

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

IN THE MATTER OF CHANGE
APPLICATION NOS. 88160 THROUGH
88162 FILED BY THE WALKER BASIN
CONSERVANCY

**CONDITIONAL STIPULATION TO
RESOLVE CERTAIN PROTEST
ISSUES REGARDING APPLICATION
NO. 88160**

RECITALS

1. The Walker Basin Conservancy (the “Conservancy”) has pending before the Nevada State Engineer (the “State Engineer”) Application Nos. 88160 (the “Application”)¹ requesting to change the manner of use and place of use of certain water rights, or portions of certain water rights, adjudicated by that certain Decree (the Walker River Decree) entered April 14, 1936, and amended April 24, 1940, by the District Court (the Walker River Decree Court) of the United States in and for the District of Nevada in that certain action (the Walker River Decree Action) entitled *The United States of America, Plaintiff, vs. Walker River Irrigation District, et al., Defendants*, In Equity Docket No. C-125.

2. The Application was protested by the Walker River Irrigation District (“WRID”), among others.

3. Pursuant to the Administrative Rules and Regulations Regarding Change in Point of Diversion, Manner of Use or Place of Use (the “Administrative Rules and Regulations”) as approved by the Walker River Decree Court, the United States Board of Water Commissioners is participating as a party to these proceedings.

¹ The Application is part of a group of applications, Nos. 88160, 88161 and 88162, that are to be considered jointly.

4. Pursuant to portions of several acts of Congress, which are generally referred to as the Desert Terminal Lakes legislation, the Conservancy was formed to hold and manage land, water appurtenant to land and related interests in the Walker River Basin for, among other things, environmental restoration in the Walker River Basin.

5. The undersigned parties hereto (the "Parties") desire that certain issues raised in protests of the Application by the Parties signatory to this Stipulation be resolved by these Parties in advance of, and to avoid if possible, any scheduled administrative hearing on the Application, and that the Application be approved and granted pursuant to the terms and conditions of this Stipulation.

STIPULATION

NOW, THEREFORE, the Parties hereto, acting either individually or by and through their respective counsel, stipulate and agree as follows:

1. The State Engineer may issue a permit granting the Application, subject to the following terms, conditions and limitations:

(a) The place of use to include the lower Walker River and Walker Lake as set forth in Attachment A of the Application at Item 7.

(b) The "Point of Non-Diversion" for the changed water rights shall be the Yerington Weir, also referred to as the Weir Diversion Structure, which is identical to the current point of diversion of the water rights proposed for change in the Application at Item 6.

(c) The manner of use to be wildlife purposes in accordance with Nevada Revised Statutes Chapter 533 as set forth in the Application at Item 3.

(d) Subject to the continuing jurisdiction and regulation by the State Engineer, the United States Board of Water Commissioners and the Walker River Decree Court.

(e) Subject to the terms and conditions imposed by the Walker River Decree and with the understanding that the water rights changes requested by the Application will not injure or conflict with existing water rights in violation of the Walker River Decree and NRS 533.370(2).

(f) The Chief Deputy Water Commissioner of the United States Board of Water Commissioners (the “Chief Deputy Water Commissioner”) shall administer at the Point of Non-Diversion the full decreed flow rate for the water rights sought for transfer by the Application when such rights are in priority, as set forth in Table 1 below and as provided in subparagraphs (g) and (h) below.

Table 1: App. No. 88160 Water Rights Administered at Yerington Weir

Priority Date	Claim No.	Irrigated Acres	Full Decreed Diversion Rate (cfs)
1864	66	12.0900	0.1449
1865	66	4.8400	0.0582
1870	66	18.3800	0.2207
1875	66	37.7300	0.4532
1880	66	50.6900	0.6085
1885	66	32.2200	0.3867
1890	66	22.5400	0.2705
1895	66	14.9900	0.1796
1900	66	29.0200	0.3486
1905	66	38.7000	0.4648
TOTALS		261.2000	3.1357

(g) The Chief Deputy Water Commissioner shall administer and protect from diversion by others at and downstream of the Point of Non-Diversion the consumptive use portion of the water rights administered pursuant to paragraph 1(f), above, for the new manner of use and

new place of use, when such rights are in priority. The consumptive use portion of the Application's water rights is determined to be 3.10 acre feet per acre during an irrigation season of March 1 to October 31, as set forth in Nevada Division of Water Resources, *Evapotranspiration and Net Irrigation Water Requirements for Nevada* (Huntington and Allen, Jan. 2010) (p.215), for the net irrigation water requirement for alfalfa in Mason Valley, and as previously approved for Permit No. 80700 pursuant to Ruling No. 6271. Table 2 below shows the consumptive use amounts for the Application.

Table 2: App. No. 88160 Water Rights Consumptive Use Portion Administered by Chief Deputy Water Commissioner

Priority Date	Claim No.	Irrigated Acres	Consumptive Use Portion @ 3.1 AFA: Duty (acre-feet)	Consumptive Use Portion at 3.1 AFA: Flow Rate (cfs)
1864	66	12.0900	37.4790	0.0770
1865	66	4.8400	15.0040	0.0310
1870	66	18.3800	56.9780	0.1170
1875	66	37.7300	116.9630	0.2410
1880	66	50.6900	157.1390	0.3230
1885	66	32.2200	99.8820	0.2060
1890	66	22.5400	69.8740	0.1440
1895	66	14.9900	46.4690	0.0960
1900	66	29.0200	89.9620	0.1850
1905	66	38.7000	119.9700	0.2470
TOTALS		261.2000	809.7200	1.6670

(h) The remainder or non-consumptive use portion of the water rights administered pursuant to paragraph 1(f) above when such rights are in priority, shall be administered by the Chief Deputy Water Commissioner in his or her discretion pursuant to the Walker River Decree and the 1953 Rules and Regulations for the Distribution of Water on the

Walker River Stream System, including to avoid conflict with and injury to existing water rights at and downstream of the Point of Non-Diversion and to mitigate hydrologic system losses, from the Point of Non-Diversion to the point or points where the non-consumptive use portion historically returned to the Walker River upstream of the Wabuska Gage.

(i) Each water right changed by the Application may only be exercised in priority when its full decreed amount (see Table 1, above) is available at the Point of Non-Diversion as determined by the Chief Deputy Water Commissioner.

(j) Payment of operation and maintenance charges, including ditch charges, that are properly assessed and come due as if the water rights were still appurtenant to the agricultural lands from which they are changed.

2. The Parties stipulate that a permit subject to the terms and conditions set forth in paragraph 1 above will not injure or conflict with existing water rights in violation of the Walker River Decree and NRS 533.370(2), adversely affect the cost of water for other holders of water rights, lessen the efficiency of the delivery of water within the Walker River Irrigation District, or threaten to prove detrimental to the public interest.

3. By entering into this Stipulation, no Party waives any rights with respect to the content of any future change application, or with respect to any protest thereto, which any of them may file.

4. No Party to this Stipulation waives any right to participate fully in any evidentiary hearing or other proceedings with respect to the Application or any remaining protests or other related matters.

5. The provisions of this Stipulation are not severable, and in the event that this Stipulation is not approved by the State Engineer and the Walker River Decree Court without

changes, it shall be deemed withdrawn without prejudice to any claims or contentions which may have been made or may be made in this proceeding by any Party, and it shall not be admissible as evidence or in any way described or discussed in any proceeding subsequent to any non-approval as described in this paragraph.

6. The Parties to this Stipulation shall support approval by the Walker Decree Court of Application Nos. 88160 as provided in this Stipulation.

7. If the State Engineer, or the Walker Decree Court, does not approve this Stipulation as provided in Paragraph 5 above, no Party to this Stipulation shall be determined to be bound by any provisions or agreements reached and described herein.

8. This Stipulation represents a compromise of the Parties. Except as expressly set forth herein, the provisions of this Stipulation shall not be construed as or deemed to be precedent by any Party, the State Engineer or the Walker River Decree Court with respect to any issue, principle, or interpretation, or application of law and regulations for any purpose, or in connection with any proceeding before a court of law, or any state or federal government regulatory body.

9. This Stipulation may be executed in counterparts or via facsimile or electronic scanning.

**Wolf, Rifkin, Shapiro,
Schulman & Rabkin, LLP**

Woodburn and Wedge

Dated: _____

Dated: _____

By: _____
Don Springmeyer, Esq.
Christopher Mixson, Esq.
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Conservancy*

By: _____
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IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF CHANGE
APPLICATION NOS. 88160 THROUGH
88162 FILED BY THE WALKER BASIN
CONSERVANCY

**CONDITIONAL STIPULATION TO
RESOLVE CERTAIN PROTEST
ISSUES REGARDING APPLICATION
NO. 88161**

RECITALS

1. The Walker Basin Conservancy (the “Conservancy”) has pending before the Nevada State Engineer (the “State Engineer”) Application Nos. 88161 (the “Application”)¹ requesting to change the manner of use and place of use of certain water rights, or portions of certain water rights, adjudicated by that certain Decree (the Walker River Decree) entered April 14, 1936, and amended April 24, 1940, by the District Court (the Walker River Decree Court) of the United States in and for the District of Nevada in that certain action (the Walker River Decree Action) entitled *The United States of America, Plaintiff, vs. Walker River Irrigation District, et al., Defendants*, In Equity Docket No. C-125.

2. The Application was protested by the Walker River Irrigation District (“WRID”), among others.

3. Pursuant to the Administrative Rules and Regulations Regarding Change in Point of Diversion, Manner of Use or Place of Use (the “Administrative Rules and Regulations”) as approved by the Walker River Decree Court, the United States Board of Water Commissioners is participating as a party to these proceedings.

¹ The Application is part of a group of applications, Nos. 88160, 88161 and 88162, that are to be considered jointly.

4. Pursuant to portions of several acts of Congress, which are generally referred to as the Desert Terminal Lakes legislation, the Conservancy was formed to hold and manage land, water appurtenant to land and related interests in the Walker River Basin for, among other things, environmental restoration in the Walker River Basin.

5. The undersigned parties hereto (the "Parties") desire that certain issues raised in protests of the Application by the Parties signatory to this Stipulation be resolved by these Parties in advance of, and to avoid if possible, any scheduled administrative hearing on the Application, and that the Application be approved and granted pursuant to the terms and conditions of this Stipulation.

STIPULATION

NOW, THEREFORE, the Parties hereto, acting either individually or by and through their respective counsel, stipulate and agree as follows:

1. The State Engineer may issue a permit granting the Application, subject to the following terms, conditions and limitations:

(a) The place of use to include the lower Walker River and Walker Lake as set forth in Attachment A of the Application at Item 7.

(b) The "Point of Non-Diversion" for the changed water rights shall be the Yerington Weir, also referred to as the Weir Diversion Structure, which is identical to the current point of diversion of the water rights proposed for change in the Application at Item 6.

(c) The manner of use to be wildlife purposes in accordance with Nevada Revised Statutes Chapter 533 as set forth in the Application at Item 3.

(d) Subject to the continuing jurisdiction and regulation by the State Engineer, the United States Board of Water Commissioners and the Walker River Decree Court.

(e) Subject to the terms and conditions imposed by the Walker River Decree and with the understanding that the water rights changes requested by the Application will not injure or conflict with existing water rights in violation of the Walker River Decree and NRS 533.370(2).

(f) The Chief Deputy Water Commissioner of the United States Board of Water Commissioners (the “Chief Deputy Water Commissioner”) shall administer at the Point of Non-Diversion the full decreed flow rate for the water rights sought for transfer by the Application when such rights are in priority, as set forth in Table 1 below and as provided in subparagraphs (g) and (h) below.

Table 1: App. No. 88161 Water Rights Administered at Yerington Weir

Priority Date	Claim No.	Irrigated Acres	Full Decreed Diversion Rate (cfs)
1864	138	35.7911	0.2994
1865	138	14.1498	0.1697
1870	138	54.2705	0.6512
1875	138	111.2950	1.3354
1880	138	149.6865	1.7960
1885	138	95.0603	1.1405
1890	138	66.5412	0.7984
1895	138	44.2481	0.5309
1900	138	85.7302	1.0287
1905	138	114.0554	1.3685
TOTALS		770.8299	9.1137

(g) The Chief Deputy Water Commissioner shall administer and protect from diversion by others at and downstream of the Point of Non-Diversion the consumptive use portion of the water rights administered pursuant to paragraph 1(f), above, for the new manner of use and

new place of use, when such rights are in priority. The consumptive use portion of the Application's water rights is determined to be 3.10 acre feet per acre during an irrigation season of March 1 to October 31, as set forth in Nevada Division of Water Resources, *Evapotranspiration and Net Irrigation Water Requirements for Nevada* (Huntington and Allen, Jan. 2010) (p.215), for the net irrigation water requirement for alfalfa in Mason Valley, and as previously approved for Permit No. 80700 pursuant to Ruling No. 6271. Table 2 below shows the consumptive use amounts for the Application.

Table 2: App. No. 88161 Water Rights Consumptive Use Portion Administered by Chief Deputy Water Commissioner

Priority Date	Claim No.	Irrigated Acres	Consumptive Use Portion @ 3.1 AFA: Duty (acre-feet)	Consumptive Use Portion at 3.1 AFA: Flow Rate (cfs)
1864	138	35.7911	110.9520	0.2280
1865	138	14.1498	43.8640	0.0900
1870	138	54.2705	168.2390	0.3460
1875	138	111.2950	345.0150	0.7100
1880	138	149.6865	464.0280	0.9550
1885	138	95.0603	294.6870	0.6060
1890	138	66.5412	206.2780	0.4240
1895	138	44.2481	137.169	0.2820
1900	138	85.7302	265.7690	0.5470
1905	138	114.0554	353.5720	0.7280
TOTALS		770.8299	2389.573	4.9160

(h) The remainder or non-consumptive use portion of the water rights administered pursuant to paragraph 1(f) above when such rights are in priority, shall be administered by the Chief Deputy Water Commissioner in his or her discretion pursuant to the Walker River Decree and the 1953 Rules and Regulations for the Distribution of Water on the

Walker River Stream System, including to avoid conflict with and injury to existing water rights at and downstream of the Point of Non-Diversion and to mitigate hydrologic system losses, from the Point of Non-Diversion to the point or points where the non-consumptive use portion historically returned to the Walker River upstream of the Wabuska Gage.

(i) Each water right changed by the Application may only be exercised in priority when its full decreed amount (see Table 1, above) is available at the Point of Non-Diversion as determined by the Chief Deputy Water Commissioner.

(j) Payment of operation and maintenance charges, including ditch charges, that are properly assessed and come due as if the water rights were still appurtenant to the agricultural lands from which they are changed.

2. The Parties stipulate that a permit subject to the terms and conditions set forth in paragraph 1 above will not injure or conflict with existing water rights in violation of the Walker River Decree and NRS 533.370(2), adversely affect the cost of water for other holders of water rights, lessen the efficiency of the delivery of water within the Walker River Irrigation District, or threaten to prove detrimental to the public interest.

3. By entering into this Stipulation, no Party waives any rights with respect to the content of any future change application, or with respect to any protest thereto, which any of them may file.

4. No Party to this Stipulation waives any right to participate fully in any evidentiary hearing or other proceedings with respect to the Application or any remaining protests or other related matters.

5. The provisions of this Stipulation are not severable, and in the event that this Stipulation is not approved by the State Engineer and the Walker River Decree Court without

changes, it shall be deemed withdrawn without prejudice to any claims or contentions which may have been made or may be made in this proceeding by any Party, and it shall not be admissible as evidence or in any way described or discussed in any proceeding subsequent to any non-approval as described in this paragraph.

6. The Parties to this Stipulation shall support approval by the Walker Decree Court of Application Nos. 88161 as provided in this Stipulation.

7. If the State Engineer, or the Walker Decree Court, does not approve this Stipulation as provided in Paragraph 5 above, no Party to this Stipulation shall be determined to be bound by any provisions or agreements reached and described herein.

8. This Stipulation represents a compromise of the Parties. Except as expressly set forth herein, the provisions of this Stipulation shall not be construed as or deemed to be precedent by any Party, the State Engineer or the Walker River Decree Court with respect to any issue, principle, or interpretation, or application of law and regulations for any purpose, or in connection with any proceeding before a court of law, or any state or federal government regulatory body.

9. This Stipulation may be executed in counterparts or via facsimile or electronic scanning.

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Schulman & Rabkin, LLP**

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Dated: _____

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By: _____

Don Springmeyer, Esq.
Christopher Mixson, Esq.
3556 E. Russell Road, 2nd Floor
Las Vegas, Nevada 89120
*Attorneys for Applicant Walker Basin
Conservancy*

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CONSERVANCY

**CONDITIONAL STIPULATION TO
RESOLVE CERTAIN PROTEST
ISSUES REGARDING APPLICATION
NO. 88162**

RECITALS

1. The Walker Basin Conservancy (the “Conservancy”) has pending before the Nevada State Engineer (the “State Engineer”) Application Nos. 88162 (the “Application”)¹ requesting to change the manner of use and place of use of certain water rights, or portions of certain water rights, adjudicated by that certain Decree (the Walker River Decree) entered April 14, 1936, and amended April 24, 1940, by the District Court (the Walker River Decree Court) of the United States in and for the District of Nevada in that certain action (the Walker River Decree Action) entitled *The United States of America, Plaintiff, vs. Walker River Irrigation District, et al., Defendants*, In Equity Docket No. C-125.

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¹ The Application is part of a group of applications, Nos. 88160, 88161 and 88162, that are to be considered jointly.

4. Pursuant to portions of several acts of Congress, which are generally referred to as the Desert Terminal Lakes legislation, the Conservancy was formed to hold and manage land, water appurtenant to land and related interests in the Walker River Basin for, among other things, environmental restoration in the Walker River Basin.

5. The undersigned parties hereto (the "Parties") desire that certain issues raised in protests of the Application by the Parties signatory to this Stipulation be resolved by these Parties in advance of, and to avoid if possible, any scheduled administrative hearing on the Application, and that the Application be approved and granted pursuant to the terms and conditions of this Stipulation.

STIPULATION

NOW, THEREFORE, the Parties hereto, acting either individually or by and through their respective counsel, stipulate and agree as follows:

1. The State Engineer may issue a permit granting the Application, subject to the following terms, conditions and limitations:

(a) The place of use to include the lower Walker River and Walker Lake as set forth in Attachment A of the Application at Item 7.

(b) The "Point of Non-Diversion" for the changed water rights shall be the Yerington Weir, also referred to as the Weir Diversion Structure, which is identical to the current point of diversion of the water rights proposed for change in the Application at Item 6.

(c) The manner of use to be wildlife purposes in accordance with Nevada Revised Statutes Chapter 533 as set forth in the Application at Item 3.

(d) Subject to the continuing jurisdiction and regulation by the State Engineer, the United States Board of Water Commissioners and the Walker River Decree Court.

(e) Subject to the terms and conditions imposed by the Walker River Decree and with the understanding that the water rights changes requested by the Application will not injure or conflict with existing water rights in violation of the Walker River Decree and NRS 533.370(2).

(f) The Chief Deputy Water Commissioner of the United States Board of Water Commissioners (the “Chief Deputy Water Commissioner”) shall administer at the Point of Non-Diversion the full decreed flow rate for the water rights sought for transfer by the Application when such rights are in priority, as set forth in Table 1 below and as provided in subparagraphs (g) and (h) below.

Table 1: App. No. 88162 Water Rights Administered at Yerington Weir

Priority Date	Claim No.	Irrigated Acres	Full Decreed Diversion Rate (cfs)
1864	145	13.0000	0.1520
1865	145	5.0000	0.0610
1870	145	19.0000	0.2320
1875	145	40.0000	0.4770
1880	145	53.0000	0.6400
1885	145	34.0000	0.4070
1890	145	24.0000	0.2840
1895	145	16.0000	0.1900
1900	145	31.0000	0.3670
1905	145	41.0000	0.4900
TOTALS		276.0000	3.3000

(g) The Chief Deputy Water Commissioner shall administer and protect from diversion by others at and downstream of the Point of Non-Diversion the consumptive use portion of the water rights administered pursuant to paragraph 1(f), above, for the new manner of use and

new place of use, when such rights are in priority. The consumptive use portion of the Application's water rights is determined to be 3.10 acre feet per acre during an irrigation season of March 1 to October 31, as set forth in Nevada Division of Water Resources, *Evapotranspiration and Net Irrigation Water Requirements for Nevada* (Huntington and Allen, Jan. 2010) (p.215), for the net irrigation water requirement for alfalfa in Mason Valley, and as previously approved for Permit No. 80700 pursuant to Ruling No. 6271. Table 2 below shows the consumptive use amounts for the Application.

Table 2: App. No. 88162 Water Rights Consumptive Use Portion Administered by Chief Deputy Water Commissioner

Priority Date	Claim No.	Irrigated Acres	Consumptive Use Portion @ 3.1 AFA: Duty (acre-feet)	Consumptive Use Portion at 3.1 AFA: Flow Rate (cfs)
1864	145	13.0000	40.3000	0.0830
1865	145	5.0000	15.5000	0.0320
1870	145	19.0000	58.9000	0.1210
1875	145	40.0000	124.0000	0.2550
1880	145	53.0000	164.3000	0.3380
1885	145	34.0000	105.4000	0.2170
1890	145	24.0000	74.4000	0.1530
1895	145	16.0000	49.6000	0.1020
1900	145	31.0000	96.1000	0.1980
1905	145	41.0000	127.1000	0.2620
TOTALS		276.0000	855.6000	1.7610

(h) The remainder or non-consumptive use portion of the water rights administered pursuant to paragraph 1(f) above when such rights are in priority, shall be administered by the Chief Deputy Water Commissioner in his or her discretion pursuant to the Walker River Decree and the 1953 Rules and Regulations for the Distribution of Water on the

Walker River Stream System, including to avoid conflict with and injury to existing water rights at and downstream of the Point of Non-Diversion and to mitigate hydrologic system losses, from the Point of Non-Diversion to the point or points where the non-consumptive use portion historically returned to the Walker River upstream of the Wabuska Gage.

(i) Each water right changed by the Application may only be exercised in priority when its full decreed amount (see Table 1, above) is available at the Point of Non-Diversion as determined by the Chief Deputy Water Commissioner.

(j) Payment of operation and maintenance charges, including ditch charges, that are properly assessed and come due as if the water rights were still appurtenant to the agricultural lands from which they are changed.

2. The Parties stipulate that a permit subject to the terms and conditions set forth in paragraph 1 above will not injure or conflict with existing water rights in violation of the Walker River Decree and NRS 533.370(2), adversely affect the cost of water for other holders of water rights, lessen the efficiency of the delivery of water within the Walker River Irrigation District, or threaten to prove detrimental to the public interest.

3. By entering into this Stipulation, no Party waives any rights with respect to the content of any future change application, or with respect to any protest thereto, which any of them may file.

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5. The provisions of this Stipulation are not severable, and in the event that this Stipulation is not approved by the State Engineer and the Walker River Decree Court without

changes, it shall be deemed withdrawn without prejudice to any claims or contentions which may have been made or may be made in this proceeding by any Party, and it shall not be admissible as evidence or in any way described or discussed in any proceeding subsequent to any non-approval as described in this paragraph.

6. The Parties to this Stipulation shall support approval by the Walker Decree Court of Application Nos. 88162 as provided in this Stipulation.

7. If the State Engineer, or the Walker Decree Court, does not approve this Stipulation as provided in Paragraph 5 above, no Party to this Stipulation shall be determined to be bound by any provisions or agreements reached and described herein.

8. This Stipulation represents a compromise of the Parties. Except as expressly set forth herein, the provisions of this Stipulation shall not be construed as or deemed to be precedent by any Party, the State Engineer or the Walker River Decree Court with respect to any issue, principle, or interpretation, or application of law and regulations for any purpose, or in connection with any proceeding before a court of law, or any state or federal government regulatory body.

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