
TRPA	Tahoe Regional Planning Agency
UDV	Upper Dry Valley
UNR	University of Nevada, Reno
U.S.	United States
USACE	United States Army Corps of Engineers
USBR	United States Bureau of Reclamation, or BOR
USGS	United States Geological Survey
USEPA	U.S. Environmental Protection Agency

UV	ultra-violet radiation
VAR	Vector Autoregression Model
Vidler	Vidler Water Company
WCHD	Washoe County Health District
WCWCD	Washoe County Water Conservation District
WDWR	Washoe County Department of Water Resources
WHPP	Wellhead Protection Plan
WLV	West Lemmon Valley
WRP	Water Resource Plan
WRWC	Western Regional Water Commission
WSF	Water Service Facility
2025WRP	2005-2025 Truckee Meadows Water Resource Plan, Truckee Meadows Water Authority, March 2003
2030WRP	2010-2030 Truckee Meadows Water Resource Plan, Truckee Meadows Water Authority, December 2003
2035WRP	2016-2035 Truckee Meadows Water Resource Plan

CHAPTER 1 INTRODUCTION

The Truckee Meadows Water Authority ("TMWA") was formed in direct response to a September 2000 announcement by Sierra Pacific Resources ("Sierra") of its intention to sell its water utility business serving water to the greater Reno/Sparks area in Washoe County, Nevada. On October 20, 2000 Reno, Sparks and Washoe County ("RSW") submitted a joint "Proposal to Purchase the Water Utility Assets of Sierra Pacific Resources." RSW indicated intent to form a Joint Powers Authority ("JPA") and to have the JPA in existence upon selection as the successful bidder. On November 13 and 14, 2000, a Cooperative Agreement was executed between RSW forming TMWA². TMWA was officially born by RSW's execution of the "Cooperative Agreement among City of Reno, City of Sparks, and County of Washoe" on December 4, 2000 pursuant to the provisions of Chapter 277 of the Nevada Revised Statutes ("NRS").

The broad underlying principles RSW sought to achieve through TMWA include:

- Assure that water resources are developed and managed to fulfill the present and future water needs of the greater Truckee Meadows community.
- Acquire and manage the water assets for the benefit of the Truckee Meadows community.
- A need for RSW to act together with respect to water supply and water quality.
- Secure additional supplies and effectively manage existing supplies which can best be achieved through the cooperative action of RSW operating through TMWA.

After the successful launch of TMWA, RSW subsequently submitted and was awarded the successful bid to acquire Sierra's water utility business on January 15, 2001. On June 5, 2001 TMWA sold \$452.3 million in bonds pledged against its revenues and the sale of Sierra's water utility business with the transfer of title to all diversion, treatment, conveyance, water transmission, wells and distribution related facilities was completed. When TMWA opened for business on June 11, 2001, 127 employees, all former water division employees of Sierra, continued managing and operating the water utility business for the greater Truckee Meadows area, and began the process to meet the business objectives established by the JPA, TMWA's Board of Directors and its management team.

In March 2003 TMWA published, and the Board adopted, TMWA's *2005-2025 Water Resource Plan* ("2025WRP"). That plan presented: a summary of the history of municipal water supply in the Truckee Meadows; the understanding of the region's water supply system; a conjunctive management of surface and groundwater; confirmation of the use of Truckee River flows during the historical 1987-1994 drought period as the basis for TMWA's 9-year drought plan; projected population and water demands; conservation programs and measures to reduce annual water use and minimize water waste; and potential future water resource options.

Subsequent to the Board review of its water resource plan strategies in Fall 2009, the Board adopted its *2010-2030 Water Resource Plan* ("2030WRP") in December 2009. The

² The original Cooperative Agreement, in 2000 was subsequently revised in 2005 to change the make-up of the Board from 7 members (3-Reno, 2-Sparks, 1-Washoe County, 1-Unidentified) to its current form (3-Reno, 2-Sparks, 2-Washoe County); and in 2010 to revise the agreement to accommodate potential merger with Washoe County.

2030WRP built on the foundation strategies established in the 2025WRP in addition to responding to then current issues involving:

Chapter 1 Legislative directives to consolidate water purveyors in Washoe County;

Chapter 2 Execution by the five Mandatory Signatory Parties (TMWA, Pyramid Lake Paiute Tribe ("PLPT"), California, Nevada, and the United States ("U.S.)) and seven other parties of the Truckee River Operating Agreement ("TROA") on September 6, 2008;

Chapter 3 Changes in population and demand projections as a direct result of the regional economic malaise from 2007-2009 when the 2030WRP was drafted; and

Chapter 4 Completion of the retrofit of flat-rate, single-family residences that were required to be retrofit as part of the 1989 Negotiated River Settlement.

Continuing with the Board's prior recommendations, this 2016-2035 Water Resource Plan ("2035WRP") reviews, updates, and/or modifies TMWA's water resource planning and management strategies due to a number of key events that have occurred over the past five years which include:

- The merger of Washoe County Community Development-Department of Water Resources ("WDWR") and South Truckee Meadow General Improvement District ("STMGID") water utilities into TMWA was completed December 31, 2014. Combining the three purveyors under one jurisdiction allows for a consistent water management strategy to be implemented across the majority of water consumers and water resources in southern Washoe County. While the merger allows for greater efficiency in water management planning, it also poses additional resource management challenges to ensure adequate supply within the expanded Truckee Resource Area³ ("TRA").
- A reversal of negative or stagnant economic trends dominating the region since 2007 which altered the economic activity and growth expectations for the Truckee Meadows. The region began experiencing a modest economic resurgence in late 2013 which continues today. This economic shift results in a need to examine the current population trend and its possible effect on water demand and future resource requirements.
- Completion of the remaining conditions precedent to implementing TROA since it was signed by the five Mandatory Signatory Parties in 2008. Favorable California State Water Resources Control Board approvals in 2012, California state court dismissal of an appeal in 2014, and recent Federal court rulings in 2014, are paving the way for implementing TROA. This past August 2015 major milestones related to the Reno, Sparks and Washoe County obligation to supply 6,700 acre feet ("AF") of Truckee River water rights were completed. Filings were made in August and September 2015 to dismiss the last two lawsuits which are the final two elements to "check-off" before TROA is implemented. With TROA in effect, the framework is now in place that provides greater flexibility in river operations, particularly during drought conditions as TMWA's drought storage potential increases, river flows are enhanced for endangered and threatened fish species, and water rights of the signatories and non-signatories to the agreement are protected.

³ The Truckee Resource Area ("TRA") is that portion of TMWA's service area within which the utility will accept for dedication, subject to certain conditions, a Truckee River water source/right for the delivery of water to a service property that can be served with Truckee River resources.

- The region is in the fourth year of a meteorologic drought that has produced consecutive lower-than-average snowpack years. The hydrologic drought conditions on the Truckee River began to develop late 2014 - the third year of the meteorologic drought – and had little impact on TMWA’s water supplies or drought reserves. The hydrologic drought conditions grew more severe in 2015 due to the lowest snowpack in 106 years of historical record keeping. The lack of precipitation has led to an extended drought period similar to 1991 through 1994 with the more regional impacts occurring in 2015.

Given these events, current water resource planning must consider the potential for prolonged drought years while accommodating for regional growth over the next 20 years. Projected changes in supply and demand will impact TMWA’s water facility and capital improvement plans which, in turn, can impact the rates charged to customers, including facility charges. TMWA’s 2035WRP is one component of the coordinated planning efforts addressing the water resource, and ultimately the facility challenges facing the utility and the region in order to develop workable strategies that are cost effective while protecting the financial integrity of TMWA. A visual presentation of the cyclical relationships of this integrated planning approach TMWA undertakes periodically is shown below in Figure 1-1. This cycle of review and updating is a continuous process necessary to respond to changing economic and environmental factors that may affect the Truckee Meadows and the surrounding region.

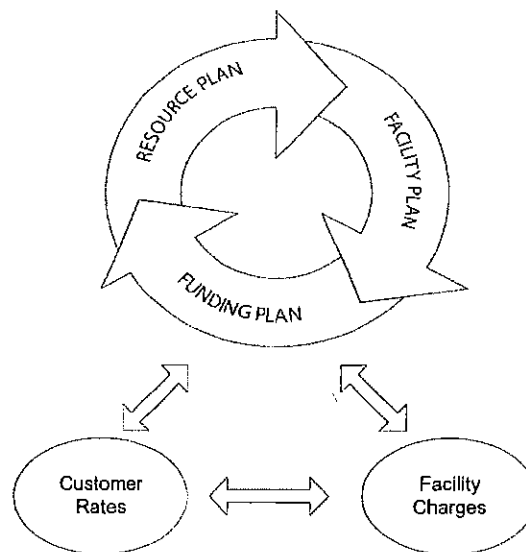


Figure 1-1. TMWA Planning Process

This Introduction to the 2035WRP frames the more significant challenges to water resources currently found within the Truckee Meadows region and sets the context for this water resource plan (“WRP”). This 2035WRP builds upon the information developed and contained in prior WRPs as well as various regional planning efforts. This plan will examine and analyze the water resource options available to TMWA to meet the water demands of its current customers and set a strategy for management given future demand projections.

Legislative Directives

In 2007 the Nevada Legislature adopted Senate Bill ("SB") 487, codified as the Western Regional Water Commission ("WRWC") Act. The Bill was sponsored by the Interim Legislative Subcommittee created in 2005 by Senate Continuing Resolution ("SCR") 26, and enabled the creation of a new regional water entity in Washoe County to be effective April 1, 2008. Pursuant to this legislation, the cities of Reno and Sparks, STMGID, the Sun Valley General Improvement District ("SVGID"), TMWA, and Washoe County, entered into a JPA to create the WRWC. The WRWC is charged with facilitating cooperative resource management efforts among the existing water purveyors in southern Washoe County and to provide for integration of regional water supply and storm water management, subject to the TROA. This includes facilitating planning for the development, management and conservation of regional water supplies, maximizing conjunctive use by public water purveyors (excluding Gerlach and Incline Village),) and facilitating the development of a plan to integrate public purveyor water systems to provide the most effective management and integration of systems. SB487 provided for a change of oversight and restructuring of the prior Regional Water Planning Commission ("RWPC") into the Northern Nevada Water Planning Commission ("NNWPC"). The WRWC began functioning and assumed oversight of the NNWPC in April 2008.

SB487 also created a legislative committee to oversee the WRWC, which met from time to time during the 2008, 2010 and 2012 interim legislative periods to review the WRWC's programs and activities and make a report to the Legislature. During that period, the Committee made the following recommendations for legislation: 2008, requiring coordination of water quality monitoring on the Truckee River and minor language changes in SB487; 2010, providing financial assistance for connecting to public water or sewer systems; and 2012, eliminating the Committee's statutory sunset date of July 1, 2013 and expanding its scope to study statewide water issues. The sunset provision was not removed, and the Committee expired by statutory elimination on July 1, 2013.

The WRWC adopted its first Comprehensive Regional Water Management Plan ("RWMP") for the planning area in January 2011. The RWMP includes the supply of municipal and industrial ("M&I") water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm water and control of floods. The RWMP is in the latter stages of a 5-year review required and expected to be completed in December 2015. An update of the RWMP for the years 2016 to 2035 will be prepared and presented to the WRWC for adoption in the fall of 2016. Since TMWA is a major contributor to the potable water management elements of that plan, adoption by TMWA's Board of this 2035WRP is necessary in order that its findings may be incorporated into the RWMP.

Consolidation of TMWA, WDWR & STMGID

Since TMWA's inception in 2000, serious consideration had been given by TMWA's Board of Directors and Washoe County's Board of Commissioners ("BCC") to the possible integration of some or all functions of TMWA and WDWR. Formal direction was given to the WRWC to incorporate into its 2030 Comprehensive Water Plan an "evaluation and recommendations regarding the consolidation of public purveyors in the planning area, which must include costs and benefits of consolidation, the feasibility of various consolidation options,

analysis of water supplies, operations, facilities, human resources, assets, liabilities, bond covenants, and legal and financial impediments to consolidation and methods, if any, for addressing any such impediments.” [Western Regional Water Commission Act, Section 42(9)].

In furtherance of this directive, at its September 12, 2008 meeting, the WRWC asked staff from TMWA and WDWR to “conduct a focused financial analysis to assess the feasibility of some form of utility integration using their joint bond counsel and financial advisors...”.⁴ At the December 2008 WRWC meeting, the Phase One Financial Report was presented which consisted of a bond analysis addressing certain limitations and restrictions resulting from existing debt and what opportunities were available for refunding or refinancing existing debt. This analysis demonstrated that consolidating WDWR into TMWA by defeasing WDWR debt would be financially feasible within a reasonable time-frame, but that the converse – defeasing TMWA’s debt – would not be a financially advantageous alternative. Staff of TMWA and WDWR met on numerous occasions to analyze the feasibility of whether the integration/consolidation of certain functions of the two entities was possible and, if so, whether efficiencies and benefits to the community would result. Preliminary assessment reports (“PARs”) for System Planning and Engineering were delivered to WRWC at its March 13, 2009 meeting, and Operations and Water Resources at its July 10, 2009 meeting. Each of these PARs analyzed the potential opportunities for improving efficiency, customer service and reliability, as well as reducing long term operating and/or capital costs through some form of integration of WDWR and TMWA. The PARs were prepared by interagency teams of employees who were familiar with the topics and analyzed TMWA and WDWR water systems as one rather than two systems. The findings of the PARs generally indicated that operational and resource management efficiencies may be achieved through consolidation, that rate structures of the two agencies were sufficiently close that migration to one set of customer rates would not result in inequities to either customer base, and that no insurmountable labor issues were anticipated.

To facilitate the consolidation review, the WRWC appointed a Subcommittee on Integration/Consolidation in July 2009, which conducted two meetings with staff to consider certain aspects of consolidation. At its August 6, 2009 the WRWC-Subcommittee meeting concluded that the integration/consolidation process should proceed, and that the full WRWC Board recommend to the governing bodies of both utilities to develop an inter-local agreement (“ILA”) to implement integration of the two agencies leading to full consolidation. The respective governing bodies took action in September 2009 to direct TMWA and WDWR staff to proceed with the development of an ILA to advance the integration/consolidation of WDWR water functions into TMWA.

TMWA and Washoe County executed the *Interlocal Agreement Governing the Merger of the Washoe County Department of Water Resources Water Utility into the Truckee Meadows Water Authority* dated January 29, 2010, which provides for the merger of WDWR into TMWA. Due diligence began in earnest in 2010 to further identify and/or clarify any potential legal obligations/constraints, complete financial analyses to determine the costs/benefits to the

⁴ The WRWC Act requires analysis of consolidation of all “public purveyors” within the planning area, however, no analysis was conducted of the SVGID as it was generally concluded that this entity functions in a semi-autonomous fashion and that significant efficiencies in operations or resource management are unlikely to be achieved by consolidating their functions with a consolidated TMWA/DWR entity.

respective utility's customers, create an operating model of the combined systems to develop optimum production schedules and estimate related costs, and work out transition issues.

By October 2012, TMWA presented to the TMWA Board the results of its completed due diligence analyses and sought direction as to continue the process. At that time, the various steps to proceed with merger implementation included labor negotiations; transferring system control to TMWA; transfer customer billing information to TMWA; defease WDWR publically issued water debt to be assumable by TMWA; revise various WDWR loan and bond commitments; and other specific tasks identified in the ILA. During the due diligence process, it was identified that the merger of the WDWR system into TMWA would require some resolution with respect to continued operations of the STMGID⁵ system. Through 2012, the Washoe County and the STMGID Local Management Board explored various options including merging STMGID as part of WDWR or STMGID becoming a stand-alone utility. The TMWA/WDWR merger was put on hold until these issues could be resolved.

By December 2012, the BCC elected to authorize the STMGID Local Managing Board with the sole responsibility to manage its affairs as a stand-alone entity. In the same month, STMGID submitted a merger term sheet to TMWA for TMWA Board consideration proposing a direct merger of STMGID into TMWA concurrent with the TMWA/WDWR merger. By June 2013, TMWA staff had completed its due diligence of a merger with STMGID with a favorable recommendation to the TMWA board. Throughout 2014, TMWA and WDWR staff members worked long hours to complete all steps necessary and obligations within the various ILAs. On December 31, 2014, both the WDWR and STMGID water systems were successfully merged into and acquired by TMWA.

TMWA's prior water resource plans focused on resource issues facing the utility and its conjunctive use of Truckee River resources and groundwater resources in the pre-merger TRA. Pre-merger, TMWA's planning area was limited to the southern-half of Spanish Springs (hydrographic basin 85), the northern-half of the Truckee Meadows ((hydrographic basin 87), and the west-half of Lemmon Valley (hydrographic basin 92A). Post-merger, TMWA assumes a larger, regional role in resource planning and management. The following graphics illustrate the change in scope of TMWA's responsibility and service areas pre- and post- the merger. The service area grew from about 109 to 156 square miles.

⁵ STMGID was a general improvement district created by Washoe County in 1981 for the basic purposes of furnishing storm drainage, sanitary sewer and water facilities. STMGID served approximately 3,700 customers in the south Truckee Meadows. Up until December 2012, the BCC served as the STMGID Board of Trustees, and a Local Managing Board ("LMB") comprised of five residents in the STMGID area acted as an advisory board to the BCC.

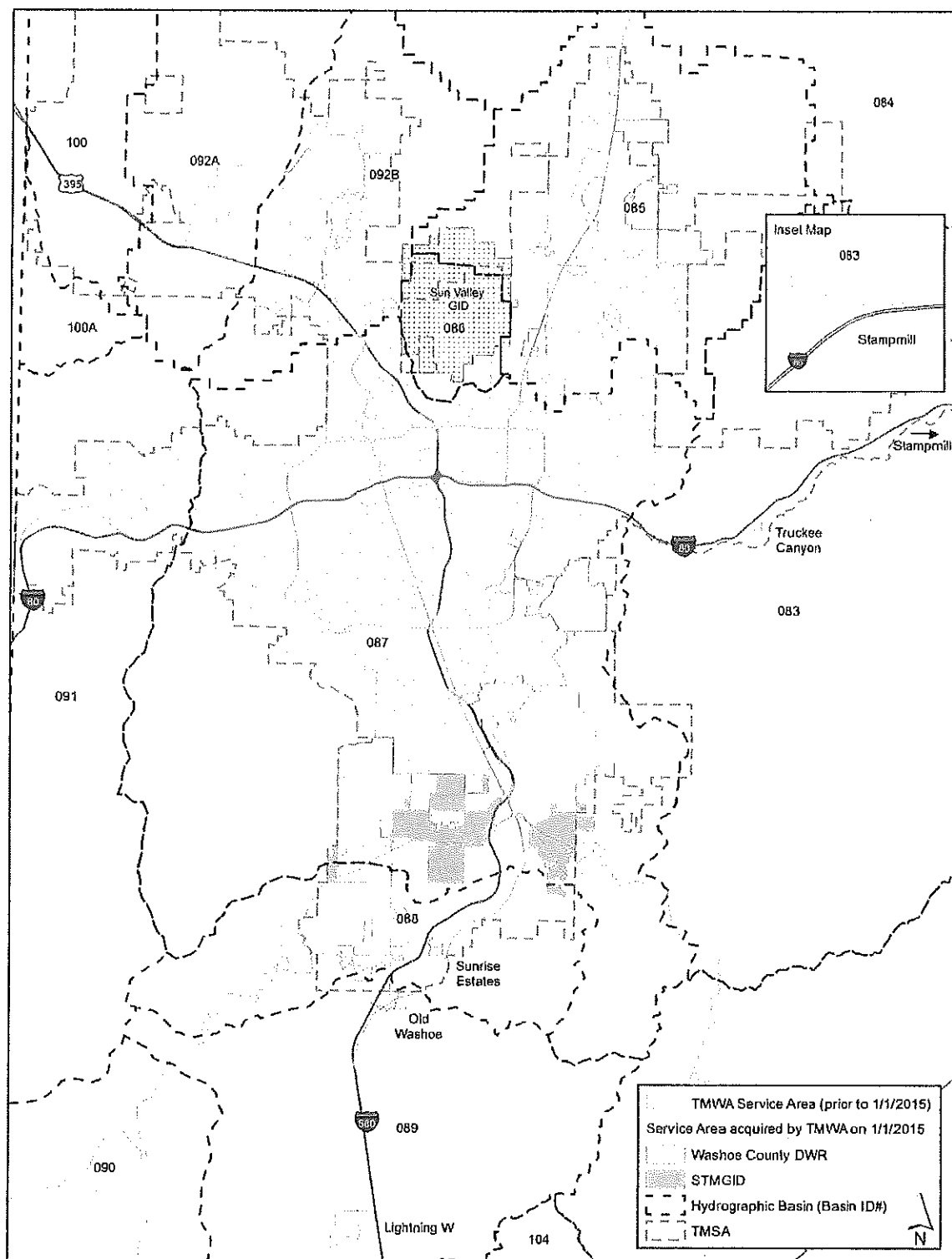


Figure 1-2. Pre-Merger Service Areas

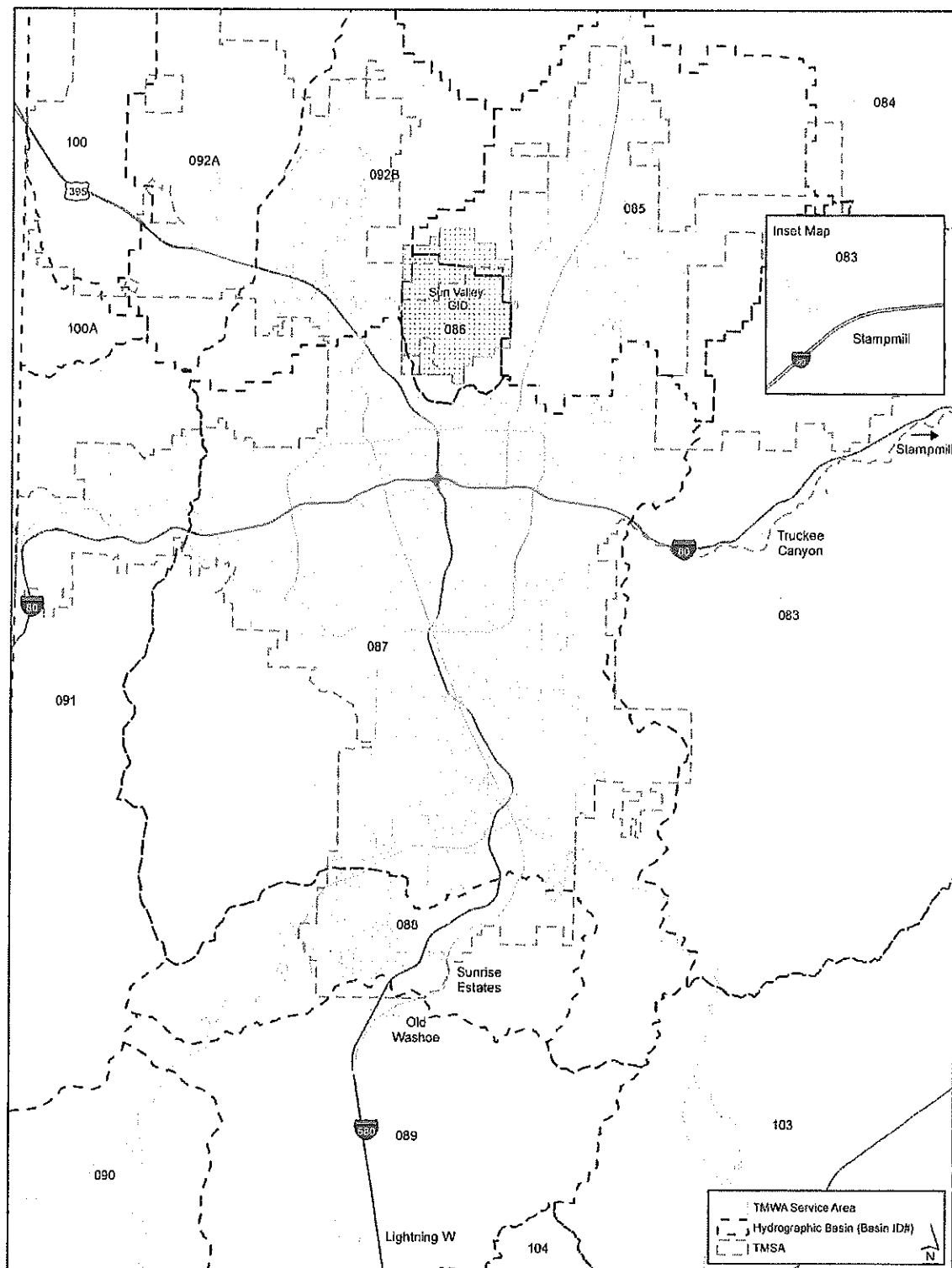


Figure 1-3. Post-Merger Service Area

Due to the expansion of TMWA's service area, TMWA evaluation of water resources and facilities expanded to include all of Lemmon Valley, all of Spanish Springs, all of Truckee Meadows⁶, Pleasant Valley (hydrographic basin 88), and in those areas in Washoe Valley (hydrographic basin 89) and the Tracy Segment (hydrographic basin 83) where small, satellite systems are located. The distribution systems located in hydrographic basins 83, 85, 86, 87, 88 (west portion), 91 and 92 are grouped in the TRA category since the integration of systems between these basins affords customers/development access to Truckee River resources (mainstem and tributary water rights) and the benefits of TROA's drought reserves. Table 1-1 highlights resources, customers and demands in the various planning basins included under the TRA designation.

Table 1-1. Summary of TMWA's Customers, Resources and Usage in TRA and non-TRA Planning Basins

Description	TOTALS	TRA				non-TRA			
		Spanish Springs	Truckee Meadows	Pleasant Valley-West	Lemmon Valley	Tracy Segment	Pleasant Valley-East	Washoe Valley	Honey Lake
		85	87	88	92A & 92B	83	88	89	97
-----a-----	---b---	---c---	---d---	---e---	---f---	---g---	---h---	---i---	---j---
A. Service Connections									
1. Residential-single family	103,295	15,758	77,613	1,221	8,479	43	54	127	
2. Residential-multi-family	5,013	108	4,714		191				
3. Commercial/Industrial	6,793	280	6,194	12	291	10		6	
4. Irrigation	3,178	182	2,750	60	174	5		7	
5. Wholesale	1		1						
6. Total Connections	118,280	16,328	91,272	1,293	9,135	58	54	140	0
B. Rights (acre feet)									
1. Ground water-in basin	41,620	5,900	28,237	3,457	2,678	315	432	601	
2. Ground water-importation ²	8,000								8,000
3. Surface water-converted ag rights ³	69,717		69,717						
4. Surface water-decree ³ , creek ⁴	44,843		44,843						
5. Surface water-storage	22,250		22,250						
6. Total Resources	186,430	5,900	165,046	3,457	2,678	315	432	671	8,000
C. Sources (acre feet)									
1. Ground water-in basin extraction	21,233	1,438	16,869	1,708	988	45	34	151	
2. Ground water-importation	276								276
3. Surface water-retail	57,640		57,640						
4. Surface water-POSW	4,900		4,900						
5. Total Sources CYE2014	84,049	1,438	79,409	1,708	988	45	34	151	276

¹ Includes Basin 86 -Sun Valley and Basin 91 - Truckee Canyon (Verdi).

² Honey Lake water rights/resources are available to the North Valleys via the Vidler Pipeline.

³ Converted ag and decree rights are used throughout the TRA.

⁴ Converted creek ag rights are available for use in Basins 87 (southwest) and 88 (west portion).

⁶ Includes Basin 86-Sun Valley and Basin 91-Truckee Canyon (Verdi) as TMWA does not have facilities nor groundwater resources in those areas.

The remote, i.e., satellite, systems TMWA now manages as a result of the merger are found in basins: 83 (Truckee Segment), 88-East (the area east of I-580 in Pleasant Valley), 89 (Washoe Valley) and 97 (Honey Lake)⁷. These systems are grouped in the non-Truckee Resource Area (“non-TRA”) category because the systems were developed as standalone subdivisions, which upon recordation of a final map required sufficient resources to meet the full build-out requirements of the development. At this time, the resources to serve these developments are fully committed and cannot be expanded beyond the defined development area without additional investment in facilities and viable resources. For purposes of this plan, it is assumed that each of the satellite systems has sufficient resources and facilities dedicated to meet the build-out of the development over the planning horizon, and it is not foreseen that Truckee River resources are or will be available to these systems in the near-term. A brief summary of these systems and the basin in which they are located is presented in Table 1-2.

Table 1-2. Summary of Satellite Systems Resources and Customers

	Description	Start year	Lots & customer type	Dedicated water rights (acre feet)	2014 Production
	-----a-----	---b---	----c----	----d----	---e---
1	Basin 83: Truckee Segment				
2	Truckee Canyon Water System	2000	10-commercial 2-irrigation	200	18
3	Stampmill Estates	1994	2-commercial 43- residential	115	27
4	Basin 88: Pleasant Valley-East ^a				
5	Sunrise Estates	1978	54-residential	432	34
6	Basin 89: Washoe Valley				
7	Lightning W Estates	1997	2-commercial 2-irrigation 62-residential	443	98
8	Old Washoe Estates	1978	4-commercial 5-irrigation 65-residential	158	53
9	Basin 97: Honey Lake	2007	na	na	na

The TRA includes the growth prone areas of Lemmon Valley, Pleasant Valley (west portion), Spanish Springs, and Truckee Meadows. For this plan, the discussion of water resources in the chapters that follow will frame issues for each hydrographic basin but will be aggregated under the TRA classification and describes how TROA meets and exceeds future demand needs in the TRA while accruing more drought reserves than previously available to TMWA over the planning horizon.

⁷ Honey Lake is unique in that there are no customers and related distribution facilities in the basin, just well production and transmission facilities, and is grouped in the non-TRA for convenience.

Trends After 2007 Economic Downturn

Following significant economic activity, between 2002 and 2006, the median price of housing approximately doubled within Washoe County. The annual median price for residential homes peaked in 2006 at \$345,000. Some of the reasons cited for this rapid price increase in housing related to (a) relatively low home prices compared to California and other western markets; (b) historically low mortgage rates and easy access to mortgage loans in existence during that time; (c) high consumer confidence and spending at the national level; (d) a strong national economy; (e) an influx of national home builders to the region selling new homes at higher than average prices; (f) a surge in immigration and demand for new housing in the region; (g) a stable and favorable business climate compared to other regions in the west; and (h) increasing costs of raw materials for new construction brought about by high demands. However, due to artificially-low interest rates and subprime lending practices, eventually mortgage rates adjusted and the price trend reversed itself. By 2011, median home prices had plummeted 57 percent from \$345,000 to \$149,000, a level below that of 2001. By 2014 however the median home price was estimated to be \$230,000, indicating home buying was on the rise. Figure 1-4 shows the changes in the median housing price for Washoe County between 2001 and 2014.

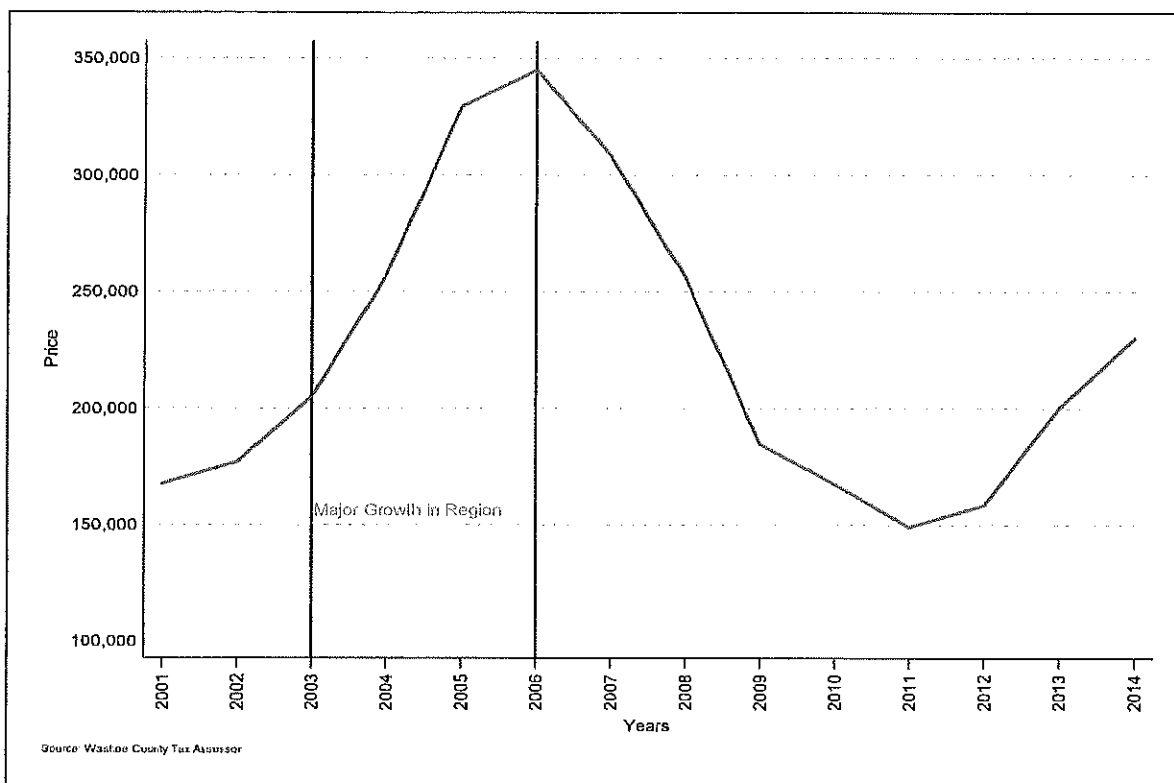


Figure 1-4. Median Housing Prices in Washoe County 2001 -2014

The ensuing credit crisis within the financial market signaled the start of a recession nation-wide. Economic conditions within the Reno MSA⁸ had a significant downturn after the housing bubble crash of 2007/8. During the peak of the housing boom, the surge of immigration of people initially seeking lower home prices, relative to the national average, found increasing mortgage payments and little job opportunity after the decline. Declining income levels, a rapidly-contracting construction industry, and poor employment conditions in general, led to a dramatic drop in the number of employed persons within the Reno MSA. In 2006, approximately 223,000 people were employed; however by 2011 employment numbers had decreased to 189,000. The result was an unemployment rate that had jumped over 200 percent from a record low of 3.8 percent in 2006 to 12.6 percent in 2011.

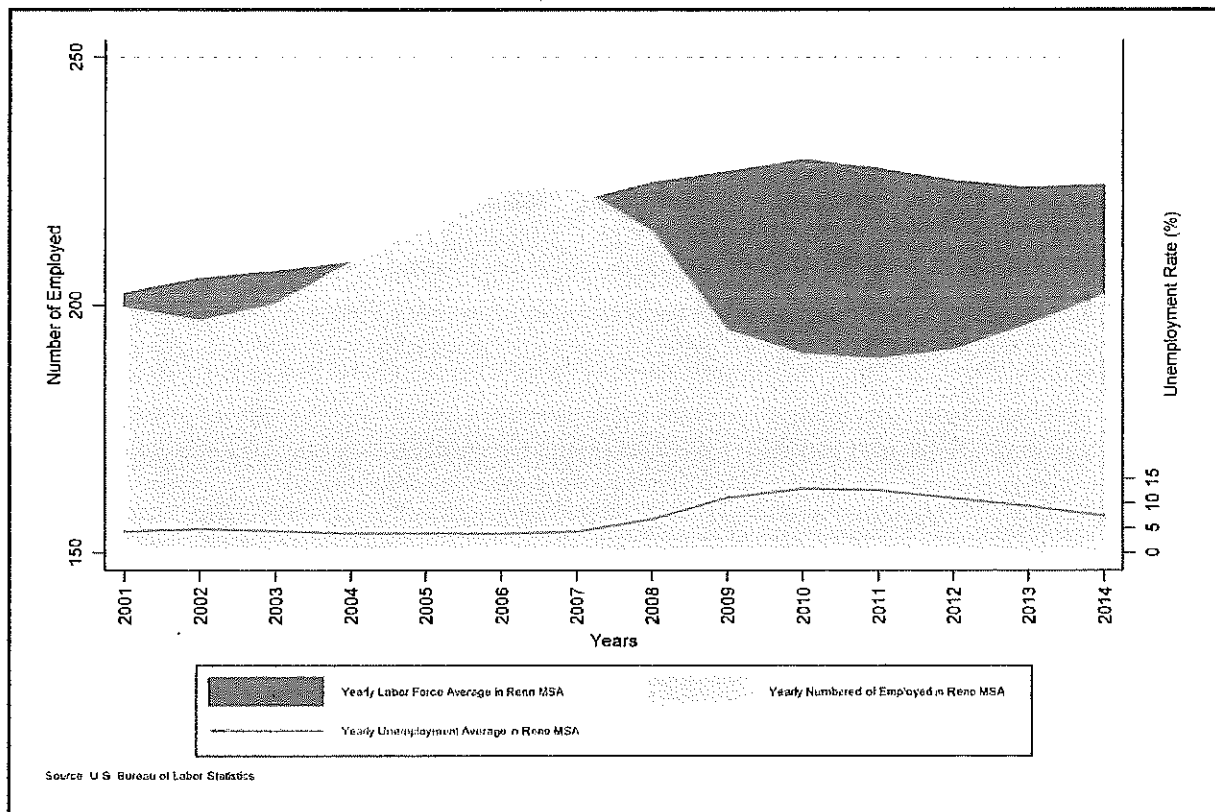


Figure 1-5. Employment Statistics in Reno MSA 2001 -2014

By 2012, indicators began to show signs of an economic recovery. Between 2010 and 2014 employment numbers rose 6 percent, and subsequently the rate of unemployment dropped from a unprecedented high of 13 percent in 2011 to 7.4 percent by 2014 (a rate only slightly higher than the average of 6.1 percent over the last 25 years). This increase in employment slowly began to raise the income levels within the Reno MSA. By 2012, per capita income had rebounded to \$45,000 from \$41,000 in 2010 (a gain of 9.7 percent), with the trend flattening over the next year.

⁸ Reno Metropolitan Statistical Area ("MSA") includes employment from Washoe and Storey Counties.



Figure 1-6. Per Capita Income Levels in Reno MSA 2001 -2013

Lagging behind the increase in level of income was home buying, which also exhibited a positive trend. Between 2011 and 2014 homeownership saw upward momentum as housing prices increased 37 percent during that period (see Figure 1-6). New residential housing hit a 10-year low in 2011 with only 538 housing permits issued. By 2014, housing permits issued had increased 4-fold to 2,192. Prior to 2003, the median number of will-serve commitments issued by TMWA was 1,300 acre feet/year (“AF/yr”). As the region experienced eight years’ worth of development in a four year period (2002 to 2005), commitments more than doubled to 2,800 AF. Following the precipitous drop in new development activity beginning in late 2006, will-serve commitments reached a low point in 2010 (a level not seen since 1958) of 117 AF. Subsequently, as development began a modest rebound, will-serve commitments began to increase (see Figure 1-7).

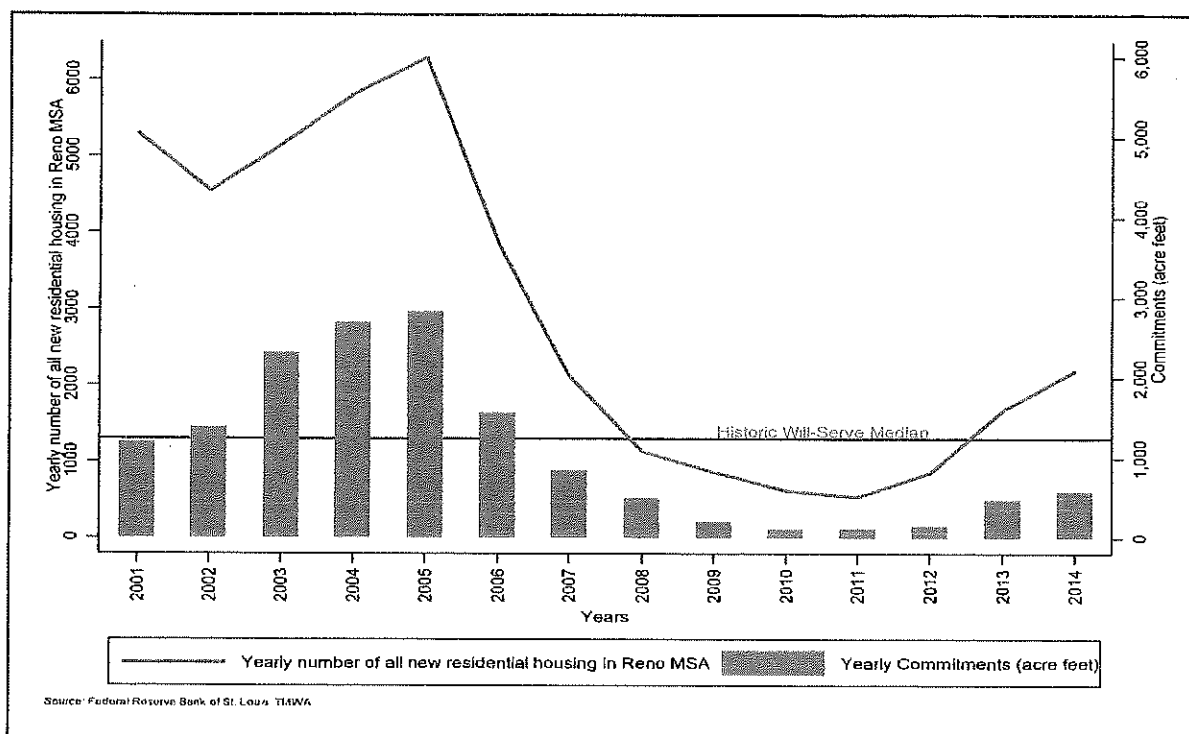


Figure 1-7. New Housing Permits and Annual Will-Serve Commitments 2001 -2014

Moving forward, based on the historic growth, the announcement of Tesla battery plant and other new projects, growth is likely to continue to be positive. It is projected the Reno MSA will see a 4.7 percent increase in employment between 2015 and 2019.⁹ Given the relationship between economic growth, new housing development and home prices, as well as the price of water, it is expected that the price of water rights will increase - though at a much slower rate than previously experienced. Chapter 4 considers these trends and changes in employment leading to the development of revised population, dwelling unit and customer demand estimates for this 2035WRP.

Depending on the use of the land, commercial versus residential, and the resulting densities assigned to the land, the amount of water resources needed to meet this demand will vary. Analysis in Chapter 3 discusses the availability of Truckee River mainstem rights for future dedication to TMWA to support future will-serve commitments.

⁹ Estimate based on report by the Economic Development Authority of Western Nevada <http://edawn.org/>.

TROA Implementation

Pursuant to the *Truckee-Carson-Pyramid Lake Water Rights Settlement Act*, Public Law No. 101-618 (Nov. 16, 1990), Title II, 104 Stat. 3289 (the “Settlement Act”), Congress directed the Secretary of the Interior to negotiate an operating agreement with Nevada and California (and other parties) which, among other things, would provide for a more flexible and coordinated operation of Lake Tahoe, Boca Reservoir, Prosser Creek Reservoir, Martis Reservoir and Stampede Reservoir, and if owners of affected storage rights agreed, Donner and Independence Lake, while at the same time satisfying the exercise of water rights in conformance with the Orr Ditch Decree. TROA is that operating agreement.

TROA provides for modified river and reservoir operations that result in multiple benefits for water users, including benefits related to endangered fish species (spawning fish flows), recreation (minimum water levels in reservoirs), and significant additional drought storage for TMWA. Implementation of TROA solidifies the interstate allocation of water between Nevada and California as provided for in the Settlement Act.

On September 6, 2008, TROA was signed by the five Mandatory Signatory Parties: PLPT, the U.S., California, Nevada and TMWA. The parties have completed all requirements to implement and make TROA effective. Once TROA becomes effective, a framework will be established which provides greater flexibility for river operations allowing parties to exchange water to accommodate emerging issues without injuring the water rights on which they rely, and perhaps avoid future regulatory uncertainties surrounding the use of the Truckee River. The following describes the various conditions of consequence precedent to implementing TROA that were completed since signing TROA in 2008, thus allowing TROA to be implemented:

- Publication of TROA in the Federal Register (December 5, 2008) and its promulgation as a regulation (final on January 5, 2009). Truckee-Carson Irrigation District (“TCID”), Churchill County and the City of Fallon have initiated litigation in the U.S. District Court challenging the regulation, including a challenge to the adequacy of the Final Environmental Impact Statement for the Operating Agreement.
- A motion to modify the Orr Ditch Decree was submitted to the Court in *United States v. Orr Water Ditch Company, et al.* for approval of modifications to the Orr Ditch Decree on November 17, 2008. On September 30, 2014, the Court entered an Order granting the Amended Motion to Modify, and an Order which amends the Orr Ditch Decree as requested in the Amended Motion.
- The U.S. and TMWA submitted a joint motion to the court in *United States v. Truckee River General Electric Company* to modify the Truckee River General Electric Decree on November 20, 2008. The Court entered an order modifying the Decree on December 22, 2008.
- On October 29, 2012, the California State Water Resources Control Board (“CSWRCB”) issued Decision 1651 approving the petitions to change the water rights (petitions originally filed in 2004) for Boca Reservoir, Prosser Creek Reservoir, Stampede Reservoir, and Independence Lake. CSWRCB is awaiting confirmation that all items are complete before it issues final permits.
- Approval of changes to water rights in Nevada to allow TMWA to hold the consumptive use component of certain of its irrigation water rights in storage was

approved by the Nevada State Engineer Order No. 6035 on March 19, 2010. On March 31, 2014, the Orr Ditch Court affirmed the State Engineer's decision.

- On September 30, 2014, the Orr Ditch Court made the determination that the Truckee River is fully appropriated and closed to new appropriations affirming the Nevada State Engineer's Ruling No. 4683 is final.
- In the fall of 2014 the PLPT filed the application and received the permit needed to allow water under Ruling No. 4683 to be stored in Truckee River reservoirs.
- Provision of 6,700 AF of water rights for water quality purposes under Section 1.E.4 of TROA was satisfied by RSW in August 2015.
- The last conditions, coincident with the provision of the 6,700 AF by RSW, were the final filings by PLPT and the State of California in California state court to dismiss the PLPT v. State of California case, and by the Mandatory Signatory Parties to TROA agreeing that there has been a final resolution of that certain action entitled U.S. v. TCID were completed.

Further discussion on the benefits of TROA is found in Chapter 3. Suffice to say, all conditions necessary for the implementation of TROA have been satisfied. The pendency of court challenges to actions required for TROA to enter into effect will not delay its entry into effect.

Water Resources During Drought Periods

The annual flow of water from the Truckee River system is dependent on the amount or size of the preceding years' snowpack which can be highly variable from year-to-year. Simply stated, the larger the snowpack the greater the Truckee River flows; conversely, the smaller the snowpack the smaller the Truckee River flows. Figure 1-8 illustrates this variability by comparing annual snowpack accumulations for the Truckee River Basin.

Beginning in 2012, snowpack accumulations have been near or below 50 percent of average. This 2035WRP comes as the region experienced its fourth consecutive year of exceptionally low-precipitation. Drought Situations¹⁰ exist when there is inadequate natural flow in the Truckee River and there is not enough stored water in Lake Tahoe and/or Boca Reservoir to maintain required rates of flow to meet Floriston Rates, or the elevation of Lake Tahoe is projected to be less than half-a-foot above its natural rim on or before November 15 each year. Truckee River discharge data (1909 through present) and various tree-ring research efforts show drought periods can vary from a few years to as many as 8 to 10 years in duration.

¹⁰ Pursuant to TROA: "Drought Situation means a situation under which it is determined by April 15, based on procedures set forth in Section 3.D, either there will not be sufficient **Floriston Rate Water** to maintain **Floriston Rates** through October 31, or the projected amount of **Lake Tahoe Floriston Rate Water** in Lake Tahoe, and including **Lake Tahoe Floriston Rate Water** in other **Truckee River Reservoirs** as if it were in Lake Tahoe, on or before the following November 15 will be equivalent to an elevation less than 6,223.5 feet Lake Tahoe Datum."

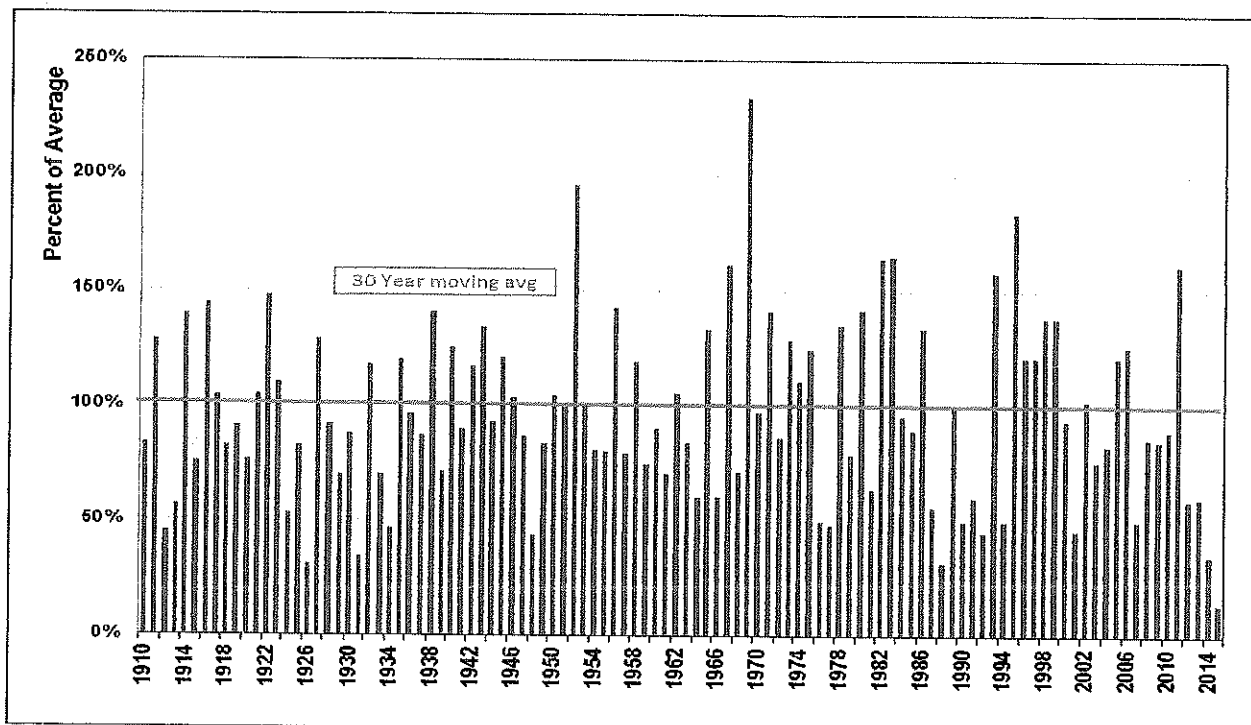


Figure 1-8. Snowpack Percent of 30-Year Moving Average

During the various drought periods, TMWA's drought reserves may not be impacted; Privately Owned Stored Water ("POSW") or drought reserves are only used to meet customer demand when the more critical dry years within the drought period are experienced. Based on past history it is not until at least the third dry or drought year in a row that upstream reserves may have to be used. In the 1987 through 1994 drought of record, only in the summer of 1991 and 1992 were upstream reserves required to meet demands. It is important to also note that the use of reserves has only occurred between the months of June and October, primarily during the irrigation season. In those years where Floriston Rates were not met through the irrigation season, by November flows in the Truckee River were once again sufficient enough to meet wintertime production needs. TMWA's current water planning is based on the hydrology of 1987-1994, the worst drought on record. In the current drought period, drought reserves were required to meet TMWA customer demands in both 2014 and more so in 2015. Although 2015 was the driest in the last 100 years with the lowest snowpack in recorded history, it cannot be stated with any certainty as to what the duration or direction the current drought period will take. This topic is discussed further in Chapters 2 and 3.

The core of TMWA's water supply for customers in the TRA is derived from the Truckee River. Consecutive years of low-precipitation in the Lake Tahoe and Truckee River basins produce dry conditions and drought periods in the TRA. The length of a drought period is solely a function of climatic/meteorological conditions, hydrologic drought conditions, and trends over a period of years. Determining a safe annual yield of available water resources during extended drought situations is the crux of this, and prior, water resource plans.

Summary

Water resource planning for the Truckee Meadows has become increasingly more complex in recent years and will continue to be more challenging as TMWA seeks to accommodate the region's current and future water supply needs. However, with the recent implementation of TROA, TMWA is better equipped to mitigate drought situations and expand its ability to generate larger volumes of upstream reserves. For example, in 2015, the lowest recorded snowpack and precipitation year of record, TMWA estimates it would have been able to add an additional 9,000 to 12,000 AF of reserves to its existing 27,000 AF of POSW it had accumulated by May 2015 (Chapter 3 discusses this further).

This chapter introduced some of the key issues facing the current and future development of water resources for the Truckee Meadows. The following chapters will take up other issues related to climate, source water reliability and sustainability, water right availability, water resource integration and conjunctive management of resources, demand-side management, and future supply opportunities. This 2035WRP relies and builds upon the information developed and contained in prior TMWA and various regional planning efforts. This 2035WRP plan will examine and analyze the water resource options available to TMWA to meet the water demands of its current and future customers. The plan outline is set forth as follows:

- “Key Findings and Recommendations” summarizes the significant findings of the 2035WRP and makes recommendations for further Board actions.
- Chapter 1, “Introduction”, presents some of the key past and current trends and challenges that have shaped or are projected to shape the future of the greater Truckee Meadows region and the availability of water resources.
- Chapter 2, “Source Water Reliability”, presents discussion of quality of surface and ground sources, source/loss risk analysis, and protection/response plans.
- Chapter 3, “Integrated Management of Water Resources”, describes what water rights are currently available or used by TMWA and how those resources are conjunctively managed to annually produce a sufficient amount of water to meet TMWA's water service demands in non-drought and drought-situation years
- Chapter 4, “Population and Water Demand Projections”, presents forecasts of population and water demands for the planning horizon.
- Chapter 5, “Water Conservation Plan”, describes several conservation programs and measures that TMWA employs to reduce annual water use and minimize water waste in both non-drought and drought-situation years.
- Chapter 6, “Future Water Resources”, identifies potential future water resources.
- Chapter 7, “Summary”, compiles the issues outlined in the plan with some suggested direction for the future of water resources for the greater Truckee Meadows region.

CHAPTER 2 SOURCE WATER RELIABILITY

This chapter explores the reliability of TMWA's primary water sources in terms of both quantity and quality for municipal purposes. Key concerns with ensuring a perpetual and adequate water supply are weather variability and hydrologic droughts. The discussion explores weather related factors, such as climate change and drought periods, that can affect the availability of TMWA's water resources, and water quality issues that can affect long-term sustainability. The most imminent threats to the reliability of the water supply are weather and source contamination, both of which may affect the quantity and quality of available water supplies.

Weather Variability

Nevada is part of the Great Basin and for the most part is classified as a high desert climate. Few places in Nevada are as fortunate as the Truckee Meadows which has a river running through it, but that does not change the fact it is a desert with annual average rainfall of 7.5 inches per year. In essence, the region is in perpetual dry conditions interrupted by higher-than-average precipitation years, which make it difficult to delineate the beginning or end of a drought period including its duration.

Weather, particularly precipitation in the form of snowpack, is the primary determinant in establishing drought conditions and the availability of surface and groundwater supplies in the various hydrographic basins where TMWA provides service. Precipitation replenishes the reservoirs and aquifers from which water is extracted. While the weather pattern consistently provides precipitation during the winter and spring months, the type of precipitation (snow versus rain) and timing of snowmelt runoff can vary greatly from year to year. Simply stated, a larger snowpack produces greater Truckee River flows; conversely, the smaller the snowpack the smaller the flow in the Truckee River. Figure 2-1 compares annual snowpack accumulations to annual Truckee River flows.

TMWA manages for uncertainty of its water supply, in terms of the overall quantity and the timing of its delivery, through storage of water in upstream reservoirs and injection of treated surface water through its network of wells into aquifers in Lemmon Valley, Spanish Springs and Truckee Meadows. When river flows are available, TMWA manages its surface water resources through conjunctive use with groundwater supplies. This conjunctive use management maximizes use of surface water when it's available, thereby reducing groundwater pumping. This approach allows TMWA to meet demands with surface water, and to rest and recharge specific wells when enough surface water is available. TMWA continually assesses the potential reduction to source water supplies due to variability of weather conditions.

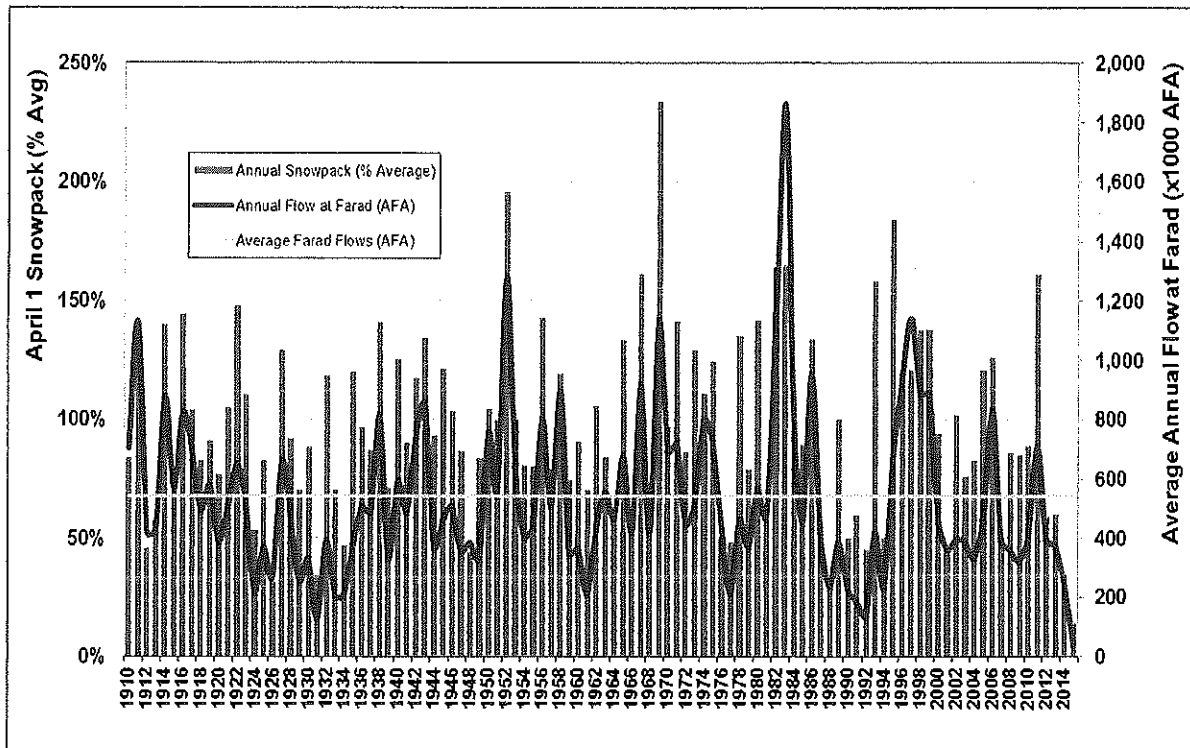


Figure 2-1. Annual Snowpack Percent vs Average and Annual Truckee River Flow at Floriston

Shortages in water resources due to seasonal weather variability can produce adverse environmental and economic conditions such as degradation of the land and the associated biologic ecosystem (i.e., stress to plants, animals, and habitat). Recent changes in the climate have been suggested as the culprit for the high degree of weather variability and deserve more attention as to the impacts to regional water resources. However, studies on the historic hydroclimatic conditions in the region reveal long periods with either extremely wet or dry conditions are common cyclical events when viewed from a much longer timeframe. In order to effectively manage for source water reliability given the uncertainty surrounding annual precipitation, such events and the frequency of their occurrence merit a close investigation.

For a better understanding of how water resources can be impacted from extreme variability in the Truckee River Basin's weather patterns, TMWA partnered with the Desert Research Institute ("DRI") in 2006 and 2009 to research the possibility of climate change and global warming affecting the Truckee Meadows' water supplies (see Appendix 2-1). The results of that research indicated, at the time the study was done, that historic hydrological records are the best data available for future planning and scientific evidence remains inconclusive as to the effect of climate change on drought conditions within the Truckee Meadows. Since there is a high variability in regional climate data, it has proven difficult to definitively detect long-term climate trends, i.e., some studies project the region becoming wetter while others project a progressively drier environment over time. Given this "noise" in the data and a divergence in the predictions under various climate change models, the 2009 research concluded that continued investigation on this topic is warranted.

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 73933

Electronically Filed
Feb 08 2018 03:57 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

SIERRA PACIFIC INDUSTRIES, a California Corporation,

Appellant,

v.

JASON KING, P.E., in his capacity as Nevada State Engineer; THE
DIVISION OF WATER RESOURCES, DEPARTMENT OF
CONSERVATION, an agency of the State of Nevada; and
INTERMOUNTAIN WATER SUPPLY, LTD., a Nevada Limited Liability
Company,

Respondents

Appeal From Order Denying Petition for Judicial Review
District Court Case No.: CV16-01378
Second Judicial District Court of Nevada

JOINT APPENDIX

VOLUME II

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Notice of Entry of Order Denying Petition for Judicial Review (Order not recopied)	8/22/2017	XI	JA2760 – JA2764
Notice of Filing Petition for Judicial Review (NRS 533.450) with 6/29/2016 filed Petition for Judicial Review and Exhibits	6/29/2016	I	JA0001 – JA0028
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SE ROA 417-748		III	JA0513- JA0790
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SE ROA 1975-2225		IX	JA2059 – JA2310
SE ROA 2226-2405		X	JA2311 – JA2490

IN THE SUPREME COURT OF THE STATE OF NEVADA

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that **JOINT APPENDIX VOLUME II** does not contain the social security number of any person.

DATED this 8th Day of February, 2018.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDonald Carano, LLP and that on February 8, 2018, **JOINT APPENDIX VOLUME II** was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (E-Flex). Pursuant to NRAP 30(f)(2), all Participants in the case will be served and provided an electronic copy via U.S. mail as follows:

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/s/ Pamela Miller
An employee of McDonald Carano, LLP

- **Monitor groundwater pumping and aquifer water levels to avoid long-term over-pumping.**
- **Continue implementing phased conversion of areas with high densities of septic tanks to community sewer system as funding is made available.**

Lower Truckee River

Industrially zoned lands are concentrated in the Mustang and Patrick / Tracy areas. Existing wells are low volume producers, although there are well locations that show promise. Planning evaluations concluded that the use of existing wells has a lower overall cost than importation of water from Sparks, even with expected treatment requirements to meet drinking water standards. Currently, the development of a technology park is being proposed that contemplates the use of 4,000 afa of TMWRF reclaimed water via a new pipeline. The reclaimed water would be used for cooling a generation complex to supply dedicated power to a data center technology campus. Initial water service would be provided by wells using 1,125 af of permitted groundwater rights.

Proposed Action Items

- **Update the Water and Wastewater Facility Plans for East Truckee Corridor that includes analysis of the current development proposals and approved development potential within the Truckee Meadows Service Areas boundary**
- **Coordination with Storey County regarding existing commitments and future potential demands for the entire Tracy Segment hydrographic basin**
- **Development of a position statement regarding construction of surface water treatment facilities in the Lower Truckee River**

Groundwater Resource Development and Impact to Domestic Wells

- A number of domestic wells have failed in two locations within the Planning Area because of declining water table elevations: Heppner Subdivision in north Lemmon Valley and the Mt. Rose Fan / Callahan Ranch area of the southwest Truckee Meadows. In a third location, Golden Valley, domestic wells have experienced water level declines in addition to septic system related water quality deterioration.
- Several factors can affect domestic wells including drought conditions and the natural variability of annual aquifer recharge, domestic well density, hydrogeologic conditions such as fractured rock aquifers having poor yields, inadequate aquifer penetration at initial construction, age and condition of the domestic well, and municipal groundwater pumping.
- Converting properties with domestic wells to municipal water supply is costly.
- Uncertainty and disagreement commonly exist regarding responsibility for resolving water supply issues in areas where municipal production wells co-exist with domestic wells.
- State Water Law recognizes the importance of domestic wells as appurtenances to private homes and creates a "protectible interest" to protect their water supply from unreasonable adverse effects caused by municipal, quasi-municipal or industrial uses which cannot be reasonably mitigated (NRS 533.024.2(b)).

- State Water Law allows the State Engineer to prohibit the drilling of domestic wells in areas where water can be furnished by an entity such as a water district or a municipality presently engaged in furnishing water to the inhabitants thereof (NRS 434.120.3(d)).

Proposed Action Items

- **WCDWR is expected to complete the reassessment of its well mitigation approach and finalize the programmatic mitigation program.**

Water Conservation

Chapter 7 describes the benefits of water conservation and characterizes the status of water conservation efforts to date. There are some unique issues regarding water conservation in the TMWA system that affect the use of conserved water; see *TMWA 2030 WRP*. A summary of conservation issues in Chapter 7 includes the following:

- Under existing regulatory and legal constraints, water that is not diverted from the Truckee River as a result of conservation is left in the river, stored upstream in reservoirs for use during droughts or for fish and wildlife purposes, or used to recharge groundwater. This conserved water is not available to supply additional growth.
- The *1995-2015 Regional Water Plan* developed a "Base Case" conservation plan that included a suite of seven conservation measures to be implemented in the five-year timeframe following plan adoption. Conservation measures proposed included new building practices, showerhead retrofit, toilet retrofit, landscape efficiency conservation, good earth-keeping, increasing block water rates, and water meter retrofit. Although potable water demand projections used as the basis for the Base Case conservation have been revised using recent data, amendments to the *Regional Water Plan* in 2005 and 2009 state that the pursuit of Base Case conservation is desirable and beneficial to the planning area. In addition to monitoring water conservation progress, the *Regional Water Plan* will continue to evaluate whether existing conservation programs are effective and practicable, and whether programs should be added or deleted.
- In 2004, TMWA's Technical Advisory Committee ("TAC") formed a Landscape Subcommittee to address increasing customer complaints about landscape standards approved by the local governments and the lack of consistent enforcement of the water conservation elements of the ordinances. The subcommittee, comprised of three voting members representing Reno, Sparks and Washoe County, developed findings and recommendations regarding landscape ordinances (see Appendix H). RWPC staff participated in the development of the recommendations. TMWA and RWPC staff presented the final report to the Reno City Council, Sparks City Council and Washoe County Board of Commissioners at a joint meeting in 2005. At that meeting, the governing boards directed their respective staffs to prepare code amendments to address the findings and recommendations. The RWPC considered enforcement of the entities' landscaping ordinances to be a major objective and included this in the 2009 amendment to the *Regional Water Plan*. The RWPC also recommended working with the local entities and water purveyors on updating their landscaping ordinances, encouraging them to incorporate water efficiency design features for commercial and residential landscapes.

Proposed Action Items

- ***Continue implementation of conservation measures to achieve Base Case conservation***

Wastewater Management

Central Truckee Meadows

TMWRF provides centralized wastewater treatment for most of the community, including development in the central Truckee Meadows and portions of adjoining basins. To meet NPDES permit requirements for discharge to the Truckee River, TMWRF must achieve a complex balance between treatment process improvements, reclaimed water needs and water rights requirements, Truckee River water quality, and various other inter-related, regional water management objectives.

TMWRF has a permitted capacity of 44 million gallons per day ("MGD"), a design capacity of 40 MGD, and currently operates at about 28 MGD. The actual maximum-month-flow design capacity of 40 MGD is due to increased biological oxygen demand ("BOD") wastewater strength resulting from indoor water conservation (low flow fixtures and water meters) and inflow and infiltration ("I&I") reduction. Despite the decrease from 44 to 40 MGD, the revised flow capacity accommodates 110 percent of the Phase III expansion design population (approximately 433,000 vs. 398,000) because the actual flow per residential unit is less than historical flow rates.

During the irrigation season, typically April through September, approximately 4,000 af of TMWRF reclaimed water is pumped to reuse sites in Reno and Sparks. TMWRF also serves as a regional biosolids facility, treating waste activated sludge from both RSWRF and STMWRF. TMWRF has an estimated replacement value of at least \$500 million.

Following is a concise listing of the key issues concerning TMWRF. Chapters 4 and 6 include more extensive discussions of these issues. Chapter 4 also includes further information on watershed management programs aimed at protecting water quality.

- Options to achieve state water quality standards ("WQS") in the Truckee River include Total Maximum Daily Load ("TMDL") review and revision, coordination with PLPT Water Quality Control Plan criteria, facility modifications at TMWRF, implementation of pollutant trading projects and implementation of lower Truckee River restoration projects. Further analyses could lead to a more complete understanding of the river system and possibilities for increased flexibility in TMWRF discharge permit conditions.
- Constraints on discharge to the Truckee River due to NPDES discharge permit requirements related to TMDLs for the Truckee River.
- Truckee River water rights dedications to meet return flow requirements may be needed for the possible future expansion of reclaimed water use, such as irrigation, year-round industrial use of reclaimed water, groundwater recharge and/or indirect potable reuse. Water rights dedications are also necessary to maintain Truckee River in-stream flows and improve water quality, and for many other purposes. Section 9.5 addresses the integrated use of water rights.

- Based on the 2030 flow projections identified in the Regional Water Balance presented in Chapter 6, given that approximately 33,600 af is discharged annually to the river and 4,000 af of reclaimed water is used for irrigation, roughly 7,700 af of additional disposal capacity will be required.

Proposed Action Items

- *Continue Third Party review of the 1994 nutrient TMDLs and applicable WQS in coordination with state and federal regulatory authorities, and the PLPT's water quality and quantity goals, to demonstrate that continued discharge to the Truckee River from TMWRF is an environmentally sound practice.*
- *Continue technical, modeling and legal work to support the TMDL and WQS review and discussions with NDEP and Environmental Protection Agency ("EPA").*
- *Continue working with the Third Parties to facilitate public outreach, in consultation with NDEP and EPA, and obtain input from affected stakeholders at key decision points in the TMDL and WQS review and revision process.*
- *Pursue connection of additional reclaimed water users to the existing systems in Sparks and Reno, consistent with regional water quality and water rights considerations, and continue investigating the feasibility of expanded uses of reclaimed water.*
- *Evaluate the merits of regional integrated solutions between TMWRF and STMWRF for the treatment and disposal of wastewater.*

South Truckee Meadows

WCDWR operates STMWRF, which provides service primarily for the Double Diamond and Damonte Ranch areas of Reno, and unincorporated Washoe County including the Virginia Foothills and Mt. Rose fan. STMWRF is one of the few water reclamation facilities in the United States relying exclusively on effluent reuse for disposal of the treated wastewater. Presently, sludge disposal is handled via pumping to TMWRF for treatment and disposal.

Proposed Action Items

- *Actively pursue a new reclaimed water strategy to continually balance the increasing supply with available storage capacity and demand. Alternative reuse methods should be explored in detail, in coordination with NDEP, such as reclaimed water aquifer storage and recovery ("ASR") and cooling water for energy generation facilities.*
- *In regard to the potential regional implications of reclaimed water ASR and indirect potable reuse, it is recommended that the Reno Stead ozone-biological activated carbon pilot plant feasibility evaluation be continued at STMWRF to more fully optimize the technology.*
- *Evaluate the merits of regional integrated solutions between TMWRF and STMWRF for the treatment and disposal of wastewater, including funding considerations.*

Stead / Lemmon Valley

RSWRF is located in Stead and is owned and operated by the City of Reno. RSWRF is permitted to treat a maximum month average day flow of 2.35 MGD. Effluent is either discharged by gravity to Swan Creek, which drains to the Swan Lake wetlands, or it is reclaimed and pumped to several sites within the community for turf irrigation. Washoe County owns and operates the Lemmon Valley Water Reclamation Facility ("LVWRF"). It is a secondary treatment plant that has a permitted capacity of 0.3 MGD, with disposal by evaporation ponds.

Future water supplies will be provided by imported water, primarily from the Fish Springs Water Supply Project. As presented in the *North Valleys Effluent Disposal Options* report, (ECO:LOGIC, 2005), and the *City of Reno and Washoe County TMSA/FSA Water, Wastewater and Flood Management Facility Plan*, (ECO:LOGIC, 2007), other means of reuse or disposal of reclaimed water will be needed based on the long-term development potential of the area. As presented in Chapter 4, the North Valleys Initiative ("NVI") evaluated the feasibility and merits of expanding reclaimed water uses in Stead and Lemmon Valley. CSWRF was also included in the NVI evaluation, since it too is located within a closed basin and its disposal capacity will not be sufficient for the projected future flows.

Proposed Action Items

- ◆ ***Continue to evaluate the merits of regional integrated solutions between RSWRF and CSWRF for the treatment and disposal of wastewater, including funding considerations.***
- ◆ ***Continue to work with NDEP on proposed effluent ASR regulations, including additional groundwater modeling assessments of aquifer storage and recovery capacity for long-term viability, and establishing appropriate water quality standards for the protection of water resources, public health and the environment.***

Cold Springs

CSWRF is owned and operated by the WCDWR, and is permitted to treat a peak month average day flow of 0.7 MGD. CSWRF was included in the NVI evaluation, since it too is located within a closed basin and its disposal capacity will not be sufficient for the projected future flows. ECO:LOGIC (2007) determined that other means of disposal or reuse of reclaimed water will be needed based on the long-term development potential of the area.

Several integrated water and wastewater issues are only partially understood, including: long term water supply availability within the basin, taking into consideration demands from both municipal and domestic wells; capability to assess water quality considerations, including total dissolved solids, nitrate, fate of the effluent disposed by the rapid infiltration basins, and the potential for reclaimed water ASR; aquifer storage capacity; and coordination with the White Lake 100-year flood level.

Proposed Action Items

- ◆ ***Continue to evaluate the merits of regional integrated solutions between CSWRF and RSWRF for the treatment and disposal of wastewater, including funding considerations.***
- ***Update and refine the existing WCDWR groundwater model for Cold Springs to address interrelated groundwater, surface water and wastewater issues.***

Lower Truckee River

Significant undeveloped, industrial zoned lands are located in the Mustang and Patrick / Tracy areas, including the 2,205 acres adjacent to Interstate 80 East, being studied for the development of a technology park. The land owner and developer contemplate the use of 4,000 afa of TMWRF reclaimed water to be utilized for water cooling an energy generation and data center complex. There is also significant development potential on the Storey County side of the river. This area includes existing industrial development such as Kal Kan and Kaiser Aluminum, and continued commercial and industrial development within the Tahoe Reno Industrial Center.

The long-term wastewater management approach for the Wadsworth area and Stampmill Estates subdivision may also require a separate planning effort. Currently, the PLPT facility provides secondary treatment and disposal through sedimentation and facultative lagoons for the town of Wadsworth. This facility is mentioned for regional information and coordination purposes only; it does not fall under the jurisdiction of this *Regional Water Plan*.

Septic systems will continue to be used in this area, and there is evidence of nitrate contamination to the groundwater, indicating the future need for municipal sewer service. Joint wastewater treatment and facility planning could be economically advantageous to both Washoe and Storey counties and should be considered in future work.

To comply with regional TMDLs and help protect water quality within the Truckee River, wastewater treatment facilities should be implemented that include biological nitrogen removal, with subsurface disposal and/or landscape irrigation.

Further planning and implementation of wastewater infrastructure in this area will be driven by parties interested in developing the land. Close coordination and cooperation between the City of Sparks, Washoe County and Storey County is needed to ensure long-term water quality objectives for the river are maintained.

Proposed Action Items

- ***As this area of Sparks and Storey County continues to grow, it will be important to monitor groundwater and surface water quality to check for non-point source pollutants entering the Truckee River.***
- ***Revisit discussions among Washoe County, PLPT, and the City of Fernley to seek an area-wide water and wastewater strategy for lower Truckee River users.***

Septic Systems and Water Quality

The WCDWR has identified areas of water quality degradation as a result of septic system effluent, occurring predominantly in areas with high-density development. In addition to high

densities, contributing factors to water quality degradation include shallow depths to groundwater, permeable soil conditions, and proximity to sensitive receptors, such as water supply wells, creeks, rivers, and lakes. These conditions are present in Spanish Springs Valley, Golden Valley, Washoe Valley and Lemmon Valley. In Spanish Springs Valley, fifteen years of ground-water quality monitoring have shown increasing levels of nitrate contamination in municipal wells.

The management options for mitigation of nitrate contamination due to high densities of septic systems have been studied regionally. The results of these analyses have coalesced around four possible mitigation strategies:

- Conversion of septic systems to a municipal sewer system
- Conversion of septic systems to nitrate reducing septic systems
- Dilution of groundwater via artificial recharge with treated drinking water resources
- Pumping of high nitrate groundwater for non-potable uses to remove nitrates from the groundwater aquifer

Proposed Action Items

- ◆ ***Continue to collect data and develop regional strategies to address existing and future nitrate contamination due to high densities of septic systems.***

Truckee Meadows NPDES Storm Water Discharge Permit

The most recent Municipal Storm Water Discharge Permit was issued to Reno, Sparks and Washoe County (the "co-permittees") on May 26, 2010. The co-permittees are required to update the Storm Water Management Program ("SWMP") for the five-year permit term within 18 months of the issue date or by November of 2011. This update warrants an evaluation of the program element needs, activities and schedule from the present to 2015.

The Storm Water Permit Coordinating Committee ("SWPCC") anticipates that, based on talks with NDEP and review of national regulatory trends, a WLA will be assigned to storm water in the future. It is not yet known how or when a storm water WLA will be implemented, or what constituents will be covered.

Proposed Action Items

- ◆ ***SWPCC to work with agency staff, consultants and regulators and prepare a program update per the conditions of the May 2010 Storm Water Discharge Permit.***
- ***Continued SWPCC communication with NDEP is necessary regarding the anticipated future storm water WLA.***

Integrated Use of Water Rights

There are many competing demands for water rights that must be considered from a broad planning perspective so that the limited availability will go the farthest in satisfying the water resource needs of the region. Some of the primary uses for Truckee River and tributary water rights in the planning area are listed below:

- Dedication of water rights for maintenance of in-stream flows in the lower Truckee River as required by the *Negotiated Settlement* (PL 101-618, 1990) and *TROA*.
- Dedication of water rights for water quality enhancement in the lower Truckee River as required by the *Water Quality Settlement Agreement* ("WQSA"), 1996.
- Dedication of Truckee River water rights to TMWA for M&I supplies.
- Dedication of water rights for reclaimed water return flow requirements to maintain in-stream flows and satisfy downstream water rights.
- Dedication of certain tributary creek water rights in the South Truckee Meadows for new surface water M&I supplies.
- Allocation of water rights to facilitate groundwater recharge using surface water and/or, possibly in the future, purified reclaimed water.

To independently satisfy these primary uses for water rights, plus others, could eventually require more water rights for which the river and its tributaries can provide. The many competing demands for water rights and resources from the Truckee River and other sources need to be coordinated to the maximum extent possible by developing cooperative management strategies that satisfy two or more competing demands with the same water.

As presented in Section 6.3, the region has available water resources to meet the projected demand increases; however, there are water supply imbalances in some of the planning areas that will need to be addressed over the long term. These imbalances are not water resource availability issues, as water resource management options are available to help mitigate the potential negative effects. Rather, the issue is how to efficiently manage the use of the resources and minimize the resulting impacts, and who shares in the cost of mitigation.

Policy 2.1.a, Effluent Reuse - Efficient Use of Water Resources and Water Rights, is intended to provide guidance to purveyors when developing long range plans for effluent management.

Proposed Action Items

The NNWPC, TMWA, Washoe County, and the Cities of Reno and Sparks have undertaken efforts to respond to numerous recommendations for the integrated use of water rights. Cooperative management strategies should be developed among local governments, effluent providers and water purveyors that maximize the benefits derived from the available water resources. Additional work that needs to be completed includes:

- **Continue the implementation of *TROA* and related agreements. Compare the water demand and water right recovery estimates to future conditions imposed by *TROA* and related agreements.**
- **Continue the water rights recovery program to convert inactive Truckee River water rights to beneficial use and update the water right status and demand projections regularly.**
- **Finalize and implement recommendations developed from the potential consolidated management of TMWA and WCDWR water rights and water resources.**

- **Continue the analysis and development of non-structural measures to improve Truckee River water quality, enable increased TMWRF discharges, and ensure the future sustainability of the river.**
- **Quantify groundwater and surface water resources and determine the feasibility of conjunctive use or other programs, including but not limited to expanded recharge projects, use of Fish Springs Ranch water supplies, and conversion of tributary water rights to M&I water supply and other beneficial uses.**
- ♣ ***Develop cooperative management strategies among local governments, reclaimed water providers and water purveyors that maximize the benefits of available reclaimed water resources.***
- ♣ ***Monitor existing and future water demand and planning area growth projections, and develop plans to resolve any major discrepancies in consideration of available water resources and geographic constraints.***

Water Resources and Land Use Planning

The importance of integrating water resource management with land use planning has come to light in several forums in recent years. Rapid growth between 2003 and 2006 in the TMSA and outlying valleys has led to questions about the sustainability of the region's water resources. Specific regional-scale issues include:

- The availability and cost of water resources to supply the demands of existing and future development.
- The capacity to reuse or dispose of treated wastewater effluent generated by future development.
- The importance of flood plain management in reducing the risk of future flooding within the community.
- The importance of maintaining natural recharge to sustain groundwater resources.
- The potential of the region to use "green infrastructure" and Low Impact Development techniques to enhance regional aesthetics and quality of life while preserving or enhancing natural resources.

In addition to these regional scale issues, some land use plans for outlying rural areas have identified imbalances between groundwater resources, appropriations and potential domestic well demands, such as the Warm Springs Valley Area Plan (Washoe County, 2010).

Proposed Action Items

- ♣ ***Continue working with TMRPA staff to strengthen appropriate linkages between the Regional Plan and the Regional Water Plan***
- ♣ ***Review areas within the TMSA Boundary for gaps in facility planning and develop a plan to respond to changes in land use and the TMSA that affect current facility plans***
- ♣ ***Coordinate with other entities on the development of a GIS parcel based tool that can be used to estimate potential water demands and wastewater flows based on approved land use***
- ♣ ***Coordinate with local land use planning agencies to address rural groundwater basin imbalances***

Local Government Drainage Programs

The recent economic downturn and corresponding decrease in local government general fund revenues has constrained capital expenditures budgets for new storm water facilities and associated operations and maintenance at local governments without dedicated storm water funding mechanisms.

Some local governments are exploring the potential creation of utility districts with the goal to shift funding from the general fund to utility district-based funding for storm water related functions.

Local government drainage programs and the Flood Project have some similar and complimentary responsibilities and needs, e.g. flood plain management, adjoining facilities, and the need to form utility districts, or other types of funding districts, to generate revenue for flood management services.

Proposed Action Items

- **Local government public works departments and the Flood Project are expected to discuss and reach consensus concerning funding and other issues involving local drainage programs and the Flood Project.**

Regional Flood Plain Management and Flood Control

Chapter 5, Flood Management and Storm Water Drainage, identifies a number of issues and linkages concerning the Truckee River Flood Project, including:

Joint Powers Authority ("JPA"): Reno, Sparks and Washoe County are discussing the development of an interlocal cooperative agreement that would create a JPA to govern the flood project consistent with the provisions of recent state legislation. Certain emergency, regulatory, and revenue powers are contemplated. Revenue powers would include the ability to issue bonds similar to other municipalities. Regulatory functions may include measures consistent with existing development codes to protect the flood management facilities and mitigate the adverse impact that new development may have on flooding and on the level of protection the facilities are designed to provide. The plans and regulatory measures would be developed in collaboration with the JPA members' planning staffs and proposed, as appropriate, for approval and inclusion in the local government development codes. Regulatory functions may also include establishing a flood impact analysis procedure and process to measure the possible impact of land uses and development projects on the flood management facilities. This process may utilize a regional hydrologic modeling tool.

Flood Plain Storage and Critical Flood Pools: Flood plain storage is a critical component of flood protection. Many properties that were built in compliance with FEMA standards for the National Flood Insurance Program ("NFIP") may be at risk because of loss of flood plain storage. Reno, Sparks, Washoe County and Flood Project staff members involved in flood plain storage volume mitigation seek to ensure that the Flood Project remains feasible and future flood impacts are minimized. Critical Flood Pool (Zone 1) is (or will soon be) addressed in local ordinances, Zones 3 and 4; however, will need attention before a funding agreement can be executed with the ACOE. Development of a Regional Hydrologic Model will be needed for this effort. Development that displaces flood plain storage outside Zone 1 (but within the

area flooded in 1997) and that occurs after the time current conditions are set (but before the Flood Project is finished) is an ongoing concern.

Flood Plain Management Plan: The Flood Project, in order to receive federal cost share funds through the ACOE, is required to have in place and ready to implement, a flood plain management plan that deals with the impacts to the Flood Project caused by changes in the watershed. Development of a Regional Hydrologic Model will be needed for this effort.

Federal and Local Funding for the \$1.2 - \$1.6 Billion Project: The Flood Project is the largest public works project ever undertaken in northern Nevada. The ACOE is expected to contribute more than half of the project cost and the community will be required to contribute the remainder. Although the Flood Project is locally funded by a 1/8-cent sales tax, additional funds will be required to meet the local sponsor's required funding contribution. It is expected that one or more "Flood Funding Areas" will be established over time to meet the funding need. The local sponsors are also discussing which of the proposed Flood Project elements could be built with local funds only and what level of protection that would provide.

Local Programs: Local Drainage programs have some similar and complimentary responsibilities, e.g. flood plain management, adjoining facilities and the need to form utility districts, or other types of funding districts, to generate revenue for local flood control and drainage services.

Upstream Dam Operations: Releases from Lake Tahoe at the Tahoe City Dam and other reservoirs according to TROA will have an affect on flood flows in the Truckee Meadows.

Proposed Action Items

- **The parties to the Cooperative Agreement are expected to resolve issues and complete the JPA negotiations.**
- **Issues regarding flood plain storage in zone boundaries need to be addressed and ordinances to address Zones 3 and 4 will be needed.**
- **A Flood Plain Management Plan will need to be developed and submitted to the ACOE.**
- **Continue development of a regional hydrologic model.**

Groundwater Remediation

PCE in Central Truckee Meadows: Groundwater underlying the central Truckee Meadows is contaminated by tetrachloroethylene (also known as perchloroethylene or "PCE") as described in Section 2.2.4. The Central Truckee Meadows Remediation District ("CTMRD") program, created in 1995 to address the problem, is administered on behalf of the Board of County Commissioners by the WCDWR.

Sparks Solvent/Fuel Site ("SS/FS"): The SS/FS is also described in Section 2.2.4. A new municipal well field comprised of six wells with a sustainable capacity of approximately 8,300 gallons per minute ("gpm") or more to the north of the tank farm is likely to result in significant changes in local hydrodynamics when it is put into operation. Changes may include an increased risk to groundwater utilized for municipal water supply from contaminants at SS/FS. NDEP is overseeing and directing the ongoing remediation of contaminated soils and groundwater at this site.

PCE in Lemmon Valley: Groundwater near the Reno-Stead Airport in the West Lemmon Valley hydrographic basin is also affected by solvent contamination. A PCE plume, identified there in 1994, is associated with military activities at the Stead Air Force Base during the 1940s and 1950s. The potential exists for this contamination to migrate to municipal water supply wells; however, corrective actions are successfully controlling contaminant migration and cleaning up the impacted groundwater. Remediation at this site is being implemented by the responsible parties under the direction and oversight of NDEP (see Section 2.2.4).

Proposed Action Items

- **PCE in Central Truckee Meadows: Continue CTMRD implementation of the Remediation Management Plan ("RMP"), including treatment, monitoring, source management, outreach and administration.**
- **Sparks Solvent/Fuel Site ("SS/FS"): Monitor the effects of the new municipal well field to the north of the tank farm for changes in the local hydrodynamics and adjust the remediation strategy as necessary.**
- **PCE in Lemmon Valley: Continue remediation activities.**

Groundwater Protection

In addition to remediation of contaminated groundwater, groundwater quality is protected by a number of activities including regular water quality monitoring, pumping schedules, programs to comply with drinking water standards (such as iron or radionuclides), public education and wellhead protection planning.

Wellhead Protection Programs: Water purveyors that manage wellfields are encouraged to develop Wellhead Protection Plans ("WHPP") to protect groundwater quality through the delineation of zones of groundwater movement toward municipal supply wells and strategies to protect wellhead protection zones (see Section 2.2.4).

Proposed Action Items

- Continue development of WHPPs for systems not covered by approved plans.

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Introduction

The Western Regional Water Commission ("WRWC") was created in 2007, effective April 1, 2008 by the Nevada Legislature and by Cooperative Agreement among the WRWC member agencies. Its purpose is to lead a cooperative approach to stewardship of the region's water resources through developing and implementing an integrated water resources plan, building understanding and trust among stakeholders, and establishing water resources public policy. The WRWC will serve a public use and promote the general welfare by facilitating unified and cooperative efforts to:

- Secure and develop additional water supplies
- Maintain and cooperatively establish policies for managing existing water resources and water supplies
- Provide for integrated regional water resources and management of water supplies
- Provide for integration of efforts to manage storm water
- Provide for protection of watersheds
- Provide for regional conservation efforts, subject to and in accordance with the *Truckee River Operating Agreement ("TROA")*

Purpose

Chapter 531, Statutes of Nevada 2007, the Western Regional Water Commission Act (the "Act"), in addition to creating the WRWC, created the Northern Nevada Water Planning Commission ("NNWPC"). The Act requires the NNWPC to develop a comprehensive plan for the planning area covering municipal and industrial water supply, water quality, sanitary sewerage; sewage treatment, storm water drainage and flood control. The overall purpose is to deal with current and future problems affecting the planning area as a whole with respect to the subjects of the plan. The Act further requires the NNWPC to develop the initial comprehensive plan on or before January 1, 2011, hereinafter "*2011 Regional Water Plan*" or "*Regional Water Plan*". The Act as amended appears in Appendix A.

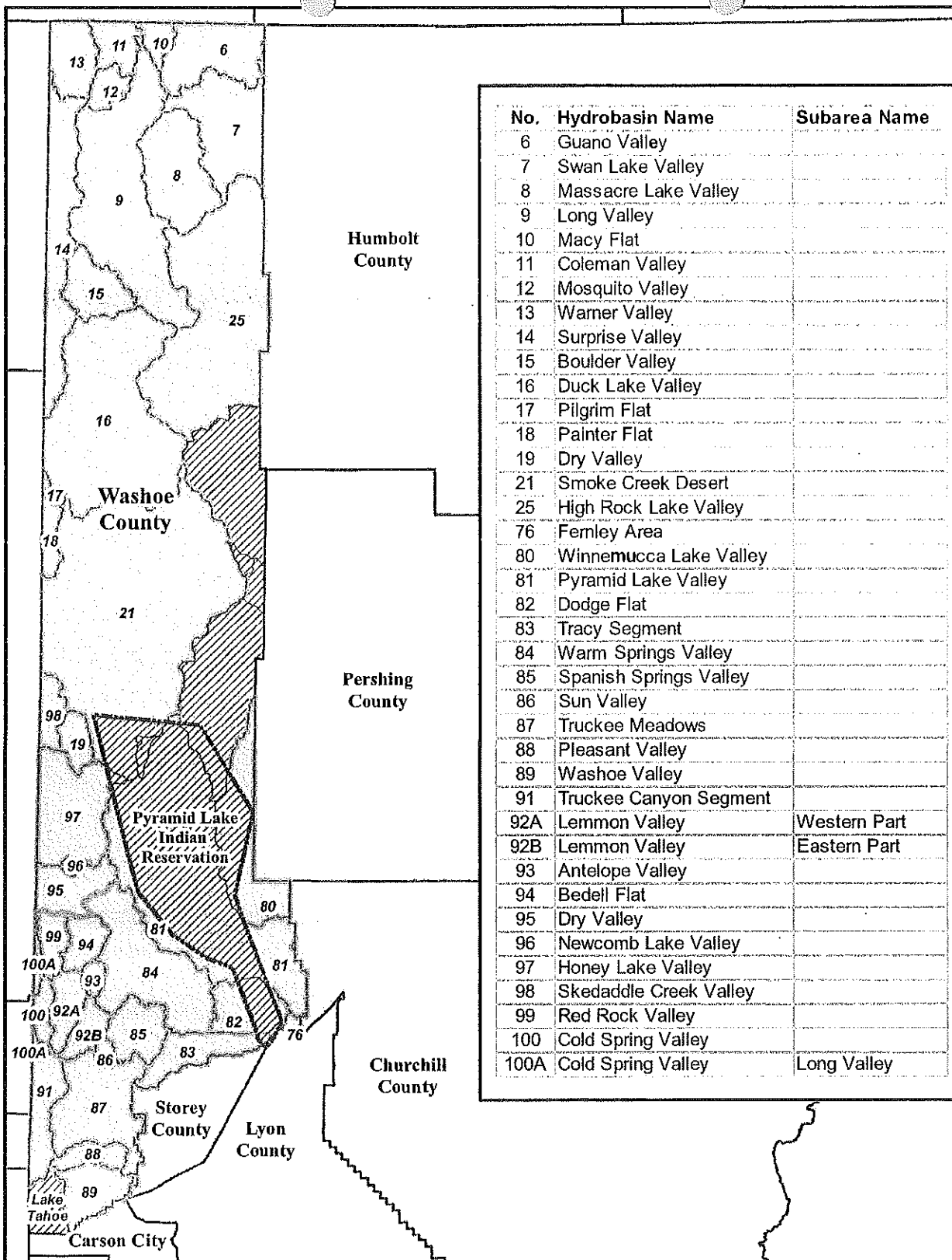
Planning Area

The Planning Area consists of Washoe County in its entirety except land within the Tahoe basin, any Indian reservation or Indian colony, the Gerlach General Improvement District ("GID"), and State groundwater basins 22-San Emidio Desert, 23-Granite Basin, and 24-Hualapai Flat. Planning is focused, however, on the Truckee Meadows Service Area ("TMSA"), consistent with the Truckee Meadows Regional Plan ("Regional Plan"). The Planning Area is shown on Figure I-1.

Background



For decades, entities involved with water issues in the Truckee Meadows have recognized a need to develop a plan for water supply, wastewater management, storm water drainage and flood control using a regional approach.

Recent regional water planning efforts started in 1983 when the Nevada Legislature established the Regional Water Planning and Advisory Board ("RWPAB") of Washoe County.



No.	Hydrobasin Name	Subarea Name
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	
17	Pilgrim Flat	
18	Painter Flat	
19	Dry Valley	
21	Smoke Creek Desert	
25	High Rock Lake Valley	
76	Fernley Area	
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	
91	Truckee Canyon Segment	
92A	Lemmon Valley	Western Part
92B	Lemmon Valley	Eastern Part
93	Antelope Valley	
94	Bedell Flat	
95	Dry Valley	
96	Newcomb Lake Valley	
97	Honey Lake Valley	
98	Skedaddle Creek Valley	
99	Red Rock Valley	
100	Cold Spring Valley	
100A	Cold Spring Valley	Long Valley

Figure I-1 Hydrographic Basins within the Western Regional Water Commission Planning Area

-  Planning Area
-  Hydrobasins or Areas outside of Planning Area

0 2.5 5 10 15 20 25 Miles

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Resources Planning & Management Division
Washoe County
Nevada

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October 2010

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SE ROA 239

The enabling legislation's general mandate to the RWPAB was to develop a regional plan for present and future uses of water resources in the region, recognizing local governments' land use plans and coordinating the needs of incorporated areas with unincorporated areas. The RWPAB was also directed to identify "potential supplies of water" for the region. The Regional Water Resources Plan ("RWRP") was accepted by the RWPAB in March 1990 as a starting point for further planning efforts.

The 1988 Legislation, Nevada Revised Statutes ("NRS") 278.026–029, amended in 1991, mandated the development of a comprehensive land use plan for the region. The Truckee Meadows Regional Planning Governing Board ("RPGGB"), established by this legislation, used an impartial fact finder to establish a coordinated approach to deal with providing wastewater and water services for the region. The fact finder, Kato & Warren Inc., completed its report (Kato & Warren, 1990) in 1990 and recommended that a unified and coordinated approach, directed by one agency, be used to develop a plan to address wastewater treatment; water supply, flood control and storm water drainage; and Truckee River water quality.

From this recommendation, Washoe County funded the Regional Water Supply and Quality Study ("RWSQS"), which was completed in 1993. This extensive report was accepted by the Washoe County Board of Commissioners ("BCC") but not formally adopted.

In 1995, Washoe County, the City of Reno ("Reno") and the City of Sparks ("Sparks") developed legislation to again address regional water issues. This legislation, NRS 540A.010–240, provided the basis and direction for the Regional Water Planning Commission ("RWPC") and the Washoe County Comprehensive Regional Water Management Plan.

The RWPC developed, approved and recommended the *1995–2015 Washoe County Comprehensive Regional Water Management Plan* to the Board of County Commissioners ("BCC") on November 20, 1996. The BCC adopted the Plan in January 1997 and it was found in conformance with the Regional Plan the following month. Later that month, the Plan was approved by the Reno City Council, the Sparks City Council and was accepted by the Nevada Legislature in June 1997. NRS 540A required that the RWPC review the initial Plan within five years of its adoption, and every three years thereafter. The *2004–2025 Washoe County Comprehensive Regional Water Management Plan* was prepared as a result of the RWPC's five-year review, adopted in January 2005 and amended in 2006 and 2009.

In June 2007, the Legislature approved Senate Bill 487, a special Act, authorizing the creation of the WRWC and the NNWPC. The Act repealed the sections of NRS 540A dealing with the RWPC, but provided that "the provisions of the comprehensive plan developed and revised pursuant to the former provisions of NRS 540A.130 before April 1, 2008, remain in effect" until the WRWC adopts the initial comprehensive plan required by the Act, i.e., the *Regional Water Plan*.

Plan Development, Adoption and Review Responsibilities

The NNWPC is responsible for developing the *Regional Water Plan* and recommending future revisions. The NNWPC is also responsible for reviewing the Plan at least every five years and submitting any amendments to the WRWC. Adoption of (or amendments to) the Plan is the responsibility of the WRWC. The Regional Planning Commission ("RPC") is responsible for reviewing the Plan or amendments for consistency with the Regional Plan, master plans and any other land use plans adopted by local governments within the Planning Area.

In developing the *Regional Water Plan*, the NNWPC must, according to Section 44 of the Act:

1. Receive and consider information from public purveyors, public utilities and other entities supplying municipal and industrial water within the Planning Area;
2. Receive and consider information from entities providing sanitary sewerage, sewage treatment, storm water drainage and flood control within the Planning Area;
3. Receive and consider information from entities concerned with water quality within the Planning Area;
4. Review and consider any plan or recommendation of the State Engineer concerning the development, conservation and use of water resources, existing water conservation plans, the Regional Plan and any master plan that has been adopted pursuant to the provisions of NRS 278 and any similar plan of a local government which applies to any area in the Planning Area, and may seek and consider the advice of each local planning commission and any other affected entity;
5. Coordinate and make consistent the elements of the *Plan* set forth in the Act;
6. Consider existing applicable laws;
7. Recognize and coordinate the needs of the incorporated areas of the Planning Area with the needs of the unincorporated areas of the Planning Area; and
8. Receive and consider information from other interested persons.

The *Regional Water Plan* must also, according to Section 43 of the Act:

1. Be consistent with and carry out the provisions of the Regional Plan adopted by the RRGB pursuant to NRS 278.0276 and the master plans and any other plans for the use of land which are adopted by governmental entities within the Planning Area;
2. Be consistent with and carry out or support the carrying out of all aspects of *TROA* and Water Quality Settlement Agreement ("WQSA"); and
3. Be consistent with the state water plan that is in effect at the time that the Plan is adopted.

Sections 41 and 42 of the Act set forth in detail the required contents of the *Plan* (see Appendix A).

Plan Use, Implementation and Relation to Plans of Implementing Entities

The *Regional Water Plan* compiles and integrates multiple sources of information in an effort to be inclusive, provide comprehensive, consistent policy-level guidance to regional and local entities and comply with the Act. The *Plan* is not an enforcement-oriented plan and relies on the cooperation and collaboration of the WRWC member agencies, NNWPC members and local and regional government planning agencies for implementation.

Among the most valuable requirements of the *Plan* is the development of goals and policies to deal with current and future problems affecting the Planning Area (WRWC Act, Section 41.2). These policies, comprising Chapter 1, provide a set of consistent guiding principles for Public Purveyors, other service providers and local and regional government planning agencies to consider when developing their plans and reviewing the plans of others.

The NNWPC developed the *Regional Water Plan* in accordance with the Act and in doing so, received, considered and incorporated to the extent feasible and consistent with the objectives of the WRWC, facility plans, water resource plans and Capital Improvement Plans ("CIP") developed by Public Purveyors and other entities providing services covered by the Plan. The NNWPC also considered the existing 2004-2025 *Regional Water Plan* as amended. The provisions of Public Purveyors' and other service providers' facility plans and water resource plans, and the policies, rules and actions of their respective governing boards, in part make up the basis for the Chapter 1 Regional Water Planning Policies and Criteria. In addition, state laws, local codes, plans, and other documents, some required by the Act and referenced above, were considered, including but not limited to:

- Federal Acts, such as the Clean Water Act and Safe Drinking Water Act and Truckee River Negotiated Settlement
- *Truckee River Operating Agreement and Water Quality Settlement Agreement*
- Decisions, orders and recommendations of the State Engineer, including existing conservation plans
- *State Water Plan*
- *Washoe County 208 Water Quality Management Plan*
- *TMWA 2030 Water Resource Plan* (see Appendix B)
- Public Purveyor and other service provider facility plans and CIPs
- *Regional Plan*
- Local Government Master Plans
- Washoe County Consensus Population Forecast ("Consensus Forecast")

As Public Purveyors' and other service providers' plans and CIPs are considered and to the extent feasible incorporated into the 2011-2030 *Regional Water Plan*, those entities are responsible for its implementation consistent with the Water Planning Policies and Criteria, and other provisions of the Plan.

Because the NNWPC considered the *Regional Plan* and local government master plans during the development of the *Regional Water Plan*, and because of the required review for consistency with the *Regional Plan* and master plans after the *Regional Water Plan* is adopted, consistency is assured among the *Plan* and land use plans in the Planning Area. For example, Section 2.2.1.1 describes a biennial process by which the NNWPC reviews the Consensus Forecast with respect to the sustainable water resources identified in the *Plan* and makes a recommendation to the WRWC concerning a determination and finding to be transmitted to the RPC before the Consensus Forecast is adopted. Once adopted, the *Regional Plan* and local government master plans use the Consensus Forecast as a primary planning factor. In addition, as the Regional Planning Agency conducts reviews for conformance with the *Regional Plan*, certain Regional Water Planning Policies and Criteria are considered. Likewise conformance reviews of facility plans conducted by the NNWPC consider applicable Regional Plan policies. NNWPC conformance reviews are conducted according to Policy 4.1.a (see Chapter 1).

Abbreviations

(A glossary of water-related terms is provided as Appendix C.)

ACOE	US Army Corps of Engineers
af	acre foot, acre feet
afa	acre-feet per year
ASR	artificial storage and recovery
AWWA	American Water Works Association
BCC	Washoe County Board of Commissioners
BMP	Best Management Practice
BNR	biological nutrient removal
BOR	Bureau of Reclamation
CAB	Citizens Advisory Board
cfs	cubic foot per second
CTMRD	Central Truckee Meadows Remediation District
DRI	Desert Research Institute
EIR	environmental impact report
EIS	environmental impact statement
EPA	US Environmental Protection Agency
FEMA	Federal Emergency Management Agency
GID	General Improvement District
GIS	geographic information system
gpd	gallons per day
gpm	gallons per minute
GWR	Groundwater Rule
HSPF	Hydrologic Simulation Program-Fortran
IVGID	Incline Village General Improvement District
LID	low impact development
M&I	municipal and industrial
MCL	maximum contaminant level
mg/L	milligrams per liter
MGD	million gallons per day
NDEP	Nevada Division of Environmental Protection
NEMO	Non-point Education for Municipal Officials
NEPA	National Environmental Policy Act
NNWPC	Northern Nevada Water Planning Commission
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service (US Dept. of Agriculture)
NRS	Nevada Revised Statute
O/M	operations and maintenance
PCE	perchloroethylene or tetrachloroethylene
PL	public law
PLPT	Pyramid Lake Paiute Tribe
POSW	privately owned stored water
ppd	pounds per day
ppm	parts per million
PUC	Public Utilities Commission (Nevada)
RMP	Remediation Management Plan
RPC	Regional Planning Commission
RSWQMP	Regional Storm Water Quality Management Plan

RSWRF	Reno-Stead Water Reclamation Facility
RWPC	Regional Water Planning Commission
RWRP	Regional Water Resource Plan
RWSQS	Regional Water Supply and Quality Study
SNOTEL	Natural Resource Conservation Service's Automated Snowpack Telemetry System
SOI	sphere of influence
STMGID	South Truckee Meadows General Improvement District
STMWRF	South Truckee Meadows Water Reclamation Facility
SVGID	Sun Valley General Improvement District
SWAP	Source Water Assessment Program
TCID	Truckee Carson Irrigation District
TDS	total dissolved solids
TMDL	total maximum daily load
TMRPA	Truckee Meadows Regional Planning Agency
TMSA	Truckee Meadows Service Area
TMWA	Truckee Meadows Water Authority
TMWRF	Truckee Meadows Water Reclamation Facility
TROA	Truckee River Operating Agreement
T-TSA	Tahoe-Truckee Sanitation Agency
UNCE	University of Nevada, Reno Cooperative Extension
UNR	University of Nevada, Reno
USGS	US Geological Survey
WARMF	Watershed Analysis Risk Management Framework
WCDHD	Washoe County District Health Department
WCDWR	Washoe County Department of Water Resources
WHPP	wellhead protection plan
WRWC	Western Regional Water Commission
WSCD	Washoe-Storey Conservation District
WTP	water treatment plant
WWTP	wastewater treatment plant

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proponent to explore development features or configurations that maximize recharge while meeting other obligations regarding storm water quality and flood control needs.

- Passive recharge elements shall be designed such that they are consistent with water quality, environmental, storm water and flood control policies or regulations.

Discussion:

Natural recharge in drainage ways:

When combined, the requirements of the City of Reno Major Drainage Ways Ordinance and the Washoe County Development Code Article 418 "Significant Hydrologic Resources" provide for the protection of groundwater recharge in most natural drainage ways. There are additional drainage ways not identified in the two ordinances that are shown on USGS 7.5 Minute Quad maps as blue solid or dot-dash lines that represent perennial and ephemeral drainage ways. The intent of this policy is to protect the natural recharge and flood protection functions of these additional drainage ways.

Natural recharge through unlined irrigation ditches:

Insufficient information is available to develop policies at this time.

Areas with recharge potential:

The NNWPC strongly encourages incorporation of passive groundwater recharge and/or storm water infiltration project components (such as infiltration basins or swales, porous paving, open space, meandering stream channels, or other low impact development ["LID"] practices) when proposed projects or land use changes are considered on sites that have good recharge potential and the water to be recharged will not degrade groundwater quality.

Policy 1.3.c: New Water Resources / Importation

New water resources, including imported water, may be developed provided they further the goals of the Regional Plan and the Regional Water Plan.

Criteria to implement policy: Development of new water resources, including an importation water supply, may be pursued if the following criteria are met:

- The water is to be used within the Truckee Meadows Service Area ("TMSA") boundary, as may be amended from time to time.
- There is a need for additional water resources to help meet the demands associated with fulfilling the reasonable development potential of properties identified under Regional Plan Policies 1.2.1 and 1.2.2, subject to a comparison between the Consensus Forecast and the estimated population that can be supported by the sustainable water resources.
- Local governments or water purveyors have determined that the new water resource or importation of water is economically feasible and consistent with water quality, wastewater disposal, environmental and flood control policies or regulations.

Discussion: Water importation provides water supplies to areas that independently do not have sufficient water resources to accommodate existing and planned uses. Water importation

is a component of the existing water supply for the region. This policy acknowledges that the State Engineer considers additional criteria for water importation according to NRS 533.370(4).

Policy 1.3.d: Water Resources and Land Use

Land use designations or zoning designations do not guarantee an allocation of future water resources. This applies to both surface water and groundwater, including groundwater for domestic wells. While a potential water supply deficiency may exist based on approved land uses, water supply commitments may only be approved pursuant to Policy 1.3.e.

Criteria to implement policy: Local governments shall consider the following criteria in reviewing proposed projects or in reviewing changes to land use or proposing changes to the Truckee Meadows Service Area:

- The potential resource requirement;
- The availability of uncommitted water resources in the hydrographic basin, as identified in the Water Resource Baseline;
- Whether a potential water supply deficiency is created and its timing, magnitude and regional water resource impacts;
- Whether the Consensus Forecast is less than or greater than the estimated population that can be supported by the sustainable water resources;
- Existing water resource investigations that have been performed in accordance with Policy 1.2.b; or
- Timing and availability of potential new water resources developed in accordance with Policy 1.3.c and/or potential mitigation measures.

Discussion: Water resource options will be identified to help meet the potential water resource requirements associated with fulfilling the reasonable development potential of properties identified under Regional Plan Policies 1.2.1 and 1.2.2, as presented in the preliminary 2003 Water Resource Baseline and subsequent Water Resource Budgets. The NNWPC recognizes that proposed projects, master plan, zoning or land use changes may create a situation where there are insufficient water resources identified to supply the build-out of all approved land uses within the TMSA.

Policy 1.3.e: Water Resource Commitments

Issuance of new commitments against a water resource or combination of resources shall be made in conformance with existing State Engineer permits, certificates or orders; water purveyor rules or policies; and/or local government policies. The local governments, water purveyors, and State Engineer will seek to achieve a balance between commitments and the sustainable yield of the resources in the region.

Criteria to implement policy: The following criteria will be applied:

- The Water Resource Baseline (Table 2-1) will be used by local governments and water purveyors as the basis for evaluating the availability of resources to serve proposed commitments. Not all basins within the Baseline have an estimate of the sustainable yield. In such cases where sustainable yield information is lacking, the local government

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Chapter 2 - Water Resources

Purpose and Scope

This chapter describes various sources of water available to meet the present and future needs in the Planning Area. It also discusses the quality of surface water and groundwater, and describes certain programs concerning pollution prevention and clean up to provide for adequate supplies of municipal and industrial water for the Planning Area.

Summary and Findings

The major findings of this chapter include:

For 20-year regional planning purposes, sustainable water resources are estimated at approximately 183,000 acre feet per year ("afa"), including resources presently dedicated for municipal and industrial ("M&I") uses and those that may be converted from other uses to M&I. This planning-level estimate of available resources, however, should not be considered a commitment to, nor a guarantee of, the availability of a water allocation for any specific project or parcel.

Recent data show that more than 37,000 afa of reclaimed water is generated in the Planning Area of which approximately 6,000 afa are used for non-potable purposes such as irrigation, construction and dust control; the remainder is discharged to the Truckee River, Swan Lake wetlands or to the ground via infiltration basins. The Nevada Division of Environmental Protection ("NDEP") is developing amendments to its reclaimed water regulations that are anticipated to allow for groundwater recharge.

The Orr Ditch Decree, issued in 1944, established the number of water rights associated with the Truckee River and all its tributaries by reach, priority, owner and quantity. It is important to note that although surface water rights can be subdivided and/or converted from one use to another, for example from agriculture to M&I use, the overall total number of surface water rights available from the Truckee River has not changed from the amount defined in the Decree.

The primary water rights that applicants for new water service dedicate to the Truckee Meadows Water Authority ("TMWA") or Washoe County Department of Water Resources ("WCDWR") are mainstem Truckee River water rights. Although the number of remaining Truckee River mainstem irrigation water rights available for conversion to M&I use continues to decrease, analysis in TMWA's *2030 Water Resource Plan* shows that over 50,000 acre feet ("af") of Truckee River mainstem rights are potentially available for dedication to TMWA or WCDWR to support future will-serve commitments, and this amount is more than enough to meet TMWA's future water rights requirements through the planning horizon.

When implemented, the *Truckee River Operating Agreement ("TROA") (2008)* will allow for a congressionally authorized interstate allocation of water and change the operations of the Truckee River system to accommodate multiple beneficial uses for drought supply, endangered and threatened fish species, water quality, California water use, and storage. In addition, operations will enhance riparian habitat, reestablish river canopy, enhance reservoir releases, improve recreational pools in the reservoirs, and improve the process for emergency drawdown procedures for Lake Tahoe.

TROA was signed on September 6, 2008 by the Mandatory Signatory Parties (TMWA, Pyramid Lake Paiute Tribe ("PLPT"), California, Nevada, and the United States) and seven other parties. Although a number of contingencies before TROA can be implemented have been satisfied since TROA's execution, others, primarily litigious actions, need resolution.

As much as 8,000 afa of groundwater is available for importation from the Honey Lake Valley hydrographic basin to Lemmon Valley by way of existing infrastructure. The timing of such groundwater importation will depend on future land development projects in Lemmon Valley.

The most imminent threats to the reliability of the Planning Area's water supply are weather and source water supply contamination, both of which may affect the quantity and quality of available water supplies. Numerous programs are in place within the Planning Area to address existing problems and threats having the potential to affect available water supplies.

Introduction

Water resources identified in this chapter are quantified for 20-year planning purposes in terms of estimated groundwater perennial yield and water rights for hydrographic basins consistent with the Nevada State Engineer's records, system yield for the Truckee River system as per TROA, and reclaimed water generated at water reclamation facilities in the Planning Area. Water resources sustainability⁶ is discussed with respect to population, future water demand projections, and other factors that affect sustainability; including economic, legal and regulatory considerations in addition to reliability factors such as weather, climate, droughts and source water quality. Programs to address source water quality are described as they relate to sustainability factors.

2.1 Sources of Water

For the purposes of regional water resources planning, water sources are grouped into three general categories: surface water, groundwater and reclaimed water.

2.1.1 Surface Water

The Truckee River system is the primary source of water supply for the Truckee Meadows. Originating at Lake Tahoe, the Truckee is fed by runoff from seasonal mountain snowpack carried by numerous tributary lakes and creeks. To regulate river flows to meet Floriston rates, releases come primarily from Lake Tahoe, Boca Reservoir and from time to time, Donner Lake and Prosser Reservoir through exchange agreements. Independence Lake is used by TMWA for drought supply. Stampede and Prosser Reservoirs are used for wildlife purposes. Figure 2-1 shows the Truckee River system with high, low and average flows at various locations. The Truckee River generally flows to the north from Lake Tahoe through California, crossing into Nevada at Verdi and flowing to the east through the Truckee Meadows to Wadsworth and then northerly to Pyramid Lake, approximately 116 miles by river from Lake Tahoe. Most of the water that flows to the Truckee River by Nevada tributaries comes from the east slope of the Carson Range to Steamboat Creek, while other tributaries flow directly to the Truckee from the north slope of the Carson Range, the Verdi Range and Peavine Mountain.

⁶ This chapter relies significantly on information presented in TMWA's 2030 Water Resources Plan (TMWA, 2009).

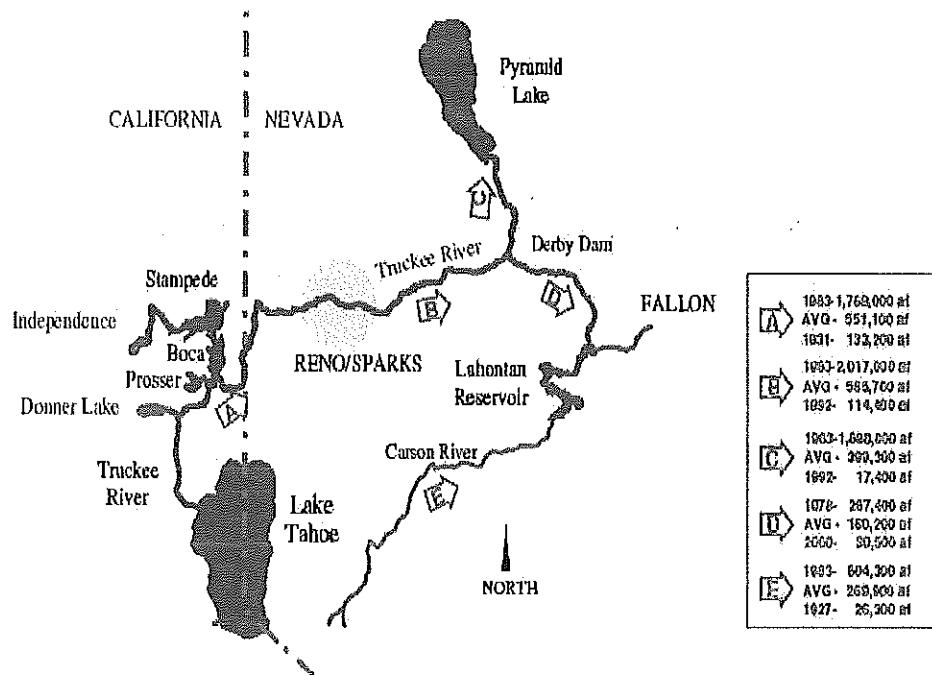
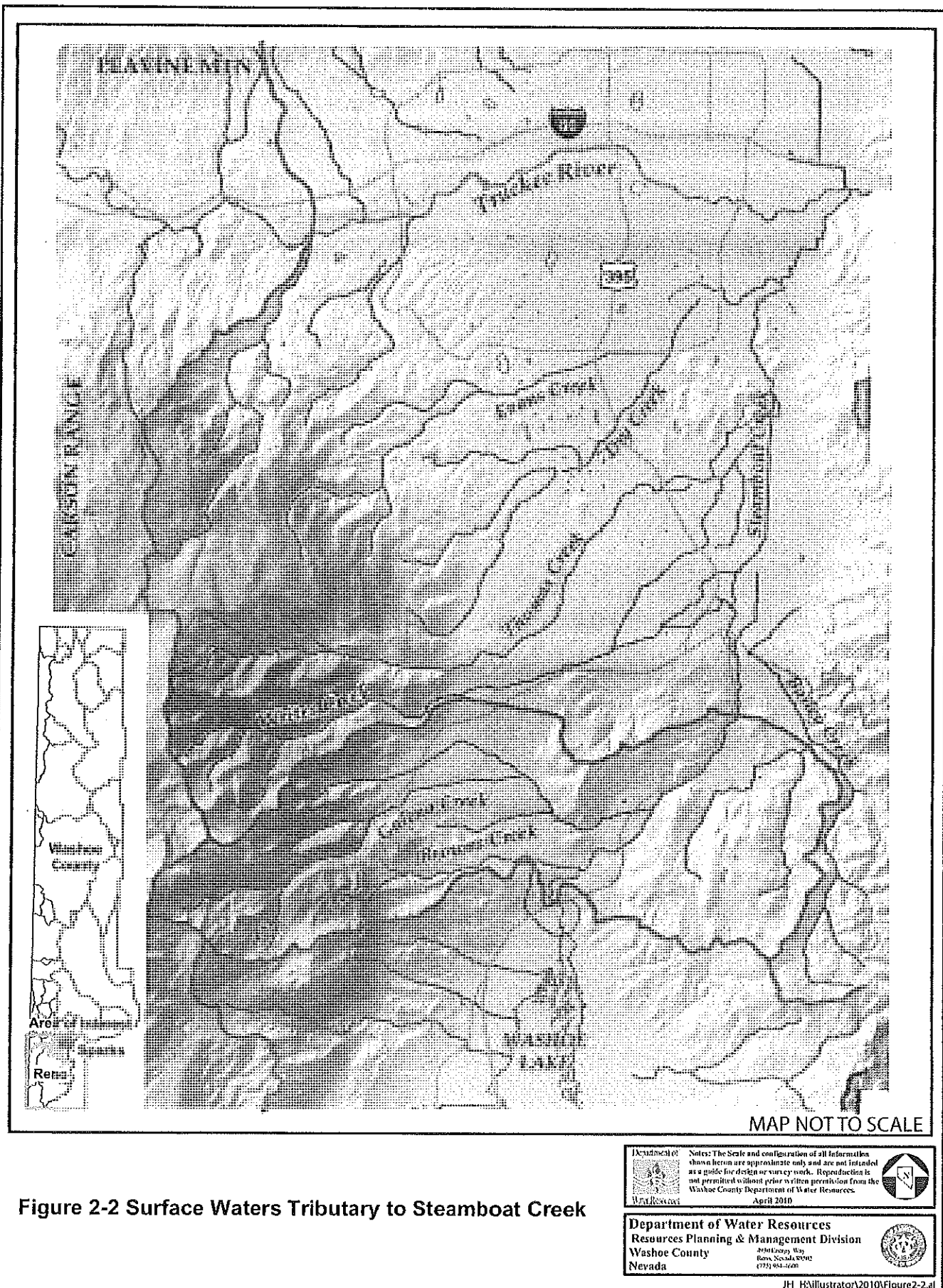


Figure 2-1 Surface Truckee River System with Highest, Lowest and Average Recorded Flows (TMWA, 2010)

Steamboat Creek originates at Washoe Lake and flows 15 miles to the north through Pleasant Valley and the eastern Truckee Meadows to the Truckee River. Along its course it is joined by six perennial creeks: Browns, Galena, Whites, Thomas, Dry and Evans that flow from the Carson Range, and one ephemeral stream (Bailey Creek) from the Virginia Range. Steamboat Creek is significant because of its water rights and those of its tributary creeks. Tributary creeks are shown in Figure 2-2.

Water for various uses is diverted from the Truckee River into a number of ditches, such as the Highland Ditch which conveys water to the Chalk Bluff Treatment Plant ("CTP"), and a few irrigators remaining on the ditch. Water diverted for irrigation is conveyed several miles north to Spanish Springs Valley via the Orr Ditch, and to the south via Steamboat, Last Chance and Lake Ditches. Other irrigation ditches serve localized areas of the central Truckee Meadows. In general, historical and current ditch uses are the same: municipal supply, irrigation and hydroelectric generation.



2.1.2 Groundwater

The major hydrographic basins within the Planning Area that supply M&I and/or domestic water include the Truckee Meadows, Truckee Canyon (Verdi/ Mogul), Tracy Segment (East Truckee Canyon), Pleasant Valley, Washoe Valley, Sun Valley, West Lemmon Valley, East Lemmon Valley, Warm Springs Valley and Cold Springs Valley, as shown in Figure 2-3. Developments in the Truckee Meadows, Sun Valley, West Lemmon Valley and Spanish Springs Valley rely on Truckee River water in addition to groundwater while the remaining basins rely on groundwater as the source of water supply. Development in the Red Rock Valley, Antelope Valley and Bedell Flat basins are supplied by domestic wells. The timing of groundwater importation to Lemmon Valley from the Honey Lake Valley hydrographic basin by way of existing infrastructure will depend on future land development projects in Lemmon Valley.

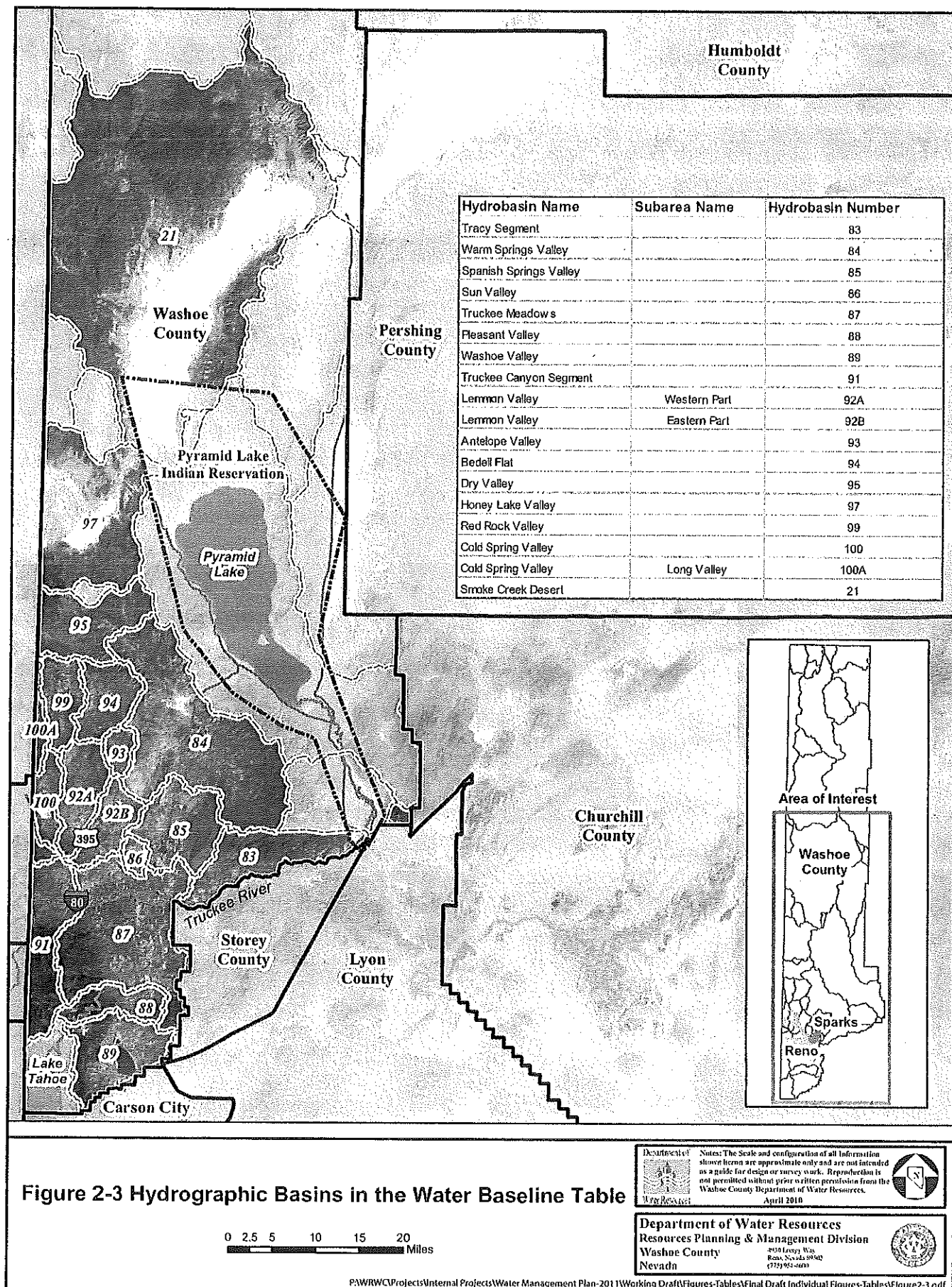
2.1.3 Reclaimed Water

Recent data show that more than 37,000 afa of reclaimed water is generated in the Planning Area of which approximately 6,000 afa are used for non-potable purposes such as irrigation, construction and dust control; the remainder is discharged to the Truckee River, Swan Lake wetlands or to the ground. Recent investigation of reclaimed water uses in other regions has shown that reclaimed water can be tailored to meet multiple types of uses. Advances in water treatment technology ensure that reclaimed water can meet the water quality requirements of virtually any need. Although Nevada reclaimed water regulations presently allow for non-potable uses only, reclaimed water service providers continue to investigate the feasibility of implementing groundwater recharge using reclaimed water as a long-term water resource management strategy.

NDEP administers reclaimed water regulations which delineate water quality requirements, buffer zones, signage, run-off capture, and other requirements. NDEP is developing amendments to its reclaimed water regulations that are anticipated to allow for groundwater recharge. The main local benefit in the use of reclaimed water is that it provides an efficient drought-resistant water source which helps to balance the regional water resources budget.

2.1.4 Water Resources Baseline

Table 2-1, the Water Resources Baseline Table, provides 20-year planning-level estimates for water resources considered to be sustainable using the best available information. The table identifies selected hydrographic basins within the Planning Area and quantifies surface water and groundwater in two ways. Appropriations (water rights), including decreed rights and rights permitted or certificated by the State Engineer for M&I uses and those that may be converted to M&I, are quantified separately from those that cannot be converted to M&I. The table also shows the quantity of groundwater in each basin based on the State Engineer's estimates of perennial yield. In basins where appropriations for M&I uses, or those that may be converted to M&I, are less than the perennial yield estimate, only those water rights actually appropriated are considered. Locations of hydrographic basins included in the table are shown in Figure 2-3. In addition, the table estimates the annual amount of surface water and groundwater transferred into and out of each basin and estimates M&I and domestic commitments against the identified resources. Basins not listed are not expected to provide M&I water supplies within a 20-year planning timeframe. They are located in relatively undeveloped areas and only limited information exists.



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Chapter 9 – Issues and Action Plan

Purpose and Scope

The following sections develop summaries of regional water management issues that are introduced and discussed in preceding chapters. Summaries briefly discuss work that has been performed in response to the issues, identify alternatives if developed, and identify work needed to respond to remaining and newly identified issues. Proposed Action Items shown in Table 9-1 are recommendations for future work intended to guide the focus and activities of the Western Regional Water Commission ("WRWC") and the Northern Nevada Water Planning Commission ("NNWPC") for the next five years.

Introduction

Planning is an ongoing, iterative and evolutionary process that must adapt to changing conditions in the Planning Area. Uncertainty associated with changes that may occur over the next five years with factors such as the economy, funding sources for major infrastructure, population growth trends, the legal and regulatory environment, and climate projections, affect the recommendations for future work and the priority of those recommendations significantly. In addition, unforeseen developments may require entirely new future-work recommendations.

The following issue summaries are organized by category and as appropriate, geographic area, within a category. Key points are identified and briefly discussed under "Specific Issues and Linkages". "Alternatives Evaluated to Address the Issues" summarizes work that has been performed in response to the issues. "Proposed Action Items" identify follow up activities proposed for the WRWC, NNWPC or other appropriate entities. Proposed Action Items under each of the numbered issue categories have unique identification numbers for reference in Table 9-1 and Table 9-2 (pages 9-36 and 9-38, respectively). Table 9-2 compiles Proposed Action Items related to all issues identified in this chapter. It also identifies a lead agency, coordinating agencies and whether the WRWC or NNWPC have a role in addressing the item. The table also indicates whether the item is currently being addressed by ongoing work, or expected to be addressed within the five-year *Regional Water Plan* update timeframe. The identification of lead and coordinating agencies is not intended to create a particular financial obligation on the part of any entity.

Table 9-1 includes only items for which the WRWC or NNWPC have a role and are to be addressed in the next five years. As stated above, this table is intended to provide guidance to the NNWPC and WRWC for work in the coming five years and form the basis for annual work plans. The NNWPC acknowledges that new information may result in the need to add or change the emphasis of Proposed Action Items, or eliminate them altogether, as may be appropriate from time to time.

9.1 Municipal Water Resources

9.1.1 Central Truckee Meadows

Specific Issues and Linkages

Truckee Meadows Water Authority ("TMWA") developed and adopted its *2005-2025 Water Resource Plan* ("*2025 Water Resource Plan*") in March 2003. In December 2009, TMWA's *2030 Water Resource Plan* ("*2030 Water Resource Plan*") was adopted following plan review, update, and/or modification of its water resource planning and management strategies due to a number of key events that have occurred or been completed since adoption of the *TMWA 2025 Water Resource Plan*, which include:

- Legislative directives modified regional water resource planning for the Truckee Meadows and led to the creation of the WRWC, which needs TMWA's latest water resource strategies adopted and available to be incorporated into the *Regional Water Plan*, which is due January 1, 2011;
- Economic changes of the past few years at the national, state and local level have affected the growth activity and patterns for the Truckee Meadows resulting in a need to examine current population trends and their potential impact on water demands and resource requirements;
- The five Mandatory Signatory Parties (TMWA, Pyramid Lake Paiute Tribe ["PLPT"], California, Nevada, and the United States) and seven other parties signed the *Truckee River Operating Agreement* ("*TROA*") on September 6, 2008; and
- Retrofit of more than 98 percent of the original 44,651 flat-rate water services that were required to be retrofit with water meters as part of the 1989 Negotiated River Settlement.

Linkages: Water rights balance with *TROA* implementation and wastewater effluent reuse.

Alternatives Evaluated to Address the Issues

On December 16, 2009, TMWA's Board of Directors adopted the *2030 Water Resources Plan*. Issues addressed by the Plan include: Consolidation of TMWA and Washoe County Department of Water Resources ("WCDWR") Water Operations, *TROA*, Sustainability of Source Water Supplies Related to Climate Change, Sustainability of Source Water Supplies Related to Drought, Sustainability of Source Water Supplies Related to Source Water Contamination, Water Rights Availability, Current Water Resources, Yield of Conjunctive Management of Water Resources, Population Projection, Water Demand Forecast, Water Production Facilities, Water Demand Management, and Future Water Resources.

The adopted TMWA *2030 Water Resource Plan* presents Key Findings and Recommendations associated with the issues identified above. These Key Findings and Recommendations are not reiterated within this Plan; however, several of the significant recommendations are summarized below. (Note: for further detail on these recommendations, the reader is referred to TMWA's *2030 Water Resource Plan*, see Appendix B.)

Consolidation of TMWA and WCDWR Water Operations: The TMWA Board continues to participate in the process to fully evaluate and develop agreements leading to the consolidation of WCDWR's water utility operations into TMWA.

Sustainability of Source Water Supplies Related to Climate Change: The TMWA Board: 1) Find that artificial restrictions on the management or implementation of water resources due to climate change are not warranted at this time; and 2) Continue to monitor and test for changes in climate in future planning efforts.

Sustainability of Source Water Supplies Related to Drought: The TMWA Board continues to use for planning purposes the worst drought cycle of hydrologic record for the Truckee River.

Sustainability of Source Water Supplies Related to Source Water Contamination: The TMWA Board continue to: 1) Implement its source water protection strategies in cooperation with local entities; 2) Maintain, as a minimum, the ability to meet daily indoor water use with its wells, and for river outages lasting up to seven days during a peak summer; and 3) Maintain the ability to meet average daily water using its wells, treated water storage, and enhanced conservation measures.

Water Rights Availability: The TMWA Board accept for planning purposes that the estimated number of mainstem Truckee River water resources is sufficient to support both *TROA* implementation and increased future development needs within TWMA's service areas.

Yield of Conjunctive Management of Water Resources: The TMWA Board: 1) Until *TROA* is implemented, recognize that although demands could expand through the continued conversion of irrigation water rights to municipal to 113,000 acre feet ("af") annually using an 8-year drought period use but manage demands to 110,000 af based on a 9-year drought period; and 2) Continue review of the performance of this standard based on factors such as demand growth, conservation improvements, hydrologic cycles, climate changes, etc. and update the Board should conditions change.

Water Demand Management: The TMWA Board: 1) Accept and adopt the Water Conservation Plan outlined in the *2030 Water Resource Plan*; 2) Recommend that the WRWC adopt for planning purposes the Drought Situation supply response classification system; 3) Submit the updated plan to the State of Nevada Division of Water Resources in fulfillment of Nevada Revised Statute ("NRS") 540.131-540.151; and 4) Direct staff to modify TMWA's Rule 2 to reflect changes in Assigned-Day Watering once implemented.

Future Water Resources: The TMWA Board continue to: 1) Support the efforts to implement *TROA*; and 2) Investigate, evaluate, and negotiate, where appropriate, other potential water supply projects consistent with and/or in addition to *TROA*.

In addition to the above recommendations adopted into TMWA's *2030 Water Resource Plan*, the following steps have addressed issues identified in the *2004-2025 Regional Water Plan*:

- Arsenic Compliance – TMWA has successfully implemented its Arsenic Mitigation plans. Washoe County is in compliance with additional implementation underway for the South Truckee Meadows groundwater supplies.
- Longley Lane Water Treatment Plant ("WTP") – WCDWR began operating a newly constructed surface water / groundwater treatment plant in 2007. The plant's operation

eliminated the need for continuation of wholesale water service from TMWA, provides perchloroethylene ("PCE") and arsenic treatment on two wells, and increased system reliability.

- Verdi – Facility planning and water resource planning to serve anticipated growth in the Boomtown/Verdi area have been completed by TMWA.

Proposed Action Items

9.1.1.A Negotiated Settlement (*TROA*) – The signatory parties are in the process of completing the necessary steps to implement *TROA*.

9.1.1.B Drought Standard – The NNWPC continues to recommend the use of the 9-Year Drought Cycle, and revise it if necessary during the next update of this Plan.

9.1.1.C Water Supply Development – TMWA and Washoe County will continue to pursue water supply projects that are economically feasible and that can be implemented to ensure water supplies are available, as future demands require.

9.1.1.D Participate in Bureau of Reclamation ("BOR") climate change study for the Truckee River watershed expected to commence in 2011.

9.1.1.E Participate in the Desert Research Institute ("DRI") cloud seeding program for the Lake Tahoe basin and the Truckee River basin, and coordinate with DRI's efforts to continue the cloud seeding program statewide.

9.1.1.F Adopt TMWA's *2030 Water Resource Plan* into the *2011 Regional Water Plan*.

Relevant Planning Documents

Truckee Meadows Water Authority, 2009, *2010-2030 Water Resource Plan*

Truckee River Operating Agreement, 2008, www.usbr.gov/mp/troa/final/troa_final_09-08_full.pdf

Truckee Meadows Water Authority, 2003, *2005–2025 Water Resource Plan*

9.1.2 South Truckee Meadows

Specific Issues and Linkages

In 2002, Washoe County through the Regional Water Planning Commission ("RWPC"), WCDWR and South Truckee Meadows General Improvement District ("STMGID"), completed an update to the water facility plans for the South Truckee Meadows. The *South Truckee Meadows Facility Plan* (ECO:LOGIC, 2002) provides a comprehensive water supply plan for build-out of the planning area, which encompasses an area stretching from just north of Double Diamond Ranch south to Pleasant Valley, east to the Virginia Foothills and west to Galena Forest.

The major goals of the Facility Plan were to:

- Utilize the creek resources to their highest and best beneficial uses, and balance beneficial municipal and industrial ("M&I") uses with in-stream flow requirements for recharge, wildlife, riparian habitat, aesthetics and quality of life
- Ensure that recommended plans for water supplies and facilities conform to regional wastewater disposal / water quality requirements at the South Truckee Meadows Water

Reclamation Facility ("STMWRF") and Truckee Meadows Water Reclamation Facility ("TMWRF")

- Allow development to proceed in a phased approach, keeping upfront capital costs low and total water service costs competitive, and provide reliable and economical utility service to the South Truckee Meadows
- Promote system integration, conjunctive use and expand reclaimed wastewater service to maximize the efficient use of water resources and facilities

Water supply needs also included consideration of existing and future domestic wells in the planning area. As presented in Section 6.3, Water Balance Model, the available groundwater resource is not over-utilized; however, relatively shallow domestic wells that penetrate the upper portion of the aquifer will continue to be affected by water level declines as a result of the combined pumping of both municipal and domestic wells.

Since completion of the 2002 *South Truckee Meadows Facility Plan*, a number of changes in the basic planning data made an update to the water facility plan necessary. Changes included modifications to planned land uses and planning area, unit demands, growth rate and changes in the location of available water resources. The draft *South Truckee Meadows Water Facility Plan Update* (ECO:LOGIC, 2009):

- Revises projected water demands based on the current planning area, existing and planned land uses and accepted unit demands.
- Updates the recommended water supply scenario presented in the 2002 *South Truckee Meadows Facility Plan* based on revised demands, new facility and water supply information, phasing plans and updated groundwater pumping projections.
- Incorporates groundwater modeling analyses to evaluate potential impacts to groundwater levels given new pumping scenarios and evaluates potential mitigation measures to groundwater drawdown if required.
- Updates the South Truckee Meadows and Hidden Valley water distribution system hydraulic models with current demand projections and water supply sources.
- Provides planning level opinions of probable cost for recommended facilities with project considerations and cost projections consistent with the requirements of NRS 278B.

Alternatives Evaluated to Address the Issues

Several water supply components are available in the South Truckee Meadows, including:

- WCDWR surface water supply from the Truckee River, groundwater and reclaimed water.
- Conversion of local tributary water rights (Thomas, Whites, Galena and Steamboat Creeks) from agricultural irrigation to municipal use as part of the proposed creek water exchange program to expand water service as creek water rights and connection fees are accumulated. Creek water would flow to the Truckee River "in exchange for" Truckee River water diversions to the Longley Lane WTP and TMWA's surface water treatment facilities. The Truckee River resources will be delivered to the South Truckee Meadows area through existing distribution facilities.
- TMWA wholesale Truckee River water to the contract maximum of 5,400 gallons per minute ("gpm") as per the existing agreement.

- Phased lower 8.5 million gallons per day "(MGD)" water treatment plant, identified in the draft 2009 *South Truckee Meadows Water Facility Plan update* for construction in 2029.
- Increase in TMWA wholesale water in approximately 2019.

The draft 2009 *South Truckee Meadows Water Facility Plan Update* addresses the natural variability of surface water and the impacts to groundwater supplies as a result of municipal well demands, domestic well demands, and local drought conditions. The plan also identifies and recognizes the needs of over 1,700 domestic well owners who share the local groundwater resource.

Proposed Action Items

- 9.1.2.A Continue development of the tributary creek water exchange program.
- 9.1.2.B Continue development of a plan to mitigate future groundwater level declines and potential impacts to domestic wells.

Relevant Planning Documents

ECO:LOGIC, 2009, *Draft South Truckee Meadows Water Facility Plan Update*, prepared for Washoe County Department of Water Resources.

ECO:LOGIC, 2002, *South Truckee Meadows Facility Plan*, prepared for the Regional Water Planning Commission, Washoe County Department of Water Resources, and South Truckee Meadows General Improvement District.

9.1.3 Stead / Lemmon Valley

Specific Issues and Linkages

The WCDWR 2009-2028 *Draft North Valleys Water Facility Plan* (ECO:LOGIC, 2009) identifies the water resources necessary to serve the WCDWR's service areas. These supplies are fully developed (local groundwater, imported Truckee River water, and imported Fish Springs Ranch groundwater); however, the infrastructure necessary to distribute these water supplies is underdeveloped. The significant effort for the Lemmon Valley area over the coming 20-year planning horizon is to develop the infrastructure necessary to distribute the water supplies to planned growth areas.

Alternatives Evaluated to Address the Issues

The WCDWR 2009-2028 *Draft North Valleys Water Facility Plan* evaluated different distribution infrastructure development alternatives and identified the preferred backbone water distribution infrastructure needed to serve the future growth areas. The opinion of probable cost for the needed distribution infrastructure is \$13.5 million. Since the cost of the infrastructure will substantially be borne by developers as development projects are brought forward, these improvements will occur some time in the future.

Proposed Action Items

9.1.3.A WCDWR and TMWA should develop a facility and financing plan for the required distribution system infrastructure in Lemmon Valley, including improvements necessary to integrate and utilize the Fish Springs water supplies for existing and future customers.

Relevant Planning Documents

ECO:LOGIC, 2009, *2009-2028 Draft North Valleys Water Facility Plan*, prepared for WCDWR.

9.1.4 Cold Springs

Specific Issues and Linkages

The demand for potable water supplies in Cold Springs will be met in the future using a combination of local groundwater resources, augmented with imported water supplies, such as the Fish Springs and Intermountain water importation projects. The 2030 Regional Water Balance identifies a water supply imbalance that will need to be addressed over the long term. In particular, the combined demand from domestic wells and permitted municipal groundwater pumping exceeds the perennial yield of the Cold Springs basin. This is an issue that affects both existing and future water users and exists under both current and projected 2030 conditions.

Plans for proposed water facilities are not integrated with the existing Utilities Inc. water system. Potential infrastructure savings could be realized with a conjunctive use operation of the two water systems.

Wastewater and storm water linkages:

- Nitrate contamination of groundwater has been observed in areas with high densities of septic tanks. The *1995-2015 Regional Water Plan* expressed concern over continued installation of septic tanks in this hydrographic basin.
- Importation of a new water supply into the Cold Springs hydrographic basin would result in the generation of additional effluent and storm water run-off volume in this closed basin.

Alternatives Evaluated to Address the Issues

- New development in Cold Springs is designed to minimize water consumption in order to extend the available water resources as far as possible
- A Cold Springs developer has consulted with WCDWR hydrology staff to determine the sustainable yield of the existing and proposed Utilities Inc. production wells
- The potential future water demands associated with development in Cold Springs were included in the *City of Reno and Washoe County TMSA/FSA Water, Wastewater and Flood Management Facility Plan* (ECO:LOGIC, 2007), and the 2030 Regional Water Balance presented in Section 6.3.

Water resource management options are available to help mitigate the potential negative impacts due to the long-term imbalance. For instance:

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS 55551)
THROUGH 55574; 55707 THROUGH 55721)
AND 56303 THROUGH 56320; FILED TO)
APPROPRIATE THE WATERS OF UNDERGROUND)
SOURCES WITHIN VARIOUS GROUNDWATER)
BASINS, LOCATED IN ELKO, EUREKA,)
HUMBOLDT, LANDER AND PERSHING COUNTIES,)
NEVADA.)

RULING

#4192

GENERAL

I.

Applications 55551 through 55574 and 55707 through 55721, all inclusive, were filed by Eco-Vision, Inc. on December 21, 1990, February 1, 1991, and May 16, 1991, respectively. Each of these applications seek to appropriate 10.0 cfs of water from an underground source in Northern Nevada for municipal purposes. The designated places of use are the communities of Elko, Carlin, Battle Mountain, Winnemucca, Lovelock, Fernley, Carson City, Reno and Sparks, Nevada or in some cases, the entire Counties of Elko, Eureka, Humboldt, Lander, Pershing, Churchill, Lyon, Washoe and Carson City. The points of diversion for the water sought to be appropriated are within the Counties of Elko, Eureka, Humboldt, Lander and Pershing. The total quantity of water sought to be appropriated is approximately 387,300 acre feet per year.¹

Applications 56303 through 56318, inclusive were filed by Eco-Vision, Inc. on May 16, 1991. Each of these applications seek to appropriate 10.0 cfs of water from an underground source in Northern Nevada for environmental purposes. The designated places of use are within the counties of Elko, Eureka, Lander, Humboldt, Pershing, Churchill, Storey, Lyon, Washoe and Carson City. The points of diversion for the water sought to be appropriated are within Eureka County.¹

¹ Public records in the office of the State Engineer under Applications 55551 through 55574, 55707 through 55721, and 56303 through 56320.

Application 56319 was filed by Eco-Vision, Inc. on May 16, 1991, to appropriate 5,000.00 cfs of water from the Humboldt River for hydroelectric power generation at Rye Patch Dam. The proposed manner of use is described as non-consumptive, with the water being returned to the Humboldt River below the proposed power plant. The proposed place of use is within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T.30N., R.33E., M.D.B.&M. Application 56320 was filed on May 16, 1991, to appropriate 600.cfs of water from the South Fork of the Humboldt River for hydroelectric power generation at South Fork Dam. The proposed manner of use is described as non-consumptive, with the water being returned to the Humboldt River directly below the proposed power plant. The proposed place of use is within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, T.32N., R.55E., M.D.B.&M.¹

II.

Chapter 533.363 Section 1 of the Nevada Revised Statutes requires the State Engineer to notify the County Commissioners if water for which a permit is requested is to be used in a county other than the county in which it is to be appropriated. On April 22, 1991, and August 14, 1991 the State Engineer sent letters regarding the subject applications to the Eureka, Lander, Pershing, Elko, Humboldt, Lyon and Washoe County Commissioners in addition to the Carson City Board of Supervisors.

III.

By letter of June 9, 1994, the applicant amended all of the subject applications by reducing the place of use to only portions of those counties that are within the Humboldt River Basin.¹

IV.

The State Engineer's Office has received correspondence from representatives of Humboldt, Lander and Pershing Counties, requesting the State Engineer to deny the subject applications in an expeditious manner.¹

V.

All of the subject applications were protested by numerous individuals, public and private entities. A total of 1341 protests were timely filed within the office of the State Engineer, for a variety of reasons which can be summarized as follows:

1. The applications seek to appropriate underground water from groundwater basins which are currently over appropriated, therefore, any additional appropriation would tend to impair existing rights.
2. The proposed point of diversion is in the immediate vicinity of existing underground rights and would unreasonably lower the groundwater table in the area of concentration.
3. The proposed point of diversion is in the immediate vicinity of a surface source and would unreasonably affect existing surface rights.
4. The applicant does not control the land or facilities which the water is to be used or diverted through, or does not have a contract in good standing to divert the water.
5. The applicant does not have the means or intent to place the water to beneficial use.
6. The applicant has not provided adequate information concerning the proposed works, their estimated cost, the number of people to be served and the approximate future requirement.
7. The applications would prove damaging to the environment should they be allowed to appropriate the amount of water requested.

A listing of all of the protestants arranged by permit number is found under table 'A' attached to this ruling and made a part thereof.

FINDINGS OF FACT

I.

Applications 55551 through 55574, 55707 through 55721, and 56303 through 56320, were filed on December 21, 1990, February 1, 1991, and May 16, 1991, respectively. The State Engineer finds that the applicant has had ample time to formulate and solidify any plans for developing the water and placing it to beneficial use.¹

II.

Under the provisions of NRS 533.375 the State Engineer is authorized to request any additional information that will enable him to guard the public interest properly. On January 13, 1995, the applicant was notified by certified mail to submit the following information to the State Engineer's Office.

1. The total cost of the project and the total dollar value of the benefits.
2. As provided in Nevada Revised Statutes (NRS) 533.375, the names and addresses of the directors and officers of Eco-Vision as incorporated in 1990. Also, provide the amount of the corporations authorized and paid up capital.
3. The financial feasibility, and how the project would be funded including names and letters of credit from each investor.
4. Contracts, agreements or options to buy the power if you are able to produce it.
5. Since Eco-Vision is not a municipality and, 39 of the applications are filed for municipal purposes, please provide contracts, agreements or options with municipalities that are able to put this water to beneficial use within the ten years stated on each application.
6. Deeds, leases, or special use permits that show you have access to the lands described by the points of diversion.

7. Sixteen of the applications are filed for environmental purposes. Please provide specific information on the need to pump groundwater for environmental purposes, what and who are the benefactors of this pumpage and what arrangements have been made to put the water to beneficial use.
8. Since the points of diversion are presumably not close to the places of use, please specify rights-of-way and/or easements from the point of diversion to the places of use. If the point of diversions or conduit routes involve Federal lands, please provide reports of environmental work that has been done in support of the project.

The State Engineer finds that the requested information is required to enable him to gain a full and complete understanding of the applications before him and the applicant's ability to place the water to beneficial use.¹

III.

A response to the State Engineer's request for additional information was timely received at the office of the State Engineer on April 12, 1995. This letter contained the names of Eco-Vision's corporate director and officers, but did not provide specific answers to the remainders of the State Engineer's questions. In addition, the applicant requested an additional 90 days to supply the requested information. The State Engineer finds that his request for specific information regarding the applicant's plans to place the water under the subject applications to beneficial use has not been answered to a degree which provides a full and complete understanding of the applications and that there is not sufficient information regarding these applications to adequately guard the public interest.¹ The State Engineer further finds that the applications have been on file for 4½ years which should be adequate time to formulate specific plans to develop the water and plan it to beneficial use.

IV.

The State Engineer finds that there is nothing on the individual applications, in their answer to the January 13, 1995 inquiry or in the files of the State Engineer that would indicate that the applicant themselves ever intended to develop this water and place it to beneficial use.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter.²

II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to guard the public interest properly. The State Engineer concludes that the applicant has failed to provide sufficient information to adequately guard the public interest and that the subject applications must be rejected.³

III.

An examination of the records of the State Engineer reveals that the applicant has failed to provide sufficient evidence to demonstrate the ability to place the water requested under Applications 55551 through 55574, 55707 through 55721, and 56303 through 56320 to beneficial use. The State Engineer concludes that it is not in the public interest to approve applications where the applicant can not demonstrate the ability to place the water to beneficial use.

IV.

The State Engineer concludes that since the applicant is not a municipality; not an electric utility; and could not answer the need to pump groundwater for environmental purposes, that the applications were filed for possible resale and speculation.


² NRS 533.325, NRS 533.335 and NRS 533.340.

³ NRS 533.375.

RULING

Applications 55551, 55552, 55553, 55554, 55555, 55556, 55557, 55558, 55559, 55560, 55561, 55562, 55563, 55564, 55565, 55566, 55567, 55568, 55569, 55570, 55571, 55572, 55573, 55574, 55707, 55708, 55709, 55710, 55711, 55712, 55713, 55714, 55715, 55716, 55717, 55718, 55719, 55720, 55721, 56303, 56304, 56305, 56306, 56307, 56308, 56309, 56310, 56311, 56312, 56313, 56314, 56315, 56316, 56317, 56318, 56319 and 56320 are hereby denied on the grounds that the applicant has not submitted the information requested by the State Engineer and, therefore, the granting of said applications without the additional information would not be in the public interest. No ruling is made regarding the merits of the protests and the request for a 90 day extension of time to supply the additional information is hereby denied.

Respectfully submitted,


E. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/pm

Dated this 19th day of
June, 1995.

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55551	BRAIDY, TIMOTHY J.	06/13/91	032	HU
55551	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	032	HU
55551	HUMBOLT COUNTY	06/20/91	032	HU
55551	PINE GROVE FARMS	06/19/91	032	HU
55551	McERQUIAGA, HENRY V.	06/20/91	032	HU
55551	MCCLINTICK, RICK	06/13/91	032	HU
55551	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	032	HU
55551	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	032	HU
55551	WASHOE COUNTY	06/18/91	032	HU
55551	BUTTS, MARGARET	06/17/91	031	HU
55551	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	032	HU
55551	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	032	HU
55551	UNITED STATES BUREAU OF RECLAMATION	06/20/91	032	HU
55551	SMITH, BLAINE J.	06/13/91	032	HU
55551	MOSER, JIM L.	06/14/91	032	HU
55551	UGALDE, DANIEL & SAMMYE	06/18/91	032	HU
55551	LAU, C. REID	06/13/91	032	HU
55551	CHURCHILL COUNTY	06/20/91	032	HU
55551	BLAND, CHARLOTTE A.	06/13/91	032	HU
55551	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	032	HU
55551	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	032	HU
55551	FULKROD, JOHN M.	06/13/91	032	HU
55551	KEY BRO'S INC.	06/13/91	032	HU
55551	LANDER COUNTY	06/20/91	032	HU
55551	CLARNO, ROY	06/18/91	032	HU
55551	U. S. FISH & WILDLIFE SERVICE	06/19/91	032	HU
55551	KEY, ROBERT F.	06/13/91	032	HU
55551	HUMBOLDT GAME PRESERVE, INC. .	06/14/91	032	HU
55551	ANDERSON, PHYLLIS A.	06/17/91	032	HU
55551	TIM DELONG CATTLE CO.	06/10/91	032	HU
55551	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	032	HU
55551	DELONG RANCHES, INC., CALDWELL, ROBERT N.	06/14/91	031	HU
55551	HAVEN, EVA	06/11/91	032	HU
55551	ERIKSEN, RILDA	06/12/91	032	HU
55551	JONES, DONALD J.	06/12/91	032	HU
55551	HETRICK BROS., INC.	06/14/91	032	HU

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SE ROA 274

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55551	AMAX GOLD INC. & AMAX EXPLORATION INC.	06/20/91	032	HU
55551	THE CITY OF WINNEMUCCA	06/12/91	032	HU
55551	MERTENS, JEANNIE	06/14/91	032	HU
55551	HETRICK, DANIEL	06/18/91	032	HU
55551	BENGOA RANCHING CO.	06/12/91	032	HU
55551	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	032	HU
55551	HAVEN, EDWARD G.	06/11/91	032	HU
55552	THE CITY OF ELKO, NEVADA	06/28/91	051	EU
55552	WASHOE COUNTY	06/18/91	051	EU
55552	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	051	EU
55552	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	051	EU
55552	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	051	EL
55552	PEREZ, BARBARA J.	06/26/91	051	EU
55552	LANDER COUNTY	06/20/91	051	EU
55552	MAGGIE CREEK RANCH, INC.	06/17/91	051	EL
55552	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	051	EU
55552	CRESENT VALLEY TOWN BOARD	06/26/91	051	EU
55552	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
55552	UNITED STATES BUREAU OF RECLAMATION	06/27/91	061	EU
55552	WOMEN IN MINING	06/17/91	051	EU
55552	HIEB, CLYDE G.	06/26/91	051	EU
55552	U. S. FISH & WILDLIFE SERVICE	06/27/91	051	EL
55552	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	051	EU
55552	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	051	EU
55552	EUREKA COUNTY	06/26/91	051	EU
55552	USDI-BLM	06/28/91	051	EU
55552	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	051	EU
55552	WRIGHT, PATRICIA	06/26/91	051	EU
55552	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU
55552	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	051	EU
55552	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	051	EU
55552	NEWMONT GOLD COMPANY	06/18/91	051	EU
55552	CHURCHILL COUNTY	06/28/91	051	EU
55552	YOMBA SHOSHONE TRIBE	06/25/91	051	EU
55552	CLARNO, ROY	06/18/91	051	EU
55553	WARD, DOWELL	06/26/91	051	EU

JA0317

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SE ROA 275

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55553	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU
55553	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	051	EL
55553	CRESCENT VALLEY TOWN BOARD	06/26/91	051	EU
55553	BLUNT, GARY L.	06/26/91	051	EU
55553	UNITED STATES BUREAU OF RECLAMATION	06/27/91	051	EU
55553	THE CITY OF ELKO, NEVADA	06/28/91	051	EU
55553	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	051	EU
55553	WASHOE COUNTY	06/18/91	051	EU
55553	YOMBA SHOSHONE TRIBE	06/25/91	051	EU
55553	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	051	EU
55553	USDI-BLM	06/28/91	051	EU
55553	CHURCHILL COUNTY	06/28/91	051	EU
55553	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	051	EU
55553	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
55553	EUREKA COUNTY	06/26/91	051	EU
55553	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	051	EU
55553	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	051	EU
55553	PINSON RANCH	06/13/91	051	EU
55553	LANDER COUNTY	06/20/91	051	EU
55553	NEWMONT GOLD COMPANY	06/18/91	051	EU
55553	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	051	EU
55553	MAGGIE CREEK RANCH, INC.	06/17/91	051	EL
55553	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	051	EU
55553	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	051	EU
55553	BENNETT, WILLIAM S.	06/26/91	051	EU
55553	U. S. FISH & WILDLIFE SERVICE	06/27/91	051	EL
55554	WASHOE COUNTY	06/18/91	051	EL
55554	WESTERN SHOSHONE NATIONAL COUNCIL	06/24/91	051	EL
55554	CRAWFORTH, TERRY	07/01/91	051	EU
55554	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	051	EL
55554	LANDER COUNTY	06/20/91	051	EL
55554	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	051	EL
55554	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	051	EL
55554	U. S. FISH & WILDLIFE SERVICE	06/27/91	051	EL
55554	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	051	EL
55554	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU

JA0318

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SE ROA 276

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55554	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	051	EU
55554	EUREKA COUNTY	07/05/91	051	EL
55554	NEWMONT GOLD COMPANY	06/18/91	051	EL
55554	UNITED STATES BUREAU OF RECLAMATION	07/03/91	051	EL
55554	COUNTY OF CHURCHILL	07/05/91	051	EL
55554	THE CITY OF ELKO, NEVADA	06/28/91	051	EL
55554	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	051	EL
55554	USDI-BLM	06/28/91	051	EU
55554	BOYD RANCH	07/02/91	051	EL
55554	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	051	EU
55554	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	051	EL
55554	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EL
55554	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	051	EU
55554	MAGGIE CREEK RANCH, INC.	06/17/91	051	EL
55554	BOUCHER, GEORGE R.E. (BOARD OF CO. COMMISSIONERS)	06/20/91	051	EL
55555	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	051	EL
55555	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	051	EU
55555	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	051	EL
55555	U. S. FISH & WILDLIFE SERVICE	06/27/91	051	EL
55555	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU
55555	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	051	EL
55555	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	051	EL
55555	EUREKA COUNTY	07/05/91	051	EL
55555	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	051	EL
55555	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	051	EU
55555	NEWMONT GOLD COMPANY	06/18/91	051	EL
55555	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	051	EU
55555	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EL
55555	USDI-BLM	06/28/91	051	EU
55555	MAGGIE CREEK RANCH, INC.	06/17/91	051	EL
55555	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	051	EL
55555	THE CITY OF ELKO, NEVADA	06/28/91	051	EL
55555	WASHOE COUNTY	06/18/91	051	EL
55555	BOYD RANCH	07/02/91	051	EL
55555	CRAWFORTH, TERRY	07/01/91	051	EU
55555	BOUCHER, GEORGE R.E. (BOARD OF CO. COMMISSIONERS)	06/20/91	051	EL

JA0319

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SE ROA 277

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55555	COUNTY OF CHURCHILL	07/05/91	051	EL
55555	UNITED STATES BUREAU OF RECLAMATION	07/03/91	051	EL
55555	LANDER COUNTY	06/20/91	051	EL
55556	USDI-BLM	06/28/91	051	EU
55556	WARD, FAY ETCHINEK	06/26/91	051	EU
55556	MAGGIE CREEK RANCH, INC.	06/17/91	051	EL
55556	BOYD RANCH	07/02/91	051	EL
55556	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU
55556	COUNTY OF CHURCHILL	07/05/91	051	EL
55556	U. S. FISH & WILDLIFE SERVICE	06/27/91	051	EL
55556	UNITED STATES BUREAU OF RECLAMATION	07/03/91	051	EL
55556	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	051	EU
55556	NEWMONT GOLD COMPANY	06/18/91	051	EL
55556	CRAWFORTH, TERRY	07/01/91	051	EU
55556	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	051	EU
55556	GNEFER, ROBERT	06/26/91	051	EU
55556	CRESCENT VALLEY TOWN BOARD	06/26/91	051	EU
55556	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	051	EL
55556	EUREKA COUNTY	06/26/91	051	EU
55556	PINSON RANCH	06/13/91	051	EU
55556	SCHWARTZ, GAYLEN K.	06/26/91	051	EU
55556	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	051	EL
55556	BOUCHER, GEORGE R.E. (BOARD OF CO. COMMISSIONERS)	06/20/91	051	EL
55556	WASHOE COUNTY	06/18/91	051	EU
55556	LANDER COUNTY	06/20/91	051	EU
55556	THE CITY OF ELKO, NEVADA	06/28/91	051	EL
55556	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	051	EL
55556	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
55556	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	051	EU
55556	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	051	EU
55556	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	051	EL
55557	LANDER COUNTY	06/20/91	051	EU
55557	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	051	EU
55557	WASHOE COUNTY	06/18/91	051	EU
55557	UNITED STATES BUREAU OF RECLAMATION	07/03/91	051	EU
55557	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	051	EU

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SE ROA 278

JA0320

** ECO - VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55557	GNEFER, ROBERT	06/26/91	051	EU
55557	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	051	EU
55557	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	051	EU
55557	BENFORD, DONALD RICHARD	06/26/91	051	EU
55557	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU
55557	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	051	EU
55557	COUNTY OF CHURCHILL	07/05/91	051	EU
55557	CRAWFORTH, TERRY	07/01/91	051	EU
55557	WRIGHT, ELWOOD	06/26/91	051	EU
55557	U. S. FISH & WILDLIFE SERVICE	06/27/91	051	EL
55557	THE CITY OF ELKO, NEVADA	06/28/91	051	EU
55557	EUREKA COUNTY	06/26/91	051	EU
55557	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	051	EU
55557	BLM	06/21/91	051	EU
55557	NEWMONT GOLD COMPANY	06/18/91	051	EU
55557	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
55557	MAGGIE CREEK RANCH, INC.	06/17/91	051	EL
55557	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	051	EU
55557	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	051	EU
55557	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	051	EU
55557	CRESCENT VALLEY TOWN BOARD	06/26/91	051	EU
55558	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	051	EU
55558	CHURCHILL COUNTY	06/28/91	051	EU
55558	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	051	EU
55558	CRESCENT VALLEY TOWN BOARD	06/26/91	051	EU
55558	WASHOE COUNTY	06/18/91	051	EU
55558	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
55558	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU
55558	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	051	EU
55558	USDI-BLM	06/28/91	051	EU
55558	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	051	EU
55558	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	051	EL
55558	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	051	EU
55558	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	051	EU
55558	U. S. FISH & WILDLIFE SERVICE	06/27/91	051	EL
55558	NEWMONT GOLD COMPANY	06/18/91	051	EU

JA0321

SPI APP 267

SE ROA 279

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55558	PITMAN, FRANK D.	06/26/91	051	EU
55558	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	051	EU
55558	UNITED STATES BUREAU OF RECLAMATION	06/27/91	051	EU
55558	MAGGIE CREEK RANCH, INC.	06/17/91	051	EL
55558	THE CITY OF ELKO, NEVADA	06/28/91	051	EU
55558	CASTLE, DAVID ALAN	06/26/91	051	EU
55558	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	051	EU
55558	LANDER COUNTY	06/20/91	051	EU
55558	McMANAMAN, DON	06/26/91	051	EU
55558	EUREKA COUNTY	06/26/91	051	EU
55558	YOMBA SHOSHONE TRIBE	06/25/91	051	EU
55559	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	050	EL
55559	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	050	EL
55559	U. S. FISH & WILDLIFE SERVICE	06/19/91	050	EL
55559	CHURCHILL COUNTY	06/20/91	050	EL
55559	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	050	EL
55559	PINSON RANCH	06/13/91	050	EL
55559	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	050	EL
55559	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	050	EL
55559	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	050	EL
55559	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	050	EL
55559	BOUCHER, GEORGE R.E. (BOARD OF CO. COMMISSIONERS)	06/20/91	050	EL
55559	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	050	EL
55559	WASHOE COUNTY	06/18/91	050	EL
55559	LANDER COUNTY	06/20/91	050	EL
55559	BLM	06/21/91	050	EL
55559	NEWMONT GOLD COMPANY	06/18/91	050	EL
55559	MAGGIE CREEK RANCH, INC.	06/17/91	050	EL
55559	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	050	EL
55560	TAYLOR, GREGORY L.	06/20/91	059	LA
55560	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	059	LA
55560	PINSON RANCH	06/13/91	059	LA
55560	CHURCHILL COUNTY	08/05/91	059	LA
55560	U. S. FISH & WILDLIFE SERVICE	06/27/91	059	LA
55560	U. S. BUREAU OF RECLAMATION	07/11/91	059	LA
55560	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	059	LA

JA0322

SPI APP 268

SE ROA 280

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55560	LANDER COUNTY COMB. SEW. & WAT. DIST. NO. 2	06/20/91	059	LA
55560	EUREKA COUNTY	07/05/91	059	LA
55560	LANDER COUNTY	06/20/91	059	LA
55560	CHIARA, ROBERT E. & WANDA B.	06/20/91	059	LA
55560	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	059	LA
55560	CRAWFORTH, TERRY	07/01/91	059	LA
55560	BAMCO EXPLORATION, INC.	06/20/91	059	LA
55560	LANDER COUNTY AIRPORT AUTHORITY	06/20/91	059	LA
55560	BLM	06/18/91	059	LA
55560	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	059	LA
55560	ECHO BAY MINERALS COMPANY	06/11/91	059	LA
55560	YOMBA SHOSHONE TRIBE	08/08/91	059	LA
55560	WASHOE COUNTY	06/18/91	059	LA
55560	FILIPPINI, HENRY	06/10/91	059	LA
55560	SCHWIN, GEORGE E.	06/20/91	059	LA
55560	TOWN OF FERNLEY, NEVADA	07/01/91	059	LA
55560	BATTLE MOUNTAIN GOLD COMPANY	06/20/91	059	LA
55560	MALONE, LYLE & SHARON	06/20/91	059	LA
55560	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	059	LA
55560	WESTERN SHOSHONE NATIONAL COUNCIL	06/24/91	059	LA
55561	HAVEN, EDWARD G.	06/11/91	066	HU
55561	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	066	HU
55561	ERIKSEN, RILDA	06/12/91	066	HU
55561	POWELL, DOROTHY S.	06/17/91	066	HU
55561	GOLD FIELDS OPERATING CO. - CHIMNEY CREEK	06/28/91	066	HU
55561	HAMMOND RANCH, INC.	06/12/91	066	HU
55561	OLANO, MARGARET	06/17/91	066	HU
55561	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	066	HU
55561	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	066	HU
55561	LANDER COUNTY	06/20/91	066	HU
55561	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	066	HU
55561	BLAND, CHARLOTTE A.	06/13/91	066	HU
55561	JONES, DONALD J.	06/12/91	066	HU
55561	CRAWFORTH, TERRY	07/01/91	066	HU
55561	FULKROD, JOHN M.	06/13/91	066	HU
55561	HAVEN, EVA	06/11/91	066	HU

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SE ROA 281

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55561	WILDMAN, WILLIAM C. & DOROTHY M.	06/26/91	066	HU
55561	U. S. FISH & WILDLIFE SERVICE	06/27/91	066	HU
55561	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	066	HU
55561	COUNTY OF CHURCHILL	07/05/91	066	HU
55561	MCCLINTICK, RICK	06/13/91	066	HU
55561	THE CITY OF WINNEMUCCA	06/12/91	066	HU
55561	CHRISTISON, BO HIBBS	06/13/91	066	HU
55561	UNITED STATES BUREAU OF RECLAMATION	07/03/91	066	HU
55561	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	066	HU
55561	WASHOE COUNTY	06/18/91	066	HU
55561	HUMBOLDT GAME PRESERVE, INC.	06/14/91	066	HU
55561	LOWRY, ALBERT L.	06/17/91	066	HU
55561	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	066	HU
55561	GROVE, DARLENE	06/26/91	066	HU
55561	HUMBOLT COUNTY	06/20/91	066	HU
55561	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	066	HU
55561	TOWN OF FERNLEY, NEVADA	07/01/91	066	HU
55561	TAYLOR, GREGORY L.	06/20/91	066	HU
55561	LAU, C. REID	06/13/91	066	HU
55561	CHRISTISON, JIM	06/14/91	066	HU
55561	STEWART, LESLIE J.	06/18/91	066	HU
55561	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	066	HU
55562	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EL
55562	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	051	EU
55562	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	051	EL
55562	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU
55562	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	051	EU
55562	UNITED STATES BUREAU OF RECLAMATION	07/03/91	051	EL
55562	U. S. FISH & WILDLIFE SERVICE	06/27/91	051	EL
55562	EUREKA COUNTY	07/05/91	051	EL
55562	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	051	EL
55562	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	051	EL
55562	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	051	EU
55562	THE CITY OF ELKO, NEVADA	06/28/91	051	EL
55562	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	051	EL
55562	LANDER COUNTY	06/20/91	051	EU

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SE ROA 282

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55562	CRAWFORTH, TERRY	07/01/91	051	EU
55562	WASHOE COUNTY	06/18/91	051	EL
55562	BOUCHER, GEORGE R.E. (BOARD OF CO. COMMISSIONERS)	06/20/91	051	EL
55562	USDI-BLM	06/28/91	051	EU
55562	COUNTY OF CHURCHILL	07/05/91	051	EL
55562	NEWMONT GOLD COMPANY	06/18/91	051	EL
55562	BOYD RANCH	07/02/91	051	EL
55562	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	051	EL
55562	MAGGIE CREEK RANCH, INC.	06/17/91	051	EL
55562	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	051	EL
55563	UNITED STATES BUREAU OF RECLAMATION	06/27/91	061	EU
55563	CRESCENT VALLEY TOWN BOARD	06/26/91	061	EU
55563	THE CITY OF ELKO, NEVADA	06/28/91	061	EU
55563	WESTERN SHOSHONE NATIONAL COUNCIL	06/24/91	061	EU
55563	MADDEN, MURLYN M.	06/26/91	061	EU
55563	YOMBA SHOSHONE TRIBE	06/25/91	061	EU
55563	BARRICK GOLDSTRIKE MINES INC.	06/27/91	061	EU
55563	EUREKA COUNTY	06/26/91	061	EU
55563	U. S. FISH & WILDLIFE SERVICE	06/27/91	061	EU
55563	PINSON RANCH	06/13/91	061	EU
55563	BOLTZ, KAREN	06/26/91	061	EU
55563	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	061	EU
55563	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	061	EU
55563	TAYLOR, GREGORY L.	06/20/91	061	EU
55563	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	061	EU
55563	WASHOE COUNTY	06/18/91	061	EU
55563	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	061	EU
55563	CHURCHILL COUNTY	06/28/91	061	EU
55563	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	061	EU
55563	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	061	EU
55563	USDI-BLM	06/28/91	061	EU
55563	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	061	EU
55563	NEWMONT GOLD COMPANY	06/18/91	061	EU
55563	LANDER COUNTY	06/20/91	061	EU
55563	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	061	EU
55563	MITCHELL, ROBERT L.	06/26/91	061	EU

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SE ROA 283

** ECO - VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55563	DEE GOLD MINING CO.	06/17/91	061	EU
55563	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	061	EU
55563	TOWN OF FERNLEY, NEVADA	07/01/91	061	EU
55564	OWENS, BURBEGE E.	06/26/91	061	EU
55564	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	061	EU
55564	USDI-BLM	06/28/91	061	EU
55564	TOWN OF FERNLEY, NEVADA	07/01/91	061	EU
55564	WASHOE COUNTY	06/18/91	061	EU
55564	CRESCENT VALLEY TOWN BOARD	06/26/91	061	EU
55564	EUREKA COUNTY	06/26/91	061	EU
55564	U. S. FISH & WILDLIFE SERVICE	06/27/91	061	EU
55564	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	061	EU
55564	DEE GOLD MINING CO.	06/17/91	061	EU
55564	THE CITY OF ELKO, NEVADA	06/28/91	061	EU
55564	RAMBEL, DUANE A.	06/26/91	061	EU
55564	BARRICK GOLDSTRIKE MINES INC.	06/27/91	061	EU
55564	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	061	EU
55564	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	061	EU
55564	YOMBA SHOSHONE TRIBE	06/25/91	061	EU
55564	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	061	EU
55564	UNITED STATES BUREAU OF RECLAMATION	06/27/91	061	EU
55564	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	061	EU
55564	LANDER COUNTY	06/20/91	061	EU
55564	NEWMONT GOLD COMPANY	06/18/91	061	EU
55564	TAYLOR, GREGORY L.	06/20/91	061	EU
55564	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	061	EU
55564	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	061	EU
55564	MARSDEN, WILLIAM G.	06/26/91	061	EU
55564	CHURCHILL COUNTY	06/28/91	061	EU
55564	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	061	EU
55565	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	066	HU
55565	HUMBOLDT GAME PRESERVE, INC.	06/14/91	066	HU
55565	POWELL, DOROTHY S.	06/17/91	066	HU
55565	HAVEN, EDWARD G.	06/11/91	066	HU
55565	WASHOE COUNTY	06/18/91	066	HU
55565	WILDMAN, WILLIAM C. & DOROTHY M.	06/26/91	066	HU

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JA0326

** ECO - VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55565	ERIKSEN, WOODROW	06/12/91	066	HU
55565	CHRISTISON, JIM	06/14/91	066	HU
55565	COUNTY OF CHURCHILL	07/05/91	066	HU
55565	HUMBOLT COUNTY	06/20/91	066	HU
55565	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	066	HU
55565	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	066	HU
55565	U. S. FISH & WILDLIFE SERVICE	06/27/91	066	HU
55565	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	066	HU
55565	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	066	HU
55565	CRAWFORTH, TERRY	07/01/91	066	HU
55565	TAYLOR, GREGORY L.	06/20/91	066	HU
55565	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	066	HU
55565	MCCLINTICK, RICK	06/13/91	066	HU
55565	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	066	HU
55565	ELGES, FERN	06/19/91	066	HU
55565	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	066	HU
55565	HETRICK, DANIEL	06/18/91	066	HU
55565	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	066	HU
55565	LANDER COUNTY	06/20/91	066	HU
55565	TOWN OF FERNLEY, NEVADA	07/01/91	066	HU
55565	FULKROD, JOHN M.	06/13/91	066	HU
55565	HAMMOND RANCH, INC.	06/12/91	066	HU
55565	STEWART, LESLIE J.	06/18/91	066	HU
55565	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	066	HU
55565	THE CITY OF WINNEMUCCA	06/12/91	066	HU
55565	HAVEN, EVA	06/11/91	066	HU
55565	BLAND, CHARLOTTE A.	06/13/91	066	HU
55565	GOLD FIELDS OPERATING CO. - CHIMNEY CREEK	06/28/91	066	HU
55565	UNITED STATES BUREAU OF RECLAMATION	07/03/91	066	HU
55565	CHRISTISON, BO HIBBS	06/13/91	066	HU
55566	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	061	EU
55566	TOWN OF FERNLEY, NEVADA	07/01/91	061	EU
55566	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	061	EU
55566	NEWMONT GOLD COMPANY	06/18/91	061	EU
55566	YOMBA SHOSHONE TRIBE	06/25/91	061	EU
55566	CHURCHILL COUNTY	06/28/91	061	EU

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SE ROA 285

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55566	WASHOE COUNTY	06/18/91	061	EU
55566	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	061	EU
55566	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	061	EU
55566	USDI-BLM	06/28/91	061	EU
55566	BARRICK GOLDSTRIKE MINES INC.	06/27/91	061	EU
55566	LANDER COUNTY	06/20/91	061	EU
55566	UNITED STATES BUREAU OF RECLAMATION	06/27/91	061	EU
55566	CRESCENT VALLEY TOWN BOARD	06/26/91	061	EU
55566	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	061	EU
55566	MARSDEN, MICHAEL WILLIAM	06/26/91	061	EU
55566	THE CITY OF ELKO, NEVADA	06/28/91	061	EU
55566	EUREKA COUNTY	06/26/91	061	EU
55566	U. S. FISH & WILDLIFE SERVICE	06/27/91	061	EU
55566	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	061	EU
55566	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	061	EU
55566	HOOK, MICHAEL VINCENT	06/26/91	061	EU
55566	DEE GOLD MINING CO.	06/17/91	061	EU
55566	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	061	EU
55566	TAYLOR, GREGORY L.	06/20/91	061	EU
55566	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	061	EU
55567	TAYLOR, GREGORY L.	06/20/91	059	LA
55567	LANDER COUNTY AIRPORT AUTHORITY	06/20/91	059	LA
55567	CHURCHILL COUNTY	06/20/91	059	LA
55567	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	059	LA
55567	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	059	LA
55567	FILIPPINI, HENRY	06/10/91	059	LA
55567	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	059	LA
55567	U. S. FISH & WILDLIFE SERVICE	06/19/91	059	LA
55567	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	059	LA
55567	LANDER COUNTY	06/20/91	059	LA
55567	BLM	06/18/91	059	LA
55567	MALONE, LYLE & SHARON	06/20/91	059	LA
55567	LANDER COUNTY COMB. SEW. & WAT. DIST. NO. 2	06/20/91	059	LA
55567	SCHWIN, GEORGE E.	06/20/91	059	LA
55567	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	059	LA
55567	BATTLE MOUNTAIN GOLD COMPANY	06/20/91	059	LA

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SE ROA 286

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55567	ECHO BAY MINERALS CO.	06/11/91	059	LA
55567	WASHOE COUNTY	06/18/91	059	LA
55567	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	059	LA
55567	BAMCO EXPLORATION, INC.	06/20/91	059	LA
55567	CHIARA, ROBERT E. & WANDA B.	06/20/91	059	LA
55568	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	051	EU
55568	CHAPONIS, TED	06/26/91	051	EU
55568	MAGGIE CREEK RANCH, INC.	06/17/91	051	EL
55568	UNITED STATES BUREAU OF RECLAMATION	06/27/91	051	EU
55568	CARLIN CITY COUNCIL, LEE GRISWOLD	06/13/91	051	EU
55568	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	051	EU
55568	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	051	EU
55568	CRESCENT VALLEY TOWN BOARD	06/26/91	051	EU
55568	EUREKA COUNTY	06/26/91	051	EU
55568	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
55568	NEWMONT GOLD COMPANY	06/18/91	051	EU
55568	CLELAND, WILLIAM S.	06/26/91	051	EU
55568	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	051	EU
55568	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	051	EL
55568	CHURCHILL COUNTY	06/28/91	051	EU
55568	LANDER COUNTY	06/20/91	051	EU
55568	U. S. FISH & WILDLIFE SERVICE	06/27/91	051	EL
55568	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	051	EU
55568	USDI-BLM	06/28/91	051	EU
55568	THE CITY OF ELKO, NEVADA	06/28/91	051	EU
55568	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	051	EU
55568	YOMBA SHOSHONE TRIBE	06/25/91	051	EU
55568	WASHOE COUNTY	06/18/91	051	EU
55568	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	051	EU
55568	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU
55569	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	059	LA
55569	U. S. FISH & WILDLIFE SERVICE	06/19/91	059	LA
55569	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	059	LA
55569	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	059	LA
55569	LANDER COUNTY COMB. SEW. & WAT. DIST. NO. 2	06/20/91	059	LA
55569	BATTLE MOUNTAIN GOLD COMPANY	06/20/91	059	LA

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SE ROA 287

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55569	CHIARA, ROBERT E.	06/20/91	059	LA
55569	BLM	06/18/91	059	LA
55569	WELCH, ADAM	06/20/91	059	LA
55569	ECHO BAY MINERALS COMPANY	06/11/91	059	LA
55569	MALONE, LYLE & SHARON	06/20/91	059	LA
55569	UNITED STATES BUREAU OF RECLAMATION	06/20/91	059	LA
55569	CHURCHILL COUNTY	06/20/91	059	LA
55569	FILIPPINI, HENRY	06/10/91	059	LA
55569	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	059	LA
55569	WASHOE COUNTY	06/18/91	059	LA
55569	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	059	LA
55569	BAMCO EXPLORATION, INC.	06/20/91	059	LA
55569	LANDER COUNTY AIRPORT AUTHORITY	06/20/91	059	LA
55569	LANDER COUNTY	06/20/91	059	LA
55569	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	059	LA
55569	TAYLOR, GREGORY L.	06/20/91	059	LA
55570	LANDER COUNTY AIRPORT AUTHORITY	06/20/91	059	LA
55570	FILIPPINI, HENRY	06/10/91	059	LA
55570	U. S. FISH & WILDLIFE SERVICE	06/19/91	059	LA
55570	LANDER COUNTY	06/20/91	059	LA
55570	TAYLOR, GREGORY L.	06/20/91	059	LA
55570	BLM	06/18/91	059	LA
55570	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	059	LA
55570	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	059	LA
55570	BAMCO EXPLORATION, INC.	06/20/91	059	LA
55570	BATTLE MOUNTAIN GOLD COMPANY	06/20/91	059	LA
55570	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	059	LA
55570	WASHOE COUNTY	06/18/91	059	LA
55570	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	059	LA
55570	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	059	LA
55570	SCHWIN, GEORGE E.	06/20/91	059	LA
55570	WELCH, ADAM	06/20/91	059	LA
55570	MALONE, LYLE & SHARON	06/20/91	059	LA
55570	LANDER COUNTY COMB. SEW. & WAT. DIST. NO. 2	06/20/91	059	LA
55570	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	059	LA
55570	ECHO BAY MINERALS COMPANY	06/11/91	059	LA

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SE ROA 288

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55570	CHIARA, ROBERT E. & WANDA B.	06/20/91	059	LA
55570	CHURCHILL COUNTY	06/20/91	059	LA
55571	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	066	HU
55571	TOWN OF FERNLEY, NEVADA	07/01/91	066	HU
55571	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	066	HU
55571	POWELL, BARBARA C.	06/17/91	066	HU
55571	ERIKSEN, WOODROW	06/12/91	066	HU
55571	CHRISTISON, BO HIBBS	06/13/91	066	HU
55571	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	066	HU
55571	FULKROD, JOHN M.	06/13/91	066	HU
55571	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	066	HU
55571	CHRISTISON, JIM	06/14/91	066	HU
55571	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	066	HU
55571	WILDMAN, WILLIAM C. & DOROTHY M.	06/26/91	066	HU
55571	TAYLOR, GREGORY L.	06/20/91	066	HU
55571	JOHNSON, JACK H.	06/17/91	066	HU
55571	HAMMOND RANCH, INC.	06/12/91	066	HU
55571	LAU, C. REID	06/13/91	066	HU
55571	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	066	HU
55571	HAVEN, EVA	06/11/91	066	HU
55571	HUMBOLDT GAME PRESERVE, INC.	06/14/91	066	HU
55571	LANDER COUNTY	06/20/91	066	HU
55571	CRAWFORTH, TERRY	07/01/91	066	HU
55571	U. S. FISH & WILDLIFE SERVICE	06/27/91	066	HU
55571	BLAND, CHARLOTTE A.	06/13/91	066	HU
55571	PINSON MINING COMPANY, by HENRY REED	07/02/91	066	HU
55571	HUMBOLT COUNTY	06/20/91	066	HU
55571	WASHOE COUNTY	06/18/91	066	HU
55571	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	066	HU
55571	THE CITY OF WINNEMUCCA	06/12/91	066	HU
55571	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	066	HU
55571	HANEL, SUZAN	06/17/91	066	HU
55571	JONES, DONALD J.	06/12/91	066	HU
55571	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	066	HU
55571	UNITED STATES BUREAU OF RECLAMATION	07/03/91	066	HU
55571	COUNTY OF CHURCHILL	07/05/91	066	HU

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SE ROA 289

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55571	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	066	HU
55571	GOLD FIELDS OPERATING CO. - CHIMNEY CREEK	06/28/91	066	HU
55571	MCCLINTICK, RICK	06/13/91	066	HU
55571	ANDERSEN, PHYLLIS A.	06/17/91	066	HU
55571	HAVEN, EDWARD G.	06/11/91	066	HU
55572	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	061	EU
55572	LANDER COUNTY	06/20/91	061	EU
55572	THE CITY OF ELKO, NEVADA	06/28/91	061	EU
55572	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	061	EU
55572	CHURCHILL COUNTY	06/28/91	061	EU
55572	JAMES, DON	06/26/91	061	EU
55572	WASHOE COUNTY	06/18/91	061	EU
55572	USDI-BLM	06/28/91	061	EU
55572	TAYLOR, GREGORY L.	06/20/91	061	EU
55572	YOMBA SHOSHONE TRIBE	06/25/91	061	EU
55572	UNITED STATES BUREAU OF RECLAMATION	06/27/91	061	EU
55572	EUREKA COUNTY	06/26/91	061	EU
55572	TOWN OF FERNLEY, NEVADA	07/01/91	061	EU
55572	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	061	EU
55572	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	061	EU
55572	BARRICK GOLDSTRIKE MINES INC.	06/27/91	061	EU
55572	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	061	EU
55572	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	061	EU
55572	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	061	EU
55572	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	061	EU
55572	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	061	EU
55572	SCOTT, LAURA MAE	06/26/91	061	EU
55572	DEE GOLD MINING CO.	06/17/91	061	EU
55572	CRESCENT VALLEY TOWN BOARD	06/26/91	061	EU
55572	NEWMONT GOLD COMPANY	06/18/91	061	EU
55572	U. S. FISH & WILDLIFE SERVICE	06/27/91	061	EU
55573	HAVEN, EVA	06/11/91	032	HU
55573	U. S. FISH & WILDLIFE SERVICE	06/19/91	032	HU
55573	LAU, C. REID	06/13/91	032	HU
55573	ERIKSEN, RILDA	06/12/91	032	HU
55573	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	032	HU

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SE ROA 290

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55573	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	032	HU
55573	AMAX GOLD INC. & AMAX EXPLORATION INC.	06/20/91	032	HU
55573	HAVEN, EDWARD G.	06/11/91	032	HU
55573	KEY, MIKE AND DRUE	06/13/91	032	HU
55573	MOSER, JIM L.	06/14/91	032	HU
55573	SMITH, BLAINE J.	06/13/91	032	HU
55573	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	032	HU
55573	KEY, ROBERT F.	06/13/91	032	HU
55573	BELL, LILLA H.	06/21/91	032	HU
55573	PINE GROVE FARMS	06/19/91	032	HU
55573	BENGOA RANCHING CO.	06/12/91	032	HU
55573	UGALDE, DANIEL & SAMMYE	06/18/91	032	HU
55573	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	032	HU
55573	FULKROD, JOHN M.	06/13/91	032	HU
55573	HETRICK, DANIEL	06/18/91	032	HU
55573	UNITED STATES BUREAU OF RECLAMATION	06/20/91	032	HU
55573	HUMBOLDT GAME PRESERVE, INC.	06/14/91	032	HU
55573	BLAND, CHARLOTTE A.	06/13/91	032	HU
55573	DELONG RANCHES, INC., CALDWELL, ROBERT N.	06/14/91	032	HU
55573	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	032	HU
55573	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	032	HU
55573	McERQUIAGA, HENRY V.	06/20/91	032	HU
55573	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	032	HU
55573	LANDER COUNTY	06/20/91	032	HU
55573	WASHOE COUNTY	06/18/91	032	HU
55573	MERTENS, JEANNIE	06/14/91	032	HU
55573	CHURCHILL COUNTY	06/20/91	032	HU
55573	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	032	HU
55573	THE CITY OF WINNEMUCCA	06/12/91	032	HU
55573	MCCLINTICK, RICK	06/13/91	032	HU
55573	TIM DELONG CATTLE CO.	06/10/91	032	HU
55573	HETRICK BROS., INC.	06/14/91	032	HU
55573	POWELL, DOROTHY S.	06/17/91	032	HU
55573	JONES, DONALD J.	06/12/91	032	HU
55573	HUMBOLT COUNTY	06/20/91	032	HU
55573	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	032	HU

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SE ROA 291

** ECO - VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55574	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	032	HU
55574	ERIKSEN, WOODROW	06/12/91	032	HU
55574	KEY, ROBERT F.	06/13/91	032	HU
55574	UNITED STATES BUREAU OF RECLAMATION	06/20/91	032	HU
55574	CHURCHILL COUNTY	06/20/91	032	HU
55574	POWELL, DOROTHY S.	06/19/91	032	HU
55574	HUMBOLT COUNTY	06/20/91	032	HU
55574	AMAX GOLD INC. & AMAX EXPLORATION INC.	06/20/91	032	HU
55574	U. S. FISH & WILDLIFE SERVICE	06/19/91	032	HU
55574	McERQUIAGA, HENRY V.	06/20/91	032	HU
55574	NEVADA DEPARTMENT OF WILDLIFE	06/20/91	032	HU
55574	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	032	HU
55574	PINE GROVE FARMS	06/19/91	032	HU
55574	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	032	HU
55574	KEY, MIKE AND DRUE	06/13/91	032	HU
55574	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/20/91	032	HU
55574	MERTENS, JEANNIE	06/14/91	032	HU
55574	FULKROD, JOHN M.	06/13/91	032	HU
55574	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	032	HU
55574	HETRICK, DANIEL	06/18/91	032	HU
55574	HETRICK BROS., INC.	06/14/91	032	HU
55574	TIM DELONG CATTLE CO.	06/10/91	032	HU
55574	WASHOE COUNTY	06/18/91	032	HU
55574	MOSER, JIM L.	06/14/91	032	HU
55574	HAVEN, EDWARD G.	06/11/91	032	HU
55574	LANDER COUNTY	06/20/91	032	HU
55574	BLAND, CHARLOTTE A.	06/13/91	032	HU
55574	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	032	HU
55574	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	032	HU
55574	UGALDE, DANIEL & SAMMYE	06/18/91	032	HU
55574	JONES, DONALD J.	06/12/91	032	HU
55574	MCCLINTICK, RICK	06/13/91	032	HU
55574	HUMBOLDT GAME PRESERVE, INC.	06/14/91	032	HU
55574	LAU, C. REID	06/13/91	032	HU
55574	BENGOA RANCHING CO.	06/12/91	032	HU
55574	PERSHING COUNTY BOARD OF COMMISSIONERS	06/19/91	032	HU

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SE ROA 292

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55574	DELONG RANCHES, INC., CALDWELL, ROBERT N.	06/14/91	032	HU
55574	THE CITY OF WINNEMUCCA	06/12/91	032	HU
55574	HAVEN, EVA	06/11/91	032	HU
55707	WASHOE COUNTY	06/18/91	054	EU
55707	CRESCENT VALLEY TOWN BOARD	06/26/91	054	LA
55707	USDI-BLM	07/12/91	054	EU
55707	THE CITY OF ELKO, NEVADA	06/28/91	054	EU
55707	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	054	LA
55707	NEWMONT GOLD COMPANY DBA DUNPHY RANCH	06/18/91	054	EU
55707	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	054	EU
55707	EUREKA COUNTY	06/26/91	054	LA
55707	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	054	EU
55707	LANDER COUNTY	06/20/91	054	EU
55707	ELKO LAND AND LIVESTOCK COMPANY	06/18/91	054	EU
55707	U. S. FISH & WILDLIFE SERVICE	06/27/91	054	EU
55707	ALVES, MAYNARD	06/17/91	054	EU
55707	TOWN OF FERNLEY, NEVADA	07/01/91	051	EU
55707	WESTERN SHOSHONE NATIONAL COUNCIL	06/24/91	054	EU
55707	C RANCHES, INC.	06/10/91	054	EU
55707	COUNTY OF CHURCHILL	07/05/91	054	EU
55707	SCOTT, JAY	06/26/91	054	LA
55707	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	054	LA
55707	PINSON RANCH	06/13/91	054	EU
55707	U. S. BUREAU OF RECLAMATION	07/11/91	054	EU
55707	NEWMONT GOLD COMPANY	06/18/91	054	EU
55707	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	054	EU
55708	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	129	PE
55708	SHANNON, MENICUCCI, SCHAMBACH ET AL	07/11/91	129	PE
55708	U. S. FISH & WILDLIFE SERVICE	06/27/91	129	PE
55708	BLITTERSWYK, ELIZABETH VAN	07/09/91	129	PE
55708	LANDER COUNTY	06/20/91	129	PE
55708	TOWN OF FERNLEY, NEVADA	07/01/91	129	PE
55708	U. S. BUREAU OF RECLAMATION	07/11/91	129	PE
55708	COUNTY OF CHURCHILL	07/05/91	129	PE
55708	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	129	PE
55708	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	129	PE

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SE ROA 293

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55708	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	129	PE
55708	WASHOE COUNTY	06/18/91	129	PE
55708	COEUR ROCHESTER, INC.	07/02/91	129	PE
55708	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/11/91	129	PE
55708	WOMEN IN MINING, WINNEMUCCA CHAPTER	06/17/91	129	PE
55708	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	129	PE
55708	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	129	PE
55709	BAMCO EXPLORATION, INC.	06/20/91	059	LA
55709	U. S. FISH & WILDLIFE SERVICE	06/27/91	059	LA
55709	FILIPPINI, HENRY	06/10/91	059	LA
55709	BATTLE MOUNTAIN GOLD COMPANY	06/20/91	059	LA
55709	TOWN OF FERNLEY, NEVADA	07/01/91	059	LA
55709	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	059	LA
55709	TAYLOR, GREGORY L.	06/20/91	059	LA
55709	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	059	LA
55709	RENFRO, LEE	06/20/91	059	LA
55709	WELCH, ADAM	06/20/91	059	LA
55709	USDI-BLM	06/28/91	059	LA
55709	THOMPSON, RAYMOND G. & ELIZABETH J.	06/20/91	059	LA
55709	COUNTY OF CHURCHILL	07/05/91	059	LA
55709	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	059	LA
55709	LANDER COUNTY	06/20/91	059	LA
55709	LANDER COUNTY AIRPORT AUTHORITY	06/20/91	059	LA
55709	PINSON RANCH	06/13/91	059	LA
55709	LENABURG, MAX	06/20/91	059	LA
55709	EUREKA COUNTY	07/05/91	059	LA
55709	U. S. BUREAU OF RECLAMATION	07/11/91	059	LA
55709	JULIAN TOMERA RANCHES, BATTLE MOUNTAIN	06/14/91	059	LA
55709	MICKEY, ALESIA N.	07/02/91	059	LA
55709	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	059	LA
55709	MITCHEL, MICHAEL C.	04/11/91	059	LA
55709	LYNGAR, CHERYL L.	06/20/91	059	LA
55709	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	059	LA
55709	WASHOE COUNTY	06/18/91	059	LA
55709	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	059	LA
55709	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	059	LA

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SE ROA 294

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55709	ECHO BAY MINERALS COMPANY	06/11/91	059	LA
55709	LANDER COUNTY COMB. SEW. & WAT. DIST. NO. 2	06/20/91	059	LA
55710	TOWN OF FERNLEY, NEVADA	07/01/91	054	LA
55710	CORTEZ GOLD MINES	07/11/91	054	LA
55710	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	054	LA
55710	DARPER, CHARLES R.	06/26/91	054	LA
55710	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	054	LA
55710	C RANCHES, INC.	06/10/91	054	LA
55710	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	054	LA
55710	WASHOE COUNTY	06/18/91	054	LA
55710	BAMCO EXPLORATION, INC.	06/20/91	054	LA
55710	LANDER COUNTY	06/20/91	054	EU
55710	LANDER COUNTY AIRPORT AUTHORITY	06/20/91	054	LA
55710	USDI-BLM	06/28/91	054	LA
55710	PINSON RANCH	06/13/91	054	LA
55710	U. S. BUREAU OF RECLAMATION	07/11/91	054	LA
55710	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	054	LA
55710	ALVES, MAYNARD	06/17/91	054	LA
55710	THE CITY OF ELKO, NEVADA	06/28/91	054	LA
55710	CRESCENT VALLEY TOWN BOARD	06/26/91	054	LA
55710	SMITH, DORIS A.	06/26/91	054	LA
55710	COUNTY OF CHURCHILL	07/05/91	054	LA
55710	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	054	LA
55710	EUREKA COUNTY	06/26/91	054	LA
55710	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	054	LA
55710	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	054	LA
55710	U. S. FISH & WILDLIFE SERVICE	06/27/91	054	EU
55711	MOSER, JIM L.	06/14/91	031	HU
55711	MERTENS, JEANNIE	06/14/91	031	HU
55711	HAVEN, EDWARD G.	06/11/91	031	HU
55711	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	031	HU
55711	LAU, C. REID	06/13/91	031	HU
55711	MCCLINTICK, RICK	06/13/91	031	HU
55711	CROUCH, VERNON MR. AND MRS.	06/13/91	031	HU
55711	WILDMAN, WILLIAM C. & DOROTHY M.	06/26/91	031	HU
55711	BUNCH, TOM LEE AND SHEILA ANN	06/17/91	031	HU

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SE ROA 295

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55711	COUNTY OF CHURCHILL	07/05/91	031	HU
55711	DELONG RANCHES, INC., CALDWELL, ROBERT N.	06/14/91	031	HU
55711	MCKERMAN, LAURA F.	06/07/91	031	HU
55711	MCCLINTICK, RALPH AND WILMA	07/01/91	031	HU
55711	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	031	HU
55711	THE CITY OF WINNEMUCCA	06/12/91	031	HU
55711	TIM DELONG CATTLE CO.	06/10/91	031	HU
55711	HAVEN, EVA	06/11/91	031	HU
55711	JONES, DONALD J.	06/12/91	031	HU
55711	HUMBOLDT GAME PRESERVE, INC.	06/14/91	031	HU
55711	HUMMEL, MEL	06/07/91	031	HU
55711	UGALDE, DANIEL & SAMMYE	06/18/91	031	HU
55711	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	031	HU
55711	ERIKSEN, RILDA	06/12/91	031	HU
55711	WOMEN IN MINING, WINNEMUCCA CHAPTER	06/17/91	031	HU
55711	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	031	HU
55711	HUMBOLT COUNTY	06/20/91	031	HU
55711	McERQUIAGA, HENRY V.	06/20/91	031	HU
55711	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	031	HU
55711	SMITH, BLAINE J.	06/13/91	031	HU
55711	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	031	HU
55711	HETRICK BROS., INC.	06/14/91	031	HU
55711	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	031	HU
55711	FULKROD, JOHN M.	06/13/91	031	HU
55711	UNITED STATES BUREAU OF RECLAMATION	07/03/91	031	HU
55711	ESPARZA, LOUIE	06/10/91	031	HU
55711	WASHOE COUNTY	06/18/91	031	HU
55711	TOWN OF FERNLEY, NEVADA	07/01/91	031	HU
55711	BENGOA RANCHING CO.	06/12/91	031	HU
55711	ANDERSON, VICTOR O.	06/17/91	031	HU
55711	U. S. FISH & WILDLIFE SERVICE	06/27/91	031	HU
55711	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	031	HU
55711	LANDER COUNTY	06/20/91	031	HU
55711	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	031	HU
55711	KEY, ROBERT F.	06/13/91	031	HU
55711	KEY BRO'S INC.	06/13/91	031	HU

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SE ROA 296

** ECO-VISION, INC. PROTEST FILINGS **

DATE: 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55711	BLAND, CHARLOTTE A.	06/13/91	031	HU
55711	PINE GROVE FARMS	06/19/91	031	HU
55711	BUTTS, MARGARET	06/17/91	031	HU
55711	AMAX EXPLORATION, INC.	07/03/91	031	HU
55712	LANDER COUNTY	06/20/91	031	HU
55712	WILDMAN, WILLIAM C. & DOROTHY M.	06/26/91	031	HU
55712	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	031	HU
55712	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	031	HU
55712	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	031	HU
55712	McERQUIAGA, HENRY V.	06/20/91	031	HU
55712	BLAND, CHARLOTTE A.	06/13/91	031	HU
55712	KEY BRO'S INC.	06/13/91	031	HU
55712	UNITED STATES BUREAU OF RECLAMATION	07/03/91	031	HU
55712	KEY, ROBERT F.	06/13/91	031	HU
55712	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	031	HU
55712	PINE GROVE FARMS	06/19/91	031	HU
55712	POWELL, BARBARA C.	06/17/91	031	HU
55712	MCKERMAN, LAURA F.	06/07/91	031	HU
55712	SMITH, BLAINE J.	06/13/91	031	HU
55712	UGALDE, DANIEL & SAMMYE	06/18/91	031	HU
55712	HAVEN, EVA	06/11/91	031	HU
55712	DELONG RANCHES, INC., CALDWELL, ROBERT N.	06/14/91	031	HU
55712	HUMMEL, MEL	06/07/91	031	HU
55712	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	031	HU
55712	THE CITY OF WINNEMUCCA	06/12/91	031	HU
55712	LAU, C. REID	06/13/91	031	HU
55712	U. S. FISH & WILDLIFE SERVICE	06/27/91	031	HU
55712	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	031	HU
55712	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	031	HU
55712	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	031	HU
55712	WASHOE COUNTY	06/18/91	031	HU
55712	HETRICK BROS., INC.	06/14/91	031	HU
55712	HUMBOLT COUNTY	06/20/91	031	HU
55712	BENGOA RANCHING CO.	06/12/91	031	HU
55712	MOSER, JIM L.	06/14/91	031	HU
55712	BUNCH, TOM LEE AND SHEILA ANN	06/17/91	031	HU

JA0339

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SE ROA 297

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55712	MCCLINTICK, RICK	06/13/91	031	HU
55712	JONES, DONALD J.	06/12/91	031	HU
55712	ERIKSEN, WOODROW	06/12/91	031	HU
55712	HUMBOLDT GAME PRESERVE, INC.	06/14/91	031	HU
55712	HAVEN, EDWARD G.	06/11/91	031	HU
55712	COUNTY OF CHURCHILL	07/05/91	031	HU
55712	TOWN OF FERNLEY, NEVADA	07/01/91	031	HU
55712	TIM DELONG CATTLE CO.	06/10/91	031	HU
55712	FULKROD, JOHN M.	06/13/91	031	HU
55712	MERTENS, JEANNIE	06/14/91	031	HU
55712	AMAX EXPLORATION, INC.	07/03/91	031	HU
55712	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	031	HU
55713	U. S. FISH & WILDLIFE SERVICE	06/27/91	059	LA
55713	COUNTY OF CHURCHILL	07/05/91	059	LA
55713	THOMPSON, RAYMOND G. & ELIZABETH J.	06/20/91	059	LA
55713	TAYLOR, GREGORY L.	06/20/91	059	LA
55713	WASHOE COUNTY	06/18/91	059	LA
55713	BATTLE MOUNTAIN GOLD COMPANY	06/20/91	059	LA
55713	TOWN OF FERNLEY, NEVADA	07/01/91	059	LA
55713	ECHO BAY MINERALS COMPANY	06/11/91	059	LA
55713	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	059	LA
55713	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	059	LA
55713	WELCH, ADAM	06/20/91	059	LA
55713	FILIPPINI, HENRY	06/10/91	059	LA
55713	LANDER COUNTY	06/20/91	059	LA
55713	USDI-BLM	06/28/91	059	LA
55713	MITCHEL, MICHAEL C.	04/11/91	059	LA
55713	LANDER COUNTY AIRPORT AUTHORITY	06/20/91	059	LA
55713	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	059	LA
55713	LENABURG, MAX	06/20/91	059	LA
55713	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	059	LA
55713	EUREKA COUNTY	07/05/91	059	LA
55713	BAMCO EXPLORATION, INC.	06/20/91	059	LA
55713	JULIAN TOMERA RANCHES, BATTLE MOUNTAIN	06/14/91	059	LA
55713	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	059	LA
55713	LYNGAR, CHERYL L.	06/20/91	059	LA

JA0340

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SE ROA 298

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55713	U. S. BUREAU OF RECLAMATION	07/11/91	059	LA
55713	CRAWFORTH, TERRY	07/01/91	059	LA
55713	LANDER COUNTY COMB. SEW. & WAT. DIST. NO. 2	06/20/91	059	LA
55714	U. S. FISH & WILDLIFE SERVICE	06/27/91	055	LA
55714	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	055	LA
55714	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	055	LA
55714	LANDER COUNTY AIRPORT AUTHORITY	06/20/91	055	LA
55714	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	055	LA
55714	U. S. BUREAU OF RECLAMATION	07/11/91	055	LA
55714	COUNTY OF CHURCHILL	07/05/91	055	LA
55714	LANDER COUNTY	06/20/91	055	LA
55714	CRAWFORTH, TERRY	07/01/91	055	LA
55714	TOWN OF FERNLEY, NEVADA	07/01/91	055	LA
55714	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	055	LA
55714	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	055	LA
55714	WESTERN SHOSHONE NATIONAL COUNCIL	06/24/91	055	LA
55714	PINSON RANCH	06/13/91	055	LA
55714	C RANCHES, INC.	06/10/91	055	LA
55714	EUREKA COUNTY	07/05/91	055	LA
55714	USDI-BLM	06/28/91	055	LA
55714	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	055	LA
55714	WASHOE COUNTY	06/18/91	055	LA
55714	BAMCO EXPLORATION, INC.	06/20/91	055	LA
55714	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	055	LA
55714	M-I DRILLING FLUIDS COMPANY ("M-I")	03/27/91	055	LA
55715	CRAWFORTH, TERRY	07/01/91	055	LA
55715	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	055	LA
55715	USDI-BLM	06/28/91	055	LA
55715	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	055	LA
55715	WASHOE COUNTY	06/18/91	055	LA
55715	U. S. FISH & WILDLIFE SERVICE	06/27/91	055	LA
55715	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	055	LA
55715	BAMCO EXPLORATION, INC.	06/20/91	055	LA
55715	U. S. BUREAU OF RECLAMATION	07/11/91	055	LA
55715	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	055	LA
55715	TOWN OF FERNLEY, NEVADA	07/01/91	055	LA

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SE ROA 299

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55715	LANDER COUNTY	06/20/91	055	LA
55715	LANDER COUNTY AIRPORT AUTHORITY	06/20/91	055	LA
55715	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	055	LA
55715	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	055	LA
55715	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	055	LA
55715	COUNTY OF CHURCHILL	07/05/91	055	LA
55715	EUREKA COUNTY	07/05/91	055	LA
55715	M-I DRILLING FLUIDS COMPANY ("M-I")	03/27/91	055	LA
55715	C RANCHES, INC.	06/10/91	055	LA
55716	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	066	HU
55716	HAMMOND RANCH, INC.	06/12/91	066	HU
55716	BUTTS, MARGARET	06/17/91	066	HU
55716	TOWN OF FERNLEY, NEVADA	07/01/91	066	HU
55716	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	066	HU
55716	FULKROD, JOHN M.	06/13/91	066	HU
55716	U. S. FISH & WILDLIFE SERVICE	06/27/91	066	HU
55716	LANDER COUNTY	06/20/91	066	HU
55716	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	066	HU
55716	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	066	HU
55716	HUMBOLT COUNTY	06/20/91	066	HU
55716	COUNTY OF CHURCHILL	07/05/91	066	HU
55716	MCCLINTICK, RICK	06/13/91	066	HU
55716	CRAWFORTH, TERRY	07/01/91	066	HU
55716	WILDMAN, WILLIAM C. & DOROTHY M.	06/26/91	066	HU
55716	THE CITY OF WINNEMUCCA	06/12/91	066	HU
55716	TAYLOR, GREGORY L.	06/20/91	066	HU
55716	UNITED STATES BUREAU OF RECLAMATION	07/03/91	066	HU
55716	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	066	HU
55716	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	066	HU
55716	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	066	HU
55716	BLAND, CHARLOTTE A.	06/13/91	066	HU
55716	WASHOE COUNTY	06/18/91	066	HU
55716	CHRISTISON, JIM	06/14/91	066	HU
55716	GOLD FIELDS OPERATING CO. - CHIMNEY CREEK	06/28/91	066	HU
55716	CHRISTISON, JO HIBBS	06/13/91	066	HU
55716	HAVEN, EVA	06/11/91	066	HU

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JA0342

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

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APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55716	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	066	HU
55716	HUMBOLDT GAME PRESERVE, INC.	06/14/91	066	HU
55716	HAVEN, EDWARD G.	06/11/91	066	HU
55716	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	066	HU
55716	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	066	HU
55717	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	066	HU
55717	HUMBOLDT GAME PRESERVE, INC.	06/14/91	066	HU
55717	HAMMOND RANCH, INC.	06/12/91	066	HU
55717	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	066	HU
55717	FULKROD, JOHN M.	06/13/91	066	HU
55717	THE CITY OF WINNEMUCCA	06/12/91	066	HU
55717	PINSON MINING COMPANY, by HENRY REED	07/02/91	066	HU
55717	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	066	HU
55717	JONES, DONALD J.	06/12/91	066	HU
55717	BLAND, CHARLOTTE A.	06/13/91	066	HU
55717	HAVEN, EDWARD G.	06/11/91	066	HU
55717	WILDMAN, WILLIAM C. & DOROTHY M.	06/26/91	066	HU
55717	CHRISTISON, JO HIBBS	06/13/91	066	HU
55717	MCCLINTICK, RICK	06/13/91	066	HU
55717	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	066	HU
55717	HAVEN, EVA	06/11/91	066	HU
55717	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	066	HU
55717	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	066	HU
55717	WASHOE COUNTY	06/18/91	066	HU
55717	COUNTY OF CHURCHILL	07/05/91	066	HU
55717	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	066	HU
55717	LANDER COUNTY	06/20/91	066	HU
55717	POWELL, DOROTHY S.	06/24/91	066	HU
55717	WOMEN IN MINING, WINNEMUCCA CHAPTER	06/17/91	066	HU
55717	LAU, C. REID	06/13/91	066	HU
55717	UNITED STATES BUREAU OF RECLAMATION	07/03/91	066	HU
55717	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	066	HU
55717	CRAWFORTH, TERRY	07/01/91	066	HU
55717	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	066	HU
55717	U. S. FISH & WILDLIFE SERVICE	06/27/91	066	HU
55717	GOLD FIELDS OPERATING CO. - CHIMNEY CREEK	06/28/91	066	HU

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JA0343

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55717	HUMBOLT COUNTY	06/20/91	066	HU
55717	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	066	HU
55717	TAYLOR, GREGORY L.	06/20/91	066	HU
55717	CHRISTISON, JIM	06/14/91	066	HU
55717	TOWN OF FERNLEY, NEVADA	07/01/91	066	HU
55718	NV GARVEY, N.J. AND CIRCLE A RANCHES L P	06/14/91	066	HU
55718	GOLD FIELDS OPERATING CO. - CHIMNEY CREEK	06/28/91	066	HU
55718	UNITED STATES BUREAU OF RECLAMATION	07/03/91	066	HU
55718	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	066	HU
55718	TAYLOR, GREGORY L.	06/20/91	066	HU
55718	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	066	HU
55718	HAMMOND RANCH, INC.	06/12/91	066	HU
55718	CRAWFORTH, TERRY	07/01/91	066	HU
55718	U. S. FISH & WILDLIFE SERVICE	06/27/91	066	HU
55718	HAVEN, EVA	06/11/91	066	HU
55718	THE CITY OF WINNEMUCCA	06/12/91	066	HU
55718	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	066	HU
55718	WILDMAN, WILLIAM C. & DOROTHY M.	06/26/91	066	HU
55718	HAVEN, EDWARD G.	06/11/91	066	HU
55718	POWELL, BARBARA	06/24/91	066	HU
55718	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	066	HU
55718	WOMEN IN MINING, WINNEMUCCA CHAPTER	06/17/91	066	HU
55718	FULKROD, JOHN M.	06/13/91	066	HU
55718	CHRISTISON, JIM	06/14/91	066	HU
55718	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/02/91	066	HU
55718	COUNTY OF CHURCHILL	07/05/91	066	HU
55718	PINSON MINING COMPANY, by HENRY REED	07/02/91	066	HU
55718	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	066	HU
55718	MCCLINTICK, RICK	06/13/91	066	HU
55718	WILLIAMS, STEPHEN & ANNETTE	06/17/91	066	HU
55718	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	066	HU
55718	BOARD OF COUNTY COMMISSIONERS, LYON COUNTY	07/05/91	066	HU
55718	GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS	06/20/91	066	HU
55718	BLAND, CHARLOTTE A.	06/13/91	066	HU
55718	LANDER COUNTY	06/20/91	066	HU
55718	HUMBOLDT GAME PRESERVE, INC.	06/14/91	066	HU

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JA0344

**** ECO-VISION, INC. PROTEST FILINGS ****

APPLICATION #

PROTESTED BY

55718 WASHOE COUNTY
 55718 CHRISTISON, JO HIBBS
 55718 TOWN OF FERNLEY, NEVADA
 55718 HUMBOLT COUNTY
 55719 WASHOE COUNTY
 55719 BUREAU OF INDIAN AFFAIRS, PHOENIX
 55719 LANDER COUNTY
 55719 BOARD OF COUNTY COMMISSIONERS, LYON COUNTY
 55719 TOWN OF FERNLEY, NEVADA
 55719 POWELL, BARBARA C.
 55719 HUMBOLT COUNTY
 55719 HAVEN, EVA
 55719 CHRISTISON, JO HIBBS
 55719 MCCLINTICK, RICK
 55719 TAYLOR, GREGORY L.
 55719 COUNTY OF CHURCHILL
 55719 BLAND, CHARLOTTE A.
 55719 GOLD FIELDS OPERATING CO. - CHIMNEY CREEK
 55719 FULKROD, JOHN M.
 55719 CHRISTISON, JIM
 55719 THE CITY OF WINNEMUCCA
 55719 PERSHING COUNTY WATER CONSERVATION DISTRICT
 55719 BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY
 55719 HAMMOND RANCH, INC.
 55719 NV GARVEY, N.J. AND CIRCLE A RANCHES L P
 55719 U. S. FISH & WILDLIFE SERVICE
 55719 RABBIT CREEK MINING, INC.
 55719 THE WESTERN BAND OF THE WESTERN SHOSHONE NATION
 55719 T QUARTER CIRCLE RANCHES, TIPTON, F. H.
 55719 WESTERN SHOSHONE NATIONAL COUNCIL
 55719 HAVEN, EDWARD G.
 55719 CRAWFORTH, TERRY
 55719 BELL, LILLA H.
 55719 GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS
 55719 WILDMAN, WILLIAM C. & DOROTHY M.
 55719 GEORGE N. BENESCH, AGENT FOR SIX PROTESTANTS

DATE : 10/29/91

DATE	BASIN #	CO.
06/18/91	066	HU
06/13/91	066	HU
07/01/91	066	HU
06/20/91	066	HU
06/18/91	066	HU
06/13/91	066	HU
06/20/91	066	HU
07/05/91	066	HU
07/01/91	066	HU
06/17/91	066	HU
06/20/91	066	HU
06/11/91	066	HU
06/13/91	066	HU
06/13/91	066	HU
06/20/91	066	HU
07/05/91	066	HU
06/13/91	066	HU
06/28/91	066	HU
06/13/91	066	HU
06/14/91	066	HU
06/12/91	066	HU
06/24/91	066	HU
07/02/91	066	HU
06/12/91	066	HU
06/14/91	066	HU
06/27/91	066	HU
07/02/91	066	HU
06/20/91	066	HU
06/14/91	066	HU
06/24/91	066	HU
06/11/91	066	HU
07/01/91	066	HU
06/21/91	066	HU
06/27/91	066	HU
06/26/91	066	HU
06/20/91	066	HU

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JA0345

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55719	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	066	HU
55719	UNITED STATES BUREAU OF RECLAMATION	07/03/91	066	HU
55719	HUMBOLDT GAME PRESERVE, INC.	06/14/91	066	HU
55720	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	073A	PE
55720	CRAWFORTH, TERRY	07/01/91	073A	PE
55720	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	073A	PE
55720	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	073A	PE
55720	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/11/91	073A	PE
55720	TOWN OF FERNLEY, NEVADA	07/01/91	073A	PE
55720	COEUR ROCHESTER, INC.	07/02/91	073A	PE
55720	LOVELOCK MEADOWS WATER DISTRICT	07/10/91	073A	PE
55720	WASHOE COUNTY	06/18/91	073A	PE
55720	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	073a	PE
55720	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	073A	PE
55720	U. S. BUREAU OF RECLAMATION	07/11/91	073A	PE
55720	COUNTY OF CHURCHILL	07/05/91	073A	PE
55720	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	073A	PE
55720	LANDER COUNTY	06/20/91	073a	PE
55720	BLITTERSWYK, ELIZABETH VAN	07/09/91	073A	PE
55720	WOMEN IN MINING, WINNEMUCCA CHAPTER	06/17/91	073A	PE
55720	U. S. FISH & WILDLIFE SERVICE	06/27/91	073a	PE
55720	SHANNON, MENICUCCI, SCHAMBACH ET AL	07/11/91	073A	PE
55721	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	073A	PE
55721	COEUR ROCHESTER, INC.	07/02/91	073A	PE
55721	T QUARTER CIRCLE RANCHES, TIPTON, F. H.	06/14/91	073A	PE
55721	LANDER COUNTY	06/20/91	073a	PE
55721	U. S. FISH & WILDLIFE SERVICE	06/27/91	073a	PE
55721	SHANNON, MENICUCCI, SCHAMBACH ET AL	07/11/91	073A	PE
55721	BOARD OF COUNTY COMMISSIONERS, PERSHING COUNTY	07/11/91	073A	PE
55721	PERSHING COUNTY WATER CONSERVATION DISTRICT	06/24/91	073a	PE
55721	LOVELOCK MEADOWS WATER DISTRICT	07/10/91	073A	PE
55721	TOWN OF FERNLEY, NEVADA	07/01/91	073A	PE
55721	U.S.D.I. BUREAU OF LAND MANAGEMENT, WINNEM.	06/14/91	073A	PE
55721	BLITTERSWYK, ELIZABETH VAN	07/09/91	073A	PE
55721	THE WESTERN BAND OF THE WESTERN SHOSHONE NATION	06/20/91	073A	PE
55721	WASHOE COUNTY	06/18/91	073A	PE

JA0346

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SE ROA 304

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
55721	UNITED STATES BUREAU OF RECLAMATION	07/03/91	073A	PE
55721	CRAWFORTH, TERRY	07/01/91	073A	PE
55721	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	06/27/91	073A	PE
55721	COUNTY OF CHURCHILL	07/05/91	073A	PE
56303	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56304	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56305	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56306	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56307	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56308	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56309	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56310	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56311	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56312	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56313	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56314	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56315	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56316	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	051	EU
56317	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	061	EU
56318	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	061	EU
56319	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	072	PE
56319	PERSHING COUNTY WATER CONSER. DIST. OF NV	06/13/91	072	PE
56320	BUREAU OF INDIAN AFFAIRS, PHOENIX	06/13/91	048	EL
56303	EUREKA COUNTY	09/17/91	051	EU
56304	EUREKA COUNTY	09/17/91	051	EU
56305	EUREKA COUNTY	09/17/91	051	EU
56306	EUREKA COUNTY	09/17/91	051	EU
56307	EUREKA COUNTY	09/17/91	051	EU
56308	EUREKA COUNTY	09/17/91	051	EU
56309	EUREKA COUNTY	09/17/91	051	EU
56310	EUREKA COUNTY	09/17/91	051	EU
56311	EUREKA COUNTY	09/17/91	051	EU
56312	EUREKA COUNTY	09/17/91	051	EU
56313	EUREKA COUNTY	09/17/91	051	EU
56314	EUREKA COUNTY	09/17/91	051	EU
56315	EUREKA COUNTY	09/17/91	051	EU

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SE ROA 305

JA0347

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
56316	EUREKA COUNTY	09/17/91	051	EU
56317	EUREKA COUNTY	09/17/91	061	EU
56318	EUREKA COUNTY	09/17/91	061	EU
56319	EUREKA COUNTY	09/17/91	072	EU
56320	EUREKA COUNTY	09/17/91	048	EU
56303	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56304	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56305	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56306	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56307	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56308	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56309	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56310	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56311	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56312	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56313	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56314	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56315	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56316	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	051	EU
56317	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	061	EU
56318	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	061	EU
56319	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	072	PE
56320	GEORGE N. BENESCH, AGENT FOR 694 PROTESTANTS	09/19/91	048	EL
56303	LANDER COUNTY	09/19/91	051	EU
56304	LANDER COUNTY	09/19/91	051	EU
56305	LANDER COUNTY	09/19/91	051	EU
56306	LANDER COUNTY	09/19/91	051	EU
56307	LANDER COUNTY	09/19/91	051	EU
56308	LANDER COUNTY	09/19/91	051	EU
56309	LANDER COUNTY	09/19/91	051	EU
56310	LANDER COUNTY	09/19/91	051	EU
56311	LANDER COUNTY	09/19/91	051	EU
56312	LANDER COUNTY	09/19/91	051	EU
56313	LANDER COUNTY	09/19/91	051	EU
56314	LANDER COUNTY	09/19/91	051	EU
56315	LANDER COUNTY	09/19/91	051	EU

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SE ROA 306

JA0348

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
56316	LANDER COUNTY	09/19/91	051	EU
56317	LANDER COUNTY	09/19/91	061	EU
56318	LANDER COUNTY	09/19/91	061	EU
56319	LANDER COUNTY	09/19/91	072	EU
56320	LANDER COUNTY	09/19/91	048	EL
56303	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56304	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56305	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56306	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56307	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56308	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56309	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56310	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56311	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56312	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56313	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56314	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56315	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56316	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	051	EU
56317	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	061	EU
56318	LYON COUNTY BOARD OF COMMISSIONERS	09/27/91	061	EU
56303	TOWN OF FERNLEY	10/04/91	051	EU
56304	TOWN OF FERNLEY	10/04/91	051	EU
56305	TOWN OF FERNLEY	10/04/91	051	EU
56306	TOWN OF FERNLEY	10/04/91	051	EU
56307	TOWN OF FERNLEY	10/04/91	051	EU
56308	TOWN OF FERNLEY	10/04/91	051	EU
56309	TOWN OF FERNLEY	10/04/91	051	EU
56310	TOWN OF FERNLEY	10/04/91	051	EU
56311	TOWN OF FERNLEY	10/04/91	051	EU
56312	TOWN OF FERNLEY	10/04/91	051	EU
56313	TOWN OF FERNLEY	10/04/91	051	EU
56314	TOWN OF FERNLEY	10/04/91	051	EU
56315	TOWN OF FERNLEY	10/04/91	061	EU
56316	TOWN OF FERNLEY	10/04/91	051	EU
56317	TOWN OF FERNLEY	10/04/91	061	EU

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SE ROA 307

JA0349

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
56318	TOWN OF FERNLEY	10/04/91	061	EU
56319	TOWN OF FERNLEY	10/04/91	072	EU
56320	TOWN OF FERNLEY	10/04/91	048	EU
56303	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56304	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56305	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56306	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56307	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56308	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56309	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56310	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56311	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56312	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56313	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56314	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56315	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56316	CRESCENT VALLEY TOWN BOARD	10/09/91	051	EU
56317	CRESCENT VALLEY TOWN BOARD	10/09/91	061	EU
56318	CRESCENT VALLEY TOWN BOARD	10/09/91	061	EU
56319	CRESCENT VALLEY TOWN BOARD	10/09/91	072	EU
56320	CRESCENT VALLEY TOWN BOARD	10/09/91	048	EU
56319	PERSHING COUNTY BOARD OF COMMISSIONERS	10/14/91	072	EU
56303	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56304	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56305	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56306	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56307	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56308	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56309	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56310	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56311	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56312	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56313	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56314	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56315	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU
56316	U.S. FISH AND WILDLIFE SERVICE	10/17/91	051	EU

JA0350

SPI APP 296

SE ROA 308

** ECO-VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
56317	U.S. FISH AND WILDLIFE SERVICE	10/17/91	061	EU
56318	U.S. FISH AND WILDLIFE SERVICE	10/17/91	061	EU
56319	U.S. FISH AND WILDLIFE SERVICE	10/17/91	072	EU
56320	U.S. FISH AND WILDLIFE SERVICE	10/17/91	048	EU
56303	U.S.D.I.-B.L.M.	10/16/91	051	EU
56304	U.S.D.I.-B.L.M.	10/16/91	051	EU
56305	U.S.D.I.-B.L.M.	10/16/91	051	EU
56306	U.S.D.I.-B.L.M.	10/16/91	051	EU
56307	U.S.D.I.-B.L.M.	10/16/91	051	EU
56308	U.S.D.I.-B.L.M.	10/16/91	051	EU
56309	U.S.D.I.-B.L.M.	10/16/91	051	EU
56310	U.S.D.I.-B.L.M.	10/16/91	051	EU
56311	U.S.D.I.-B.L.M.	10/16/91	051	EU
56312	U.S.D.I.-B.L.M.	10/16/91	051	EU
56313	U.S.D.I.-B.L.M.	10/16/91	051	EU
56314	U.S.D.I.-B.L.M.	10/16/91	051	EU
56315	U.S.D.I.-B.L.M.	10/16/91	051	EU
56316	U.S.D.I.-B.L.M.	10/16/91	051	EU
56317	U.S.D.I.-B.L.M.	10/16/91	061	EU
56318	U.S.D.I.-B.L.M.	10/16/91	061	EU
56320	U.S.D.I.-B.L.M.	10/16/91	048	EU
56303	WALTER H. EDWARDS	10/18/91	051	EU
56304	BARBARA J. PEREZ	10/18/91	051	EU
56305	CHARLES R. HARPER	10/18/91	051	EU
56306	DONALD R. BENFORD	10/18/91	051	EU
56307	DON McMANAMAN	10/18/91	051	EU
56308	WILLIAM S. BENNETT	10/18/91	051	EU
56309	LAURA MAE SCOTT	10/18/91	051	EU
56310	JAY SCOTT	10/18/91	051	EU
56311	GAYLEN K. SCHWARTZ	10/18/91	051	EU
56312	DAVID A. CASTLE	10/18/91	051	EU
56317	BARRICK GOLDSTRIKE MINES INC.	10/25/91	061	EU
56318	BARRICK GOLDSTRIKE MINES INC.	10/25/91	061	EU
56303	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56304	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56305	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU

JA0351

SPI APP 297

SE ROA 309

** ECO - VISION, INC. PROTEST FILINGS **

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
56306	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56307	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56308	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56309	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56310	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56311	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56312	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56313	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56314	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56315	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56316	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	051	EU
56317	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	061	EU
56318	NEWMONT GOLD CO. dba DUNPHY RANCH	10/24/91	061	EU
56303	NEWMONT GOLD COMPANY	10/24/91	051	EU
56304	NEWMONT GOLD COMPANY	10/24/91	051	EU
56305	NEWMONT GOLD COMPANY	10/24/91	051	EU
56306	NEWMONT GOLD COMPANY	10/24/91	051	EU
56307	NEWMONT GOLD COMPANY	10/24/91	051	EU
56308	NEWMONT GOLD COMPANY	10/24/91	051	EU
56309	NEWMONT GOLD COMPANY	10/24/91	051	EU
56310	NEWMONT GOLD COMPANY	10/24/91	051	EU
56311	NEWMONT GOLD COMPANY	10/24/91	051	EU
56312	NEWMONT GOLD COMPANY	10/24/91	051	EU
56313	NEWMONT GOLD COMPANY	10/24/91	051	EU
56314	NEWMONT GOLD COMPANY	10/24/91	051	EU
56315	NEWMONT GOLD COMPANY	10/24/91	051	EU
56316	NEWMONT GOLD COMPANY	10/24/91	051	EU
56317	NEWMONT GOLD COMPANY	10/24/91	061	EU
56318	NEWMONT GOLD COMPANY	10/24/91	061	EU
56303	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56304	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56305	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56306	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56307	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56308	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56309	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU

JA0352

SPI APP 298

SE ROA 310

**** ECO-VISION, INC. PROTEST FILINGS ****

DATE : 10/29/91

APPLICATION #	PROTESTED BY	DATE	BASIN #	CO.
56310	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56311	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56312	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56313	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56314	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56315	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56316	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	051	EU
56317	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	061	EU
56318	ELKO LAND AND LIVESTOCK COMPANY	10/24/91	061	EU

SPI APP 299

SE ROA 311

JA0353

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATIONS)
58372, 58373, 58444, 58445 AND)
58446 FILED TO APPROPRIATE THE)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE AMARGOSA VALLEY)
GROUNDWATER BASIN (230), NYE)
COUNTY, NEVADA.)

RULING

4548

GENERAL

I.

Application 58372 was filed on December 4, 1992, by Amargosa Resources, Inc. (ARI) to appropriate 8.0 cubic feet per second (cfs) of the underground waters of the Amargosa Valley Groundwater Basin, Nye County, Nevada, for municipal purposes. The proposed place of use is described as being within Clark County as defined by NRS § 243.035 through 243.040, inclusive, and the Amargosa Desert Groundwater Basin. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, T.15S., R.49E., M.D.B.&M.¹

II.

Application 58373 was filed on December 4, 1992, by ARI to appropriate 8.0 cfs of the underground waters of the Amargosa Valley Groundwater Basin, Nye County, Nevada, for municipal purposes. The proposed place of use is identical to that described under Application 58372. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 29, T.15S., R.49E., M.D.B.&M.²

III.

Application 58444 was filed on December 28, 1992, by ARI to appropriate 8.0 cfs of the underground waters of the Amargosa Valley Groundwater Basin, Nye County, Nevada, for municipal purposes. The proposed place of use is identical to that described

¹ File No. 58372, official records in the office of the State Engineer.

² File No. 58373, official records in the office of the State Engineer.

under Applications 58372 and 58373. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, T.15S., R.49E., M.D.B.&M.³

IV.

Application 58445 was filed on December 28, 1992, by ARI to appropriate 8.0 cfs. of the underground waters of the Amargosa Desert Groundwater Basin, Nye County, Nevada, for municipal purposes. The proposed manner of use is identical to that described under Applications 58372, 58373 and 58444. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, T.15S., R.49E., M.D.B.&M.⁴

V.

Application 58446 was filed on December 28, 1992, by ARI to appropriate 8.0 c.f.s. of the underground waters of the Amargosa Desert Groundwater Basin, Nye County, Nevada, for municipal purposes. The proposed place of use is identical to that described under Applications 58372, 58373, 58444 and 58445. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, T.15S., R.49E., M.D.B.&M.⁵

VI.

Applications 58372, 58373, 58444, 58445 and 58446 request a diversion rate totaling 40 cfs with a total appropriation of 25,000 acre-feet per year for municipal use. These applications seek to appropriate water from water rights which according to Amargosa Resources, Inc. have been forfeited due to non-use.¹⁻⁵

VII.

All of the subject applications seek to appropriate water from points of diversion which are located upon land currently

³ File No. 58444, official records in the office of the State Engineer.

⁴ File No. 58445, official records in the office of the State Engineer.

⁵ File No. 58446, official records in the office of the State Engineer.

controlled by the Federal Government, more specifically, the United States Department of the Interior, Bureau of Land Management.

VIII.

Nevada Revised Statute Chapter § 533.363(1) requires the State Engineer to notify the County Commissioners if water for which a permit is requested is to be used in a county other than the county in which it is to be appropriated. On April 8, 1993, the State Engineer so notified the Nye County and Clark County Commissioners. Both Boards of County Commissioners notified the State Engineer of their recommendation that ARI's applications be denied.¹

IX.

All of the subject applications were timely protested. In all there were twenty protests filed in the office of the State Engineer.¹⁻³

FINDINGS OF FACT

I.

Applications 58372, 58373, 58444, 58445 and 58446 were filed during December 1992 to appropriate 25,000 acre-feet annually of underground water for municipal purposes within a place of use which was described in general terms as the Amargosa Valley Groundwater Basin and Clark County. During 1993 ARI made proposals to the Southern Nevada Water Authority to sell water and water rights for use in the Las Vegas Basin.⁶ The State Engineer finds that the Clark County Commission voted in the summer of 1993 to reject any plans for taking any water which might be developed by ARI.⁷

⁶ On November 4 and 5, 1993, Southern Nevada Water Authority and the Colorado River Commission held a water summit at which ARI among others presented proposals for bringing additional water to the Las Vegas area. Briefing Papers for Water Summit Proposals at p. 6, official records in the office of the State Engineer.

⁷ Minutes from meeting of the Clark County Board of County Commissioners, July 20, 1993, pp. 104-105.

II.

On July 28, 1994, the applicant filed Applications 60272, 60273, 60274, 60275 and 60276 in the office of the State Engineer which requested to change the manner of use and the place of use of ARI's previous Applications 58372, 58373, 58444, 58445 and 58446 from municipal use within Clark County and the Amargosa Valley Groundwater Basin to wildlife purposes within the Amargosa Valley Groundwater Basin.⁸ The State Engineer finds that the applicant's request to change the manner of use and place of use of their previous applications indicated that ARI had forsaken any plans which were contemplated for developing the water for municipal purposes in the Amargosa Valley Groundwater Basin or Clark County under Applications 58372, 58373, 58444, 58445 and 58446.

III.

Information contained within the records of the State Engineer's office indicates that under the change applications ARI was making a proposal which would have transferred any water rights granted under the change applications to the Federal Government for protection of the endangered and indigenous species in the Ash Meadows discharge area.⁹ The proposal was to leave the water in the ground to take its natural course, wherever that might be. The State Engineer finds that the applicant's specific purposes for the request to change the manner of use and the place of use of their previous applications was the eventual sale or transfer of these rights to a second party for "wildlife" purposes. The State Engineer further finds that to leave the water in its natural state in the ground does not constitute an appropriation for a beneficial use under Nevada law.

⁸ File Nos. 60272, 60273, 60274, 60275 and 60276, official records in the office of the State Engineer.

⁹ Letter from Brent Kolvet, Esq. (counsel of record for ARI) to State Engineer, dated August 27, 1996, File No. 58372, official records in the office of the State Engineer.

IV.

By letter dated June 24, 1996, the State Engineer informed ARI that its change applications did not fall into the category described in NRS § 533.324, which provides for change applications, as Nevada law allowing changes in the point of diversion, place of use and/or manner of use presumes that the water is beneficially used or could be beneficially used under the original permit or application. An earlier priority date may not be retained by using change applications until a project can be formulated for use of water requested appropriation. Therefore, under the provisions of NRS § 533.375 and NRS § 533.370, in reference to the base water right applications, the State Engineer requested ARI submit the following information in order to enable the State Engineer to properly guard the public interest.¹⁻⁵

1. The total cost of the project and the total dollar value of its benefits.
2. The names and addresses of the directors and officers of Amargosa Resources, Inc. as incorporated in 1992. Also, the amount of the corporation's authorized and paid up capital.
3. The financial feasibility and funding for the project, including names and letters of credit from each investor.
4. Since Amargosa Resources, Inc. is not a municipality and the applications were filed for municipal purposes contracts, agreements or options with municipalities that are able to put the water to beneficial use within the twenty years stated on each application.
5. Deeds, leases, or special use permits that show access to the lands described as the points of diversion.
6. Since the points of diversion are presumably not close to the places of use, specify rights-of-way and/or easements from the points of diversion to the places of use. If the points of diversion or conduit routes involve Federal lands, reports of environmental work that have been done in support of the project.

On or about August 27, 1996, ARI responded to the State Engineer's June 24, 1996, letter and indicated that since the State Engineer had in effect rejected the change applications ARI needed additional time to refocus its efforts toward the original purposes set forth in the applications and it was not in a position to finalize some of the information requested. By letter dated August 30, 1996, the State Engineer informed the applicant that the change applications had not actually been rejected, but rather could not be considered unless it could be demonstrated that the water under the base water right applications could be used for a beneficial purpose, and granted the applicants request for additional time through November 1, 1996, to submit the information requested.¹⁻⁵

The State Engineer finds that on November 1, 1996, ARI submitted a package for a development named "Valle del Sol" a Planned Recreational Retirement Community. This proposal consisted of a development outline for a proposed large scale retirement community located within the Amargosa Valley. Additionally information contained within the development outline indicated that ARI had been in communication with a party interested in acquiring ARI's pending applications for development purposes. An examination of the records of the State Engineer's office failed to reveal any mention of a proposal for development of a retirement community prior to November 1, 1996.

The State Engineer finds that the utilization of water to support the development of the retirement community is a relatively new proposal which is unrelated to the original purpose for which the subject applications were filed. The State Engineer further finds that this latest proposal represents an attempt on the part of the applicant to find a project to support its applications and to justify the continued existence of the applications. The State Engineer further finds that the "Valle del Sol" project does not indicate the ownership of any land upon which the water would be

beneficially used, but rather speculates land may be obtained pursuant to an exchange agreement or purchased in the Amargosa Valley in the future.

V.

An application to appropriate water is a request to develop a specific amount of water from a specific point of diversion for a specific use within a well defined place of use.¹⁰ Over the period of time from December 1992 through November 1, 1996, ARI has proposed at least three separate unrelated projects in which to utilize the water sought under their various applications. The State Engineer finds there has been no single long term project proposed for the subject applications since their initial filing in December 1992. The State Engineer finds that ARI went after water merely in hopes of selling it to someone else for a profit upon finding a project in which the water could be used.

VI.

The November 1, 1996, response provided, at best, only general answers to a limited number of the State Engineer's questions. The State Engineer finds that there is nothing in the individual application files, in ARI's answers to the June 24, 1996, inquiry or in the record of the State Engineer's office that would indicate that ARI has the financial ability to develop its applications or is able to obtain the necessary legal authority to divert, transport and develop any water from, to and upon lands which are for the most part currently controlled by the federal government.

VII.

The State Engineer recognizes that the Nevada Legislature is becoming increasingly concerned over applications and permits filed for speculation where the sole intent of the applicant is not to place the water to a beneficial use, but merely to profit from the

¹⁰ NRS § 533.335.

sale of water rights to interested parties.¹¹ ARI applied for a very significant quantity of water and then went looking for a project. First, it went looking to Clark and Nye Counties as a potential buyer for any water it acquired. When that did not work it filed the change applications and tried a wholly novel approach of keeping the water in the groundwater basin and selling the water to the Federal Government for wildlife purposes. After ARI was informed that the change applications did not fall within the provisions of NRS § 533.324 it went shopping for a developer who might be willing to purchase any water rights granted under the original applications. The State Engineer finds that ARI's attempts to transfer their applications first to Clark County for municipal purposes, then to the Federal Government for wildlife purposes and finally to a developer for a retirement community in the Amargosa Valley is by definition speculation. The applicant itself never had a specific project pursuant to which it would put the water to beneficial use.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and of the subject matter of the action and determination.¹²

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:¹³

- A. there is no unappropriated water at the proposed source, or

¹¹ NRS § 533.370(1). See also, Report to the 1995 Legislature for the Interim Committee to Study Use, Allocation and Management of Water (LCB Bulletin #95-4).

¹² NRS § Chapters 533 and 534.

¹³ NRS § 533.370.

- B. the proposed use conflicts with existing rights, or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest. The State Engineer concludes that the applicant has failed to provide sufficient information to adequately guard the public interest.

IV.

The State Engineer concludes that since ARI is not a municipality, or the steward of the State's wildlife, that the subject applications were filed solely for possible resale and speculation. The State Engineer concludes that ARI put the cart before the horse in that it applied for water before having a definite project. NRS § 533.370(1)(c)(2) provides that an applicant must provide the State Engineer proof satisfactory of his financial ability and reasonable expectation to actually construct the work and apply the water to the intended beneficial use with reasonable diligence. The only information provided in "Valle del Sol" materials was that a construction/development company had entered into an agreement with ARI to acquire any water rights granted under the original applications for development purposes at a location to later be determined.

V.

The records of the State Engineer's office contain no evidence that the applicant has the financial ability to place the water sought under Applications 58372, 58373, 58444, 58445 and 58446 to a beneficial use. The State Engineer concludes that it would not be in the public interest to approve applications where the applicant has no intention itself of ever building a project, where

¹⁴ NRS § 533.375.

Ruling
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the applicant cannot demonstrate the financial ability to place the water to beneficial use and the only information provided as to a project under which the water would be used is that a developer has an agreement to acquire water rights for development purposes at an unknown location.

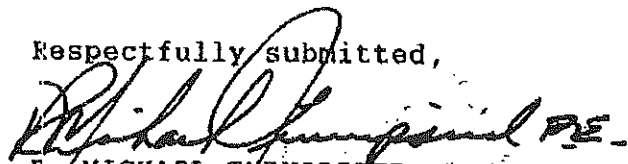
VI.

All of the subject applications seek to appropriate, transport and develop water from lands which are controlled primarily by the federal government. There is no evidence contained within the State Engineer's office which would indicate the applicant has or can obtain the legal authority to this land even though the applicant was required to provide such information. The State Engineer concludes that it would not be in the public interest to approve applications for use upon lands where the applicant does not control both the proposed well locations and the proposed places of use.

RULING

Applications 58372, 58373, 58444, 58445 and 58446 are hereby denied on the grounds that the approval of the subject applications would not be in the public interests. The applicant has no specific project in mind for any water granted under these applications, but rather is merely looking for a buyer in order to profit from the sale of the water. No ruling is made on the merits of the protests.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/ab

Dated this 25th day of
July, 1997.

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF PROTESTED)
APPLICATION 69664 FILED TO CHANGE THE)
POINT OF DIVERSION OF THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
PREVIOUSLY APPROPRIATED UNDER)
PERMIT 64978 WITHIN THE DRY VALLEY)
HYDROGRAPHIC BASIN (95), WASHOE)
COUNTY, NEVADA.)

RULING

#5568

GENERAL

I.

Application 69664 was filed on February 25, 2003, by Intermountain Pipeline, Ltd. and later assigned to Intermountain Water Supply, Ltd. a Nevada Limited Liability Company to change the point of diversion of 2.0 cubic feet per second (cfs) of underground water previously permitted for appropriation under Permit 64978. The proposed manner of use and place of use is described on the application as being for municipal and domestic purposes within the Lemmon Valley Hydrographic Basin. The proposed place of use is further described as being located within Sections 1 through 36, T.21N., R.19E., M.D.B.&M.; Section 36, T.21N., R.18E., M.D.B.&M.; Sections 1 through 12, 15, 16, and 17, T.20N., R.19E., M.D.B.&M.; and Sections 1 and 12, T.20N., R.18E., M.D.B.&M. The changes requested by Application 69664, if approved, would transfer the applicant's existing point of diversion from the NW¼ NW¼ of Section 11, T.24N., R.19E., M.D.B.&M. to a point which is located within the SE¼ SW¼ of Section 9, T.24N., R.18E., M.D.B.&M.¹

II.

Application 69664 was timely protested by Norman Knox on the following grounds:¹

I am owner of S½ Sec 9 T24N R18E and Intermountain has no permission to be on the land and I don't want the water to leeeve [sic] the dry valley basin.

III.

Application 69664 was timely protested by Washoe County on the following grounds:¹

The above referenced applications are filed by Intermountain Pipeline Ltd. to appropriate a total combined duty of 2997.00 acre-feet annually. The points of

¹ File No. 69664, official records in the Office of the State Engineer.

diversion for these applications are within Dry Valley Hydrographic Basin in Washoe County. U.S.G.S. Reconnaissance Report Number 43 estimates the perennial yield of this basin at 1000.00 acre-feet. Washoe County through the Regional Water Planning Commission has funded a study by U.S.G.S. to better define the discharge out of this basin which will lead to a better understanding of the perennial yield of this basin.

Washoe County hereby requests that Applications 69663, 69664, and 69665 be denied or that the total combined duty of Applications 69663, 69664, 69665, and 66961 (previously protested by Washoe County) be limited to the currently established perennial yield of 1000.00 acre-feet. The County's protest is based on the following grounds:

- Granting of these permits at quantities greater than the safe sustainable yield of this basin would constitute ground water mining and as such is contrary to public interest and contrary to Washoe County Development Code, Public Services and Facilities Element PSF1.10 and PSF1.10.2.
- Based on currently established data, there is only 1000.00 acre-feet of water available in the source.

IV.

Application 69664 was timely protested by Carolyn Mendoza, on the following grounds:¹

Adversely impacts existing water rights for planned land use.

They have NO access to the property unless Mr. Danfelt grants it to them.

Detriment to public interest and to our community [sic].

No easement has been granted to establish a third party well

Detrimental to existing water rights

V.

Application 69664 was timely protested by John Matley & Son, on the following grounds:¹

Dry Valley straddles boundary between NV and Ca

Dry Valley drainage and aquafer [sic] flow west and feed the Long Valley aquafer [sic], important to many users. Water must not be extracted and transferred from this natural system to another unrelated basin as damage will result to the natural ecosystem as well as to agriculture interests in the Long Valley drainage.

VI.

Application 69664 was timely protested by Lassen County, on the following grounds:¹

1. Approval of the subject application will have an adverse impact on flows of Long Valley Creek and, accordingly, will adversely impact existing rights.
2. Approval of the subject application will have an adverse impact on existing down-gradient ground-water users.

3. Approval of the subject application will adversely impact existing water sources presently utilized by livestock and wildlife in the form of springs and seeps as well as vegetation dependent on discharge in and around the proposed point of diversion.
4. Approval of the subject application is not in the public interest because pumping of the volume of ground-water represented by the subject application, particularly when combined with other applications seeking to have the points of diversion changed to the same general area, will result in a water mining situation and long-term detrimental impact on the aquifer.
5. The applicant does not own or control the land upon which it seeks to divert ground-water under the subject application.
6. There is insufficient water in the proposed source.

VII.

Application 69664 was timely protested by David Danfelt, beneficiary to the estate of William S. Dickinson, Wilburn Ranch, on the following grounds:¹

- Adversely impacts existing water rights for planned land use.
- Truck traffic & access to property is an unwanted nuisance.
- Detriment to public interest.
- No easement has been granted to establish a third party well.
- Detriment to existing water rights.

VIII.

Application 69664 was timely protested by Wilburn Ranch and the Estate of William S. Dickinson, Jr., on the following grounds:¹

- 1) Adverse effects on existing water rights and aquafir [sic] viability, to contiguous land holdings spanning Washoe and Lassen Counties.
- 2) Unknown easement provisions and possible negative effects from well access to new site(s), and abuse of any existing easements for other than original purposes.
- 3) Detrimental effects upon valuation and viability of private landholders in Dry Valley in favor of private landholders in Lemon [sic] Valley.
- 4) Unknown effects upon future public interests in Dry Valley, and detrimental effects upon existing domestic wells.

FINDINGS OF FACT

I.

Nevada Revised Statute (NRS) § 533.365(3) provides that it is within the State Engineer's discretion to determine whether a public administrative hearing is necessary to address the merits of a protest to an application to appropriate the public waters of the State of Nevada. The State Engineer finds that in the case of protested Application 69664, there is

sufficient information contained within the records of the Office of the State Engineer to gain a full understanding of the issues and a hearing on this matter is not required.

II.

Application 69664 seeks to change the point of diversion of water previously appropriated under Permit 64978. The proposed point of diversion is located within the SE¼ SW¼ of Section 9, T. 24N., R. 18E., M.D.B.&M. in Washoe County, Nevada. Records from the Washoe County Assessor's interactive website indicates that the land is owned by Wilburn Ranch, Inc.²

The applicant has indicated that it is aware that the proposed point of diversion is located upon Wilburn Ranch land. Additionally, the applicant understands that the issuance of a water right permit does not grant the applicant any rights of ingress or egress to the proposed point of diversion. By letter dated December 8, 2003, the applicant indicated that it would try to negotiate access with the landowner or exercise rights of condemnation.³

Since that time, the applicant has drilled four test wells in lower Dry Valley where access is available. The applicant has advised the Office of the State Engineer that, upon approval of change Application 69664, the applicant will file an additional application to change the point of diversion to an existing test well site. The applicant further suggested that any approval of Application 69664 be conditioned upon filing such application, which would render the access issue at the proposed point of diversion of Application 69664 moot.⁴

Water right permits are issued under a set of terms and conditions that further define the manner in which water can be appropriated for a beneficial use. One of the most common conditions placed on a permit is a provision that the issuance of the permit does not grant the permittee egress or ingress to the permitted point of diversion. Access to a water source, which is located upon private land not controlled by the applicant, must be obtained through understandings and agreements between the parties or some other legal method. Prior to the approval of a water right permit, it must be determined that there is a reasonable expectation that the water requested for appropriation will be placed to its proposed beneficial use. An examination of the land ownership records shows that the applicant does not own or control the land at the proposed point of diversion. However, the applicant has requested that any approval

² See, Office of the Washoe County Assessor Real Property Assessment Data and Assessor's Map, December 6, 2005, within File No. 69664, official records in the Office of the State Engineer.

³ See, Intermountain Pipeline, Ltd. letter to State Engineer, December 8, 2003, within File No. 69664, official records in the Office of the State Engineer.

⁴ See, Intermountain Pipeline, Ltd. letter to State Engineer, October 3, 2005, within File No. 69664, official records in the Office of the State Engineer.

of Application 69664 be conditioned upon the access issue being resolved. The applicant has indicated that the issue will be resolved through negotiating access with the landowner, condemnation, or the filing of an additional change application to a proposed point of diversion where there is legal access.

The State Engineer finds that the issue of access to the proposed point of diversion can be resolved through the conditioning of any approval of Application 69664.

III.

The State Engineer issued Permit 64978, which is the basis for change Application 69664, on January 11, 2002, for an individual duty of 1,447 acre-feet annually (afa) and a total combined duty of Permits 64977, 64978 and 66400 not to exceed 2,996 afa. Permit 64978 was approved for an inter-basin transfer of water with the point of diversion in Dry Valley and the place of use in Lemmon Valley. In approving Permit 64978, the State Engineer made the determination that Permit 64978 complied with the provisions of NRS § 533.370. Application 69664 does not seek an additional appropriation of water, only a change in the point of diversion of an existing water right permit within Dry Valley.

The State Engineer finds that the issues related to water availability and inter-basin transfer have been settled with the issuance of Permit 64978 and will not be revisited for a point of diversion change as proposed under Application 69664.

IV.

A determination was made, after an examination of the records of the Office of the State Engineer, that there is only one additional water right permit, proof or claim filed for the proposed underground water source within the Dry Valley Hydrographic Basin exclusive of the applicant's permits. This is a certificated water right for irrigation and domestic purposes at a duty not to exceed 25.60 afa. The permit number is Permit 28097, Certificate 10521 and the current owner of record is shown as John G. Lenz.⁵ It should be noted that Mr. Lenz is not listed as a protestant to Application 69664. Additionally, the applicant has indicated that there is currently only one house in Dry Valley utilizing an underground domestic water supply.⁶

Evidence submitted by the applicant indicates that there will not be an unreasonable lowering of the water table in the vicinity of the proposed point of diversion.⁷

⁵ Nevada Division of Water Resources, *Water Rights Database Special Hydrographic Abstract*, December 7, 2005.

⁶ See, Intermountain Pipeline, Ltd. letter to State Engineer, October 3, 2005, within File No. 69664, official records in the Office of the State Engineer.

⁷ See, Memorandum, *Intermountain Water Supply - Dry Valley Test Wells*, Smith, Dwight L., P.E., R.G., September 9, 2005, within File No. 69664, official records in the Office of the State Engineer.

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JA0368
SE ROA 326

Nevada water law does not prevent the granting of permits to applicants later in time on the ground that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as any protectible interests in existing domestic wells and the rights of existing appropriators can be satisfied. Additionally, Nevada water law requires the State Engineer to include as a condition of the permit that pumping water pursuant to the permit may be limited or prohibited to prevent any adverse effects on an existing domestic well located within 2,500 feet of the well.⁸ A review of Application 69664 and NRS § 534.110, shows that any permit issued under Application 69664 would fall within the criteria of this statute and would include the above stated permit condition giving the State Engineer the authority to limit or prohibit the pumping of water at the proposed well site.

The State Engineer finds that protections exist within the Nevada water law to protect domestic well owners and existing water right holders from an unreasonable lowering of the water table, should such impacts occur as a result of pumping water at the proposed well site. The State Engineer further finds that none of the protestants currently hold water rights in the Dry Valley Hydrographic Basin.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁹

II.

The State Engineer is prohibited by law from granting a change application to appropriate the public waters where:¹⁰

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

⁸ NRS § 534.110 (5).

⁹ NRS chapters 533 and 534.

¹⁰ NRS § 533.370 (4).

III.

There is one existing water right under Permit 28097, Certificate 10521 for irrigation and domestic purposes and it is associated with one house within the Dry Valley Hydrographic Basin. The owner of this existing right did not file a protest against Application 69664. Evidence from the applicant indicates that approval of Application 69664 will not result in an unreasonable lowering of the water table and therefore, will not impair existing rights or protectible interests in domestic wells. There are also additional protections for existing groundwater rights and existing domestic wells within the Nevada water law should it be determined by the State Engineer that an unreasonable lowering of the water table has occurred.

The State Engineer concludes that Application 69664 will not conflict with existing rights and will not conflict with protectible interests in existing domestic wells

IV.

The protest issues regarding access to the proposed point of diversion can be resolved by conditioning the approval of any permit that may be issued under Application 69664; therefore, the State Engineer concludes that the proposed change in point of diversion will not threaten to prove detrimental to the public interest.

V.

The State Engineer concludes that none of the protestants to Application 69664 hold existing underground water rights within the Dry Valley Hydrographic Basin.

VI.

Application 69664 requests a change in the point of diversion of an existing water right permit issued by the State Engineer under Permit 64978. The State Engineer concludes that the protest issues regarding the inter-basin transfer of water and water availability were settled by the issuance of Permit 64978; therefore, those protest issues are dismissed.

RULING

The protests to Application 69664 are hereby overruled and the application is approved subject to:

1. Existing water rights;
2. Payment of the statutory permit fee;
3. Permit terms and conditions.

As a condition of approval, Application 69664 will be held in abeyance for a period of up to ninety (90) days from the date of this ruling. During that time period, the applicant must provide evidence of access to the proposed point of diversion or file a change application to

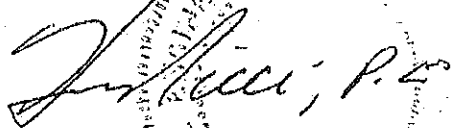
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JA0370
SE ROA 328

Ruling
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move the point of diversion to a location where legal access can be obtained or the permit will not be issued.

Respectfully submitted,


HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 28th day of

February, 2006.

SPI APP 317

JA0371
SE ROA 329

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION)
70486 FILED TO APPROPRIATE THE)
UNDERGROUND WATERS OF COLD)
SPRING VALLEY - LONG VALLEY)
HYDROGRAPHIC BASIN SIERRA)
COUNTY, CALIFORNIA FOR USE IN)
WASHOE COUNTY, NEVADA.)

RULING
5612

GENERAL

I.

Application 70486 was filed on September 30, 2003, by the Lifestyle Homes TND, LLC to appropriate 2.0 cubic feet per second of underground water from the Cold Spring Valley - Long Valley Hydrographic Basin, Sierra County, California for quasi-municipal purposes within Washoe County, Nevada, more specifically described as within the S½ NE¼ of Section 3 and the SE¼ of Section 4, Sections 21, 28, 32, 33 and a portion of Section 31, all within T.21N., R.18E., and Section 5 and a portion of Section 6, T.20N., R.18E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 31, T.21N., R.18E., M.D.B.&M.¹

II.

Application 70486 was timely protested by Jerry Zebrack on the grounds that:

1. The project would significantly impact his ranch well in Long Valley, California.
2. The project would be exporting water from California to Nevada.
3. The property of Lifestyle Homes is governed by CC&Rs, which prohibit this use of the property water.²

III.

Application 70486 was timely protested by Janet I. Loverin on the grounds that:

1. The application does not clearly identify the source of water and proposed well site as being in Long Valley, Sierra County, California.

¹ File No. 70486, official records in the Office of the State Engineer. Exhibit No. 1, public administrative hearing before the Office of the State Engineer, May 25, 2005. Hereinafter the transcript and exhibits from the hearing will be referred to solely by exhibit number or transcript page.

² Exhibit No. 3.

2. The application does not identify the proposed project as an interstate water exportation project.
3. The project will have a significant impact on Sierra County agricultural residents and the applicant has not secured any California state, county or regional approvals necessary for the project.
4. The proposed point of diversion is located within the Pine Valley Subdivision and is a violation of the subdivision's Conditions, Covenants and Restrictions, which state that the property is designated for single family residences only and not a quasi-municipal water exportation project.³

IV.

Application 70486 was timely protested by Stonehouse Ranch Properties on the grounds that:

1. The point of diversion is in California and not Nevada.
2. There is no indication the project is an interstate water importation project.
3. The project could have a significant impact on Sierra County agricultural residents.⁴

V.

Application 70486 was timely protested by Washoe County on the grounds that:

1. Granting the application could be detrimental to the public interest and could conflict with existing rights.
2. There are no published reports on the perennial yield of this particular basin, a vast majority of which lies within the State of California. The records of the State Engineer are void of any data relative to the existing appropriations or pumpage with the California portion of the Long Valley Basin and until such information is compiled it is difficult to determine if there is any water available for appropriation. Therefore, the commitment of this particular resource in support of new development in Washoe County without the necessary information on resource availability is not in the public interest.⁵

VI.

Application 70486 was timely protested by Utilities, Inc. of Nevada (UIN) on the grounds that:

1. UIN is an investor-owned public utility providing water to approximately 2,500 customers within its service territory located in Cold Springs Basin (Basins 100 &

³ Exhibit No. 4.

⁴ Exhibit No. 5.

⁵ Exhibit No. 6.

100A) and UIN is required by law to provide reliable and reasonably adequate water service to its existing customers and to fulfill commitments to future customers as demonstrated by will serve letters. UIN is the beneficiary of existing permits and senior priority applications pending in Cold Springs Basin (Basins 100 & 100A). Two of UIN's wells (Well Nos. 6 & 7) are located in the southwest part of its service territory and the proposed point of diversion is adjacent to those wells; therefore, recharge to Well Nos. 6 & 7 could be impaired and the use of water as contemplated by the application could interfere with and adversely affect UIN's existing water rights and negatively affect UIN's ability to fulfill its service obligations.

2. In addition, UIN anticipates that it will need to drill an additional well or wells in the same area as the proposed point of diversion in order to accommodate projected growth; therefore, the proposed project would unreasonably inhibit UIN's ability to accommodate projected growth and expansion. Moreover, in light of the over-appropriated status of the basins in general, the proposed appropriation could adversely impact UIN's ability to utilize the resource to serve its customers.

UIN requested the application be denied on the grounds that the use of water as proposed would impair the use of water rights UIN currently uses to serve existing customers, and that the public interest would not be served because it would unreasonably inhibit UIN's ability to accommodate projected growth and expansion.⁶

VII.

After all parties were duly noticed, a public administrative hearing was held before the Office of the State Engineer on May 25, 2005.⁷

FINDINGS OF FACT

I.

By information provided at the administrative hearing and by letter dated June 28, 2005, the Applicant reduced the amount requested for appropriation to 75 gallons per minute and a total duty of 120 acre-feet annually.⁸

⁶ Exhibit No. 7.

⁷ Transcript and Exhibits, public administrative hearing May 25, 2005, official records of the Office of the State Engineer.

⁸ File No. 70486, official records of the Office of the State Engineer and Transcript, pp. 16-17.

II.

The State Engineer finds that Protestant Jerry Zebrack did not appear at the public administrative hearing; therefore, no testimony or evidence was provided in support of his protest claim that the project would significantly impact his ranch well in Long Valley, California. An unsigned copy of Declaration of Protective Covenants Pine Valley Ranch⁹ was introduced into evidence at the hearing. Under Section II – Land Use – it indicates that “[p]arcel[s] in the Supplemental Declaration shall be designated therein as to their permissible uses and shall thereupon become subject to the restrictive or other provisions of this Declaration relating to such uses.” “Only activities connected with the designated uses may be carried out on any parcel.” The Supplemental Declaration was not put into evidence and there is no evidence as to the designation for the parcel where the proposed point of diversion is located. Further, the Declaration of Protective Covenants provides that its enforcement is by the Pine Valley Ranch Architectural Committee. The State Engineer finds there is not substantial evidence to support the protest claim that use of water as proposed under the application violates the Declaration of Protective Covenants and it is not within the State Engineer’s jurisdictional authority to enforce covenants, codes and restrictions of a subdivision in California. The State Engineer finds Nevada Revised Statute (NRS) § 533.515 provides for the importation of water into Nevada.

III.

Application 70486 clearly identifies the proposed point of diversion by legal description; therefore, the State Engineer finds it does clearly identify the source of water and proposed well site as being in California.

IV.

The State Engineer finds that while the application does not use the words “proposed interstate water exportation project,” by the legal descriptions provided, it adequately informs that the proposed point of diversion is in California and the proposed place of use is in Nevada.

⁹ Exhibit No. 14.

V.

The State Engineer finds no substantial evidence was provided to support the protest claim that the use of water as proposed would have a significant impact on Sierra County agricultural residents.

VI.

The point of diversion proposed under Application 70486 is located in Sierra County, California. Protestant UIN argues that this application seeks to appropriate the water of California over which the State Engineer has no jurisdiction notwithstanding the provisions of NRS § 533.515. UIN argues that the application form indicates that the application is a request to appropriate the public waters of the State of Nevada, which is the only water over which the State Engineer has any jurisdiction and as such the form cannot be used to appropriate the waters of California.

Nevada Revised Statute § 533.515 provides that:

1. No permit for the appropriation of water or application to change the point of diversion under an existing water right may be denied because of the fact that the point of diversion described in the application for the permit, or any portion of the works in the application described and to be constructed for the purpose of storing, conserving, diverting or distributing the water are situated in any other state; but in all such cases where the place of intended use, or the lands, or part of the lands to be irrigated by means of the water, are situated within this state, the permit must be issued as in other cases, pursuant to the provisions of NRS 533.324 to 533.450, inclusive, and chapter 534 of NRS.
2. The permit must not purport to authorize the doing or refraining from any act or thing, in connection with the system of appropriation, not properly within the scope of the jurisdiction of this state and the State Engineer to grant.

Nevada Revised Statute § 533.515 does not provide the State Engineer with jurisdiction over the waters in another state, but rather is recognition that water from another state may be used in Nevada, and if it comes into Nevada, the State Engineer has jurisdiction over its use. A permit issued under this statutory provision does not purport to authorize the doing of an act not properly within the scope of the jurisdiction of the State Engineer. The permit issued under this statutory provision is not authorizing the appropriation of water in California, but rather is authorizing the use of that water in Nevada.

The State Engineer finds that perhaps a different form could have been created that indicates it is a permit for use of water in Nevada; however, based on the statutory language which provides that a permit must be issued as in other cases, pursuant to the provisions of NRS §§ 533.324 to 533.450, inclusive, and chapter 534 of NRS, the form used by the applicant was the standard form for appropriating water provided by the Office of the State Engineer. Not many of these types of applications have been requested over the history of the agency, and obviously no separate form was created. The State Engineer finds the argument about the water right application is merely form over substance. The State Engineer finds that NRS § 533.515 does not preclude an applicant from the requirements of any other regulatory authority having jurisdiction over the appropriation of water in California. The State Engineer finds that NRS § 533.515 does not give him jurisdiction over the appropriation of water in California, but rather gives him jurisdiction to regulate its use in Nevada and determine if his authority whether there is water available for appropriation whether the proposed use will conflict with existing rights or protectible interests in domestic wells or threaten to prove detrimental to the public interest.

VII.

The State Engineer finds the records of the Office of the State Engineer do not indicate that UIN has any pending senior applications in Cold Spring – Long Valley Hydrographic Basin; therefore, this ground of protest is dismissed.

VIII.

UIN protested the Application on the grounds that it anticipates that it will need to drill additional wells in the same area as the proposed point of diversion in order to accommodate projected growth; therefore, the proposed project would unreasonably inhibit UIN's ability to accommodate projected growth and expansion and the public interest would not be served if UIN was unreasonably inhibited in its ability to accommodate projected growth and expansion. Additionally, UIN argues that, moreover, in light of the over-appropriated status of the basins in general, the proposed appropriation could adversely impact UIN's ability to utilize the resource to serve its customers.

The State Engineer has already found that UIN does not have any pending senior applications in the Cold Spring – Long Valley Hydrographic Basin. The State Engineer finds that

Nevada is a prior appropriation state, meaning first in time, first in right. There are no statutory provisions that provide that a water right should be denied to one person because someone else might want to utilize the resource in the future. The State Engineer finds, in the light of UIN's argument that the basins are over-appropriated, its argument lacks merit, because if the basins are over-appropriated for this applicant, they are also over-appropriated if UIN requested to utilize the resource.

IX.

Washoe County protested the application on the grounds that granting it could be detrimental to the public interest and could conflict with existing rights. It argues there are no published reports on the perennial yield of this particular basin, a vast majority of which lies within the State of California. It alleged that the records of the State Engineer are void of any data relative to the existing appropriations or pumpage within the California portion of the Long Valley Basin and until such information is compiled it is difficult to determine if there is any water available for appropriation. Therefore, the commitment of this particular resource in support of new development in Washoe County without the necessary information on resource availability is not in the public interest.

The magnitude of the Long Valley Hydrographic Basin's groundwater resource is not well understood, but the State Engineer previously found in State Engineer's Ruling No. 4673 that information contained within the Washoe County Regional Resource Plan, Final Report¹⁰ suggests that the perennial yield of the Long Valley Hydrographic Basin is approximately 500 to 900 acre-feet. The Applicant's witness indicated that the point of diversion under Application 70486 is located within the drainage of the East Branch of Long Valley Creek. The witness indicated that using the Maxey-Eakin method to estimate recharge potentially available to the point of diversion it yielded an estimate of 1,545 acre-feet annually.¹¹ The Applicant is requesting the State Engineer reject the historical way water has been managed in Nevada, which is on an entire hydrographic

¹⁰ State Engineer's Ruling No. 4673, dated October 28, 1998, official records in the Office of the State Engineer.

¹¹ Exhibit No. 11.

basin analysis, and adopt a sub-basin within a hydrographic basin approach to water availability in its request that the State Engineer only look at the particular drainage as to water availability or use.

The State Engineer finds that in Nevada the groundwater resources have been managed on a perennial yield basis of the entire hydrographic basin. Nevada has never managed groundwater basins where the perennial yield available is only that water actually recharged on a smaller portion of the hydrographic basin. The point of assessing a perennial yield number is management of the system as a whole. Each groundwater basin in Nevada was defined and a perennial yield figure calculated based on a recharge/discharge relationship of the entire basin, which keeps the basin in balance. The State Engineer finds the long-standing policy of the Office of the State Engineer has been to manage hydrographic basins on the basis of the entire basin and management of basins on this basis also allows for the regional consideration of available pumping sites. The State Engineer finds the Maxey-Eakin method to estimate recharge is not appropriately used on a drainage-by-drainage basis, the methodology was made to estimate recharge on an entire hydrologic basin and therefore, was misused by the Applicant in this instance.

The State Engineer finds little to no data was demonstrated to support the Applicant's estimate that recharge potentially available to the point of diversion yielded an estimate of 1,545 acre-feet annually. The State Engineer finds that recharge does not necessarily equate with water available for appropriation. The State Engineer finds the evidence indicated that the Applicant has not secured any California, state, county or regional approvals necessary for any project to export water.

X.

The Applicant provided evidence only as to groundwater pumping on the California side of the border and only as to the upper Long Valley area on the California side of the border and indicated that 102 acre-feet annually are pumped from the upper Long Valley groundwater resource and no information was provided as to any additional groundwater pumping in the California portion of the lower Long Valley.¹² The Applicant did not address any of the relevant information

¹² Exhibit No. 11.