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

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IN THE MATTER OF APPLICATION )	
NO. 80700 FILED BY THE NATIONAL )	<b>BUREAU OF INDIAN AFFAIRS</b>
FISH AND WILDLIFE FOUNDATION )	<b>RESPONSE TO THE UNITED</b>
ON MAY 10, 2011, TO CHANGE THE )	<b>STATES BOARD OF WATER</b>
PLACE OF USE OF WATERS OF )	<b>COMMISSIONERS</b>
WALKER RIVER )	

On February 3, 2012, the United States Board of Water Commissioners ("U.S. Board") filed a brief with the Nevada State Engineer ("State Engineer") addressing two issues: 1) whether, for purposes of the Walker River Decree, Walker Lake is outside of the Walker River Basin and 2) whether a decree holder can own water rights but not own land or the place of use. In both its July 15, 2011, letter to the State Engineer and later in its October 21, 2011, list of issues for this proceeding, the U.S. Board noted that these issues may need to be resolved by the District Court. The BIA agrees.

The issues raised by the U.S. Board are legal in nature, requiring interpretation of the Decree that should be done by the Court, not by the State Engineer. The State Engineer should continue to develop the factual record related to the pending change application, so that the Court's review of the two legal issues has a factual predicate; however, the State Engineer should defer to the Court for any further consideration of issues relating to Decree interpretation. For purposes of this filing, the BIA contends that the issues raised by the U.S. Board lack merit, but in the event the State Engineer proceeds to consider and rule on them, the BIA reserves the right to file a substantive response at the appropriate time.

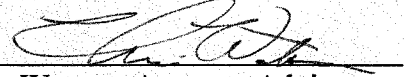
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Dated this 14th day of February 2012.

Respectfully submitted,



Chris Watson, Attorney-Advisor  
U.S. Department of the Interior  
Office of the Solicitor  
Division of Indian Affairs  
Mail Stop 6513  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Response of the Bureau of Indian Affairs was served via U.S. Mail on all individuals identified in the Nevada State Engineer's August 9, 2011, Notice of Pre-hearing Conference.

Dated at Washington, DC, this 14th day of February 2012.

Signature: 

Chris Watson, Attorney  
U.S. Department of the Interior  
Office of the Solicitor  
Division of Indian Affairs  
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