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

RECEIVED
2012 AUG 29 AM 11:3
STATE ENGINEERS OFFICE

IN THE MATTER OF CHANGE)
APPLICATION NO. 80700 FILED BY)
THE NATIONAL FISH AND WILDLIFE)
FOUNDATION)
)

**WALKER RIVER PAIUTE TRIBE'S
RESPONSE TO MOTION FOR
CLARIFICATION FILED BY BOARD
OF WATER COMMISSIONERS**

The Walker River Paiute Tribe ("Tribe"), by and through its attorney Wes Williams Jr. of the Law Offices of Wes Williams Jr., P.C., hereby submits this response to the motion for clarification filed in this matter by the United States Board of Water Commissioners ("Board") on August 10, 2012. The Board's motion asks the State Engineer to clarify the scope of the Board's participation in this matter. Alternatively the Board asks the State Engineer to refer the issue of the Board's participation to the United States District Court. The Tribe agrees with this alternate process, as the Federal Court has entered orders related to the Board's duties and responsibilities that affect more than this pending change application.

**THE BOARD'S ROLE IN ANY MATTER RELATED TO THE WALKER RIVER IS
GOVERNED BY FEDERAL COURT ORDERS**

In the late 1980's, the United States and the Tribe filed pleadings in the Walker River action contesting whether one attorney could represent both the Board and a water right owner in the Walker River Basin. At that time, attorney Gordon DePaoli was representing the Board and the Walker River Irrigation District ("WRID"). On February 13, 1990, Judge Reed entered an order that states one attorney could not represent both the Board and WRID. C-125 Doc. 162 (copy attached hereto). The order states that the Board functions in a ministerial, as well as a quasi-judicial, capacity. "The Court-appointed Board of Water Commissioners acts as a special master in the

1 Walker River action. Clearly, then the Board of Water Commissioners is bound by the Code of
2 Judicial Conduct, and is obligated to conduct itself in an impartial, unbiased manner.” Order at 4.
3 The Order also states: “Not only does our system of justice seek to prevent actual bias, but also ‘to
4 prevent even the probability of unfairness.’ . . . The Code of Judicial Conduct reflects this interest
5 in avoiding the appearance of impropriety or partiality, and specifically guards against it by
6 requiring a judicial officer to step down where such an appearance is given.” Order at 4 -5 (citations
7 deleted). This order governs all actions taken by the Board, the Water Master and their attorney.

8 Despite this clear directive by the federal court and the clear requirements of the Code of
9 Judicial Conduct, the Board continues to request that it be treated similar to any other party in
10 actions before the State Engineer. See Board’s Motion for Clarification. The Board’s pending
11 motion refers to the Administrative Rules and Regulations governing the Walker River, but
12 completely ignores the Court’s directive addressed above. These two documents conflict and can
13 only be reconciled by the Federal Court, not by the State Engineer. Since the Board was appointed
14 by the Federal Court, and is considered an entity of the Court, the Federal Court must define the
15 Board’s role in matters before the State Engineer.

16 RESPECTFULLY SUBMITTED this 27th day of August 2012.

17 LAW OFFICES OF WES WILLIAMS JR.

18 By 
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27 **CERTIFICATE OF SERVICE**

28 I hereby certify that I am an employee of the Law Offices of Wes Williams Jr., a Professional
Corporation, and on August 27, 2012 I deposited for delivery the foregoing document titled “Walker
River Paiute Tribe’s Response to Motion for Clarification Filed by United States Board of Water
Commissioners” by placing a true copy thereof in a sealed envelope placed for collection and mailed

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