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File: RN0005-001

August 3, 2012

VIA ELECTRONIC AND U.S. MAIL

Jason King, P.E.
Nevada State Engineer
Nevada Division of Water Resources
901 South Stewart Street, 2nd Floor
Carson City, Nevada 89701

Re: Application 80700 - July 17, 2012 Interim Order and Hearing Date

Dear Mr. King:

We have received the July 17, 2012, Interim Order and Notice of Hearing relating to Application 80700, filed by the Applicant National Fish & Wildlife Foundation. This letter is to request a modification and extension of the evidentiary exchange deadlines and the hearing date itself.

This request arises out of the requirement of the Interim Order at section VII, in the last sentence of the next to last paragraph, and the last full paragraph, both found on page 10. There, the Order first requires that Applicant present the UNR-DRI Model and its results as evidence during the hearing, and then sets forth a number of requirements regarding the delivery, in the initial evidentiary exchange prior to the hearing, of the UNR-DRI Model, its documentation, and an expert report for the specific analysis for the Application.

The UNR-DRI modeling team has advised me that they cannot deliver what the Order requires by the ordered Initial Evidentiary Exchange Date of September 14, 2012. The team can deliver what is required by January 25, 2013, however.

In addition to that first stated issue, the schedule for exchanges as required in the Interim Order substantially overlaps with several deadlines related to the implementation of the Truckee River Operating Agreement (TROA), a matter in which many of the attorneys involved with Application 80700 are also deeply involved. The current schedule for briefing the TROA Parties' Motion to Amend the *Orr Ditch* Decree has many of the attorneys fully occupied until the middle of August 2012. The evidentiary exchange schedule in the Interim Order also overlaps with the schedule for comments and a workshop hearing as set forth in the recently issued (July 18, 2012) Draft decision of the California State Water Resources Control Board

concerning the California water right changes and applications required for the implementation of TROA. That schedule will similarly occupy many of the attorneys herein from the middle of August 2012 to at least September 17, 2012. Both of these matters relate to TROA entering into effect.

As a result of this information, I undertook to discuss with primary opposing counsel for the Protestants their amenability to extending the deadlines and the hearing date. Ms. Bowman is generally amenable to extending the dates as may be needed by any of the parties. Mr. Williams, the BIA, Mr. Depaoli, Mr. Ferguson, and Mr. Benesch all consent to extensions with the following parameters, which I propose and agree to as well:

- 1) That the Initial Evidentiary Exchange occur on approximately January 25, 2013;
- 2) That there be 90 days allowed after that January 2013 Initial Evidentiary Exchange until the date of the Second Evidentiary Exchange so that the Protestants' experts have sufficient time to analyze and address the model and the materials delivered by the Applicant at the Initial Exchange, making that deadline approximately late April of 2013;
- 3) That there be approximately 60 days elapsing after the Second Evidentiary Exchange until the new Hearing Date so that Applicant and the UNR-DRI team have sufficient time to analyze and prepare to respond at the hearing to the evidence produced at the Second Exchange.

Applicant and Protestants understand that this schedule will mean a new Hearing Date no sooner than late June 2013. Applicant respectfully requests that the State Engineer extend the current deadlines and set a new Hearing Date as agreed to among primary counsel as set forth above. All counsel would appreciate hearing from you on this matter at your soonest convenience.

This letter is copied to all persons listed on the State Engineer's required service list.

Very truly yours,

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP


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cc: See attached service list

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