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STATE ENGINEERS OFFICE

SE	'S EXHIBITS 201
DATE: _____	

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9  
10 IN THE OFFICE OF THE STATE ENGINEER  
11 OF THE STATE OF NEVADA  
12

13 IN THE MATTER OF CHANGE )  
14 APPLICATION NO. 80700 FILED BY )  
15 THE NATIONAL FISH AND WILDLIFE )  
FOUNDATION )  
16 )  
\_\_\_\_\_ )

**REDUCED LIST OF WITNESSES AND  
REDUCED LIST OF DOCUMENTARY  
EVIDENCE OF WALKER RIVER  
IRRIGATION DISTRICT**

17 **PREFACE**

18  
19 At the July 8, 2013 hearing in this matter, the Walker River Irrigation District ("District")  
20 and the National Fish and Wildlife Foundation ("NFWF") presented their Conditional  
21 Stipulation to Resolve Certain Protest Issues Regarding Application 80700 (the "Conditional  
22 Stipulation"). The following protestants joined in the Conditional Stipulation: Greenwood  
23 Mutual Ditch Company; G&H Mutual Ditch Company; Mickey Mutual Ditch Company; New  
24 Hall Daniel Mutual Ditch Company; Jim Snyder; Bunny Snyder; Eddie R. and Theresa Snyder,  
25 Trust, Eddie R. Snyder, Trustee; Eufrazia, LLC; LJ Land, Limited; Snyder Livestock Co.;  
26 Spragg-Woodcock Mutual Ditch Co.; G&H Mutual Ditch Co.; and Lyon County. After the  
27 hearing, the Campbell Ditch Company also joined in the Conditional Stipulation.  
28

1 The Bureau of Indian Affairs (“BIA”), the Walker River Paiute Tribe (“Tribe”) and the  
2 Bowman Protestants had not joined in the Conditional Stipulation. BIA and the Tribe did not  
3 object to the Conditional Stipulation, but asserted that it did not resolve their protest issues  
4 related to administration of the changed water rights. Both indicated if the administration issues  
5 were resolved through a “conveyance agreement,” they would join in the Conditional  
6 Stipulation. The Bowman Protestants were not satisfied with the Conditional Stipulation. They  
7 expressed a willingness to continue discussions with NFWF. Although it does not object to the  
8 Conditional Stipulation, the United States Board of Water Commissioners (“Board”) had not  
9 joined in it, and was concerned as to how it would be implemented.  
10

11 As a result of the hearing, the State Engineer issued the Fourth Amended Notice of  
12 Hearing. Protestants who had not joined in the Conditional Stipulation were given time to have  
13 additional discussions with NFWF. NFWF and those Protestants were to periodically report on  
14 the status of those discussions. To the extent any protests were not resolved, the State Engineer  
15 set a hearing to commence on October 28, 2013.  
16

17 On October 4, 2011, NFWF, BIA and Tribe filed a Stipulation to Resolve Certain  
18 Protests Regarding Application 80700 (“Tribe/BIA Stipulation”). The Tribe/BIA Stipulation  
19 requests the State Engineer to include in any permit issued the terms and conditions of the  
20 “Lower Walker River Conveyance Protocols” (the “Protocols”), Exhibit 1 to it. It conditionally  
21 resolves the BIA and Tribe’s protests.  
22

23 As of this filing, the final report from the Bowman Protestants has not been filed.  
24 However, the District has been informed that those protests have not been resolved.

25 The Conditional Stipulation reserves the District’s right to participate fully with respect  
26 to any protest grounds or other matters remaining after approval or rejection of the Conditional  
27 Stipulation, including matters related to conveyance of changed instream water rights from the  
28

1 Yerington Weir to Walker Lake. The Tribe/BIA Stipulation, and specifically the Protocols, are  
2 directed at the conveyance issue.

3         There is considerable uncertainty associated with rights to water at and downstream of  
4 the Wabuska Gage which is in excess of the recognized right of the United States for the Walker  
5 River Indian Reservation (26.25 cfs for 180 days with an 1859 priority). That uncertainty results  
6 from claims made by the Tribe and the United States for a right to store water in Weber  
7 Reservoir and for additional reservation lands. The uncertainty is further complicated by the  
8 existence of the certificated water right of the Nevada Department of Wildlife, which is not  
9 presently administered by the Court under the Walker River Decree.  
10

11         A mechanism is clearly needed to distinguish water approved for change under  
12 Application 80700 from the uncertainty which exists with other water reaching the Wabuska  
13 Gage. The District does not object to utilization of the Protocols for that limited purpose and in  
14 light of the uncertainty described above. The District also recognizes that the Protocols are a  
15 reasonable and adequate method for accounting for the NFWF changed water right.  
16

17         However, the State Engineer should consider whether these conveyance issues are issues  
18 best determined by the Walker River Court. In any event, the State Engineer should proceed  
19 with considerable caution given the pending litigation. There are certain aspects of the Protocols  
20 which the District will bring to the State Engineer's attention through briefing, argument, or  
21 testimony, or a combination thereof.  
22

23         Therefore, pursuant to the Fourth Amended Notice of Hearing dated July 31, 2013, the  
24 District hereby submits its Reduced List of Witnesses and Reduced List of Documentary  
25 Evidence. The District will adapt its prior evidence, which was directed to a draft conveyance  
26 protocol, to the Protocols.  
27  
28

1 **I. WITNESSES.**

2 The District may call Marc Van Camp, P.E. of MBK Engineers of Sacramento,  
3 California. Mr. Van Camp will testify as an expert witness.

4 **II. REDUCED DOCUMENTARY EVIDENCE.**

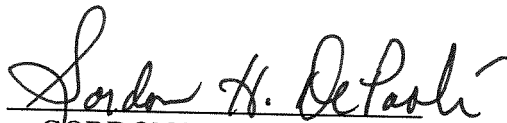
5 Based upon information available at this time, the District may introduce the following  
6 evidence at the administrative hearing in this matter:  
7

<b>Exhibit No.</b>	<b>Description</b>
151	Walker River Decree, entered April 14, 1936 in <i>United States of America v. Walker River Irrigation District, et al.</i> , In Equity No. C-125 (D. Nev.) (the "Walker River Action")
152	Stipulation and Agreement for Entry of Amended Final Decree Pursuant to Writ of Mandate of The Circuit Court of Appeals - Ninth Circuit - and Also Amended Decree Entered Herein on April 15, 1936 to Clarify Certain Provisions Thereof, filed April 25, 1940 in the Walker River Action
153	Order for Entry of Amended Final Decree to Conform to Writ of Mandate Etc., entered April 24, 1940 in the Walker River Action
154	Order appointing U.S. Board of Water Commissioners, entered May 12, 1937 in the Walker River Action
155	Order amending May 12, 1937 Order, entered January 28, 1938 in the Walker River Action
156	Order Approving Rules and Regulations for Distribution of Water on the Walker River Stream System, filed September 3, 1953
179	Order on Stipulation for Modification of Decree (Claim 254) entered March 14, 2007 in the Walker River Action
180	Nevada Water Right Certificate No. 10860
181	United States of America's First Amended Counterclaim, Subfile C-125-B, July 30, 1997 in the Walker River Action
182	Walker River Paiute Tribe's First Amended Counterclaim, Subfile C-125-B, July 30, 1997 in the Walker River Action
183	Report and Petition for Approval of Budget and Approval of Rate of Assessment for the Year July 1, 2012 Through June 30, 2013, and for Approval of the Audit Report for the Year Ended June 30, 2011, filed April

Exhibit No.	Description
	12, 2012 in the Walker River Action
184	Joint Comments of the Walker River Paiute Tribe and the United States of America to the Report and Petition for Approval of Budget and Approval of Rate of Assessment for the Year July 1, 2012 Through June 30, 2013, and for Approval of the Audit Report for the Year Ended June 30, 2011, filed May 16, 2012 in the Walker River Action
185	Walker River Irrigation District Response to Joint Comments of the Walker River Paiute Tribe and the United States of America, filed May 17, 2012 in the Walker River Action
195	Resume of Marc Van Camp
196	Report of Marc Van Camp entitled "Summary of Pertinent Water Rights and Conflict With Water Rights Resulting From the Proposed Changes Under NFWF Application 80700 " dated February 14, 2013

WOODBURN AND WEDGE

Dated this 11th day of October, 2013.

By:   
 GORDON H. DePAOLI  
 DALE E. FERGUSON  
 DOMENICO R. DePAOLI  
 Attorneys for Walker River Irrigation District

**AFFIDAVIT OF SERVICE**

STATE OF NEVADA        )  
                                  ) ss.  
COUNTY OF WASHOE    )

Holly Dewar, being first duly sworn, deposes, and states under penalty of perjury, as follows:

I am an employee of the law firm of Woodburn and Wedge, a citizen of the United States, over 18 years of age, and not an interested person to the above-entitled matter.

On October 11, 2013, I deposited in sealed envelopes in the United States Mail, postage fully prepaid, a true and correct copy of the foregoing filed in the above entitled matter, addressed to each of the names and addresses as follows:

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6   
7 \_\_\_\_\_  
8 Holly Dewar

9  
10 SUBSCRIBED and SWORN to before  
11 me this 11th day of October, 2013.

12  
13   
14 \_\_\_\_\_  
15 NOTARY PUBLIC

