



# United States Department of the Interior

BUREAU OF RECLAMATION  
Mid-Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825-1898

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STATE ENGINEERS OFFICE

IN REPLY  
REFER TO:  
MP-440  
WTR-4.10

Ms. Susan Joseph-Taylor  
Chief, Hearing Section  
Department of Conservation and Natural Resources  
Division of Water Resources  
123 West Nye Lane, Suite 246  
Carson City, NV 89706-0818

Subject: Nevada Water Right Applications 15664, 24310, 24311 and 24312 - Stampede Reservoir, Washoe Project

Dear Ms. Joseph-Taylor:

In a letter dated May 11, 2005, the Bureau of Reclamation was asked to provide the Nevada State Engineer with information as to our intentions with respect to Water Right Applications 15664, 24310, 24311 and 24312 as the State Engineer is attempting to take action on these outstanding applications. Our June 6, 2005, response requested additional time for Reclamation to conduct a review of our files in order to make a determination as to our intentions for the subject applications. We now request that the State Engineer continue to hold these applications in abeyance until such time as certain actions described below have been accomplished.

As noted in your letter, Application 15664 is for diversion from the Little Truckee River and storage of up to 125,000 acre feet for irrigation and domestic purposes. This application is the primary basis for storage in Stampede Reservoir, a facility of the Washoe Project. You also noted that Applications 24310, 24311 and 24312 are for diversion of up to 350 cubic feet per second from the Little Truckee River, for irrigation and domestic purposes; fishery maintenance, restoration and enhancement and recreation; and municipal and industrial purposes, respectively. Application 24310 also includes up to 100,000 acre feet of supplemental storage in Stampede Reservoir.

A brief summary of Stampede litigation and related negotiations follows. Stampede Dam and Reservoir was completed in 1970. On October 22, 1982, the U.S. District Court for the District of Nevada found that the Secretary of the Interior's decision not to sell Stampede water for municipal and industrial purposes was not arbitrary and ordered the Secretary to utilize the waters stored in Stampede Reservoir for the benefit of endangered or threatened fish at Pyramid Lake (Carson-Truckee Water Conservancy District, et al., v. James G. Watt, Secretary of the Interior, et al., Civil No. R-76-152 GIS, 1982). Subsequently, Public Law 101-618 (the Truckee-

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Carson-Pyramid Lake Water Rights Settlement Act, 1990) was enacted which requires the Secretary of the Interior to use Stampede water for Pyramid Lake fish, except that such use must be consistent with the Preliminary Settlement Agreement (PSA) as modified by the Ratification Agreement. (The PSA was entered into in 1989 by Sierra Pacific and the Pyramid Lake Paiute Tribe to provide for more flexible operation of Federal reservoirs and the exercise of water rights of the parties to (1) improve spawning conditions for the Pyramid Lake fishes and (2) provide additional municipal and industrial water for Truckee Meadows during drought conditions.) P.L. 101-618 also directs the Secretary of the Interior to negotiate an operating agreement known as the Truckee River Operating Agreement (TROA).

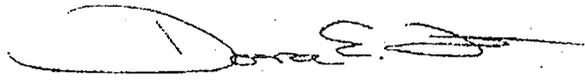
We currently anticipate the TROA will be approved, executed by all parties and implemented in 2008. As you know, a revised draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) has been prepared. The final EIS/EIR and Record of Decision is scheduled to be completed in 2006. We have identified the subject applications as potentially important to the TROA process and future implementation. Thus, we ask that the Nevada State Engineer ~~continue to file~~ the Stampede related Water Right Applications 15664, 24310, 24311, and 24312 in abeyance until TROA is approved and implemented. Additionally, Reclamation has filed with the California State Water Resources Control Board, in cooperation with the Truckee Meadows Water Authority and the Washoe County Water Conservation District, water right actions for Stampede Reservoir, Prosser Creek Reservoir, Boca Reservoir, and Independence Lake. Along with petitions requesting changes to points of diversion and rediversion, place of use, and purposes of use for these reservoirs, we have also filed applications for a new appropriation at Stampede Reservoir and Prosser Creek Reservoir. These change petitions and applications are intended to accommodate implementation of TROA and may be coordinated with the pending Nevada applications.

Furthermore, it appears that any decision or action by the State of Nevada with regard to these applications would be within the scope of the intent of Nevada Revised Statute 533.055, which provides in pertinent part "Water turned into any natural channel or watercourse by any person entitled to the use thereof, whether stored in Nevada or in an adjoining state, may be claimed for beneficial use below and diverted from the channel or watercourse by such person, subject to existing rights...". Similarly, it appears that Nevada Revised Statute 533.515 may also apply here. This provision basically says that an application under Nevada law cannot be denied because the point of diversion is in an adjoining state. Consequently, it would appear prudent for the State Engineer to defer any formal action on the Applications in question until the TROA process and the related California water right actions have come to completion.

We hope this letter resolves your concerns with respect to the water rights applications for Stampede Reservoir. We will keep your office advised of the status of the TROA related water

right actions. If you have further questions regarding this matter, please contact Ms. Marty Kaiser, Water Rights Specialist at 916-978-5259.

Sincerely,



Donna E. Tegelman  
Regional Resources Manager

cc: Mr. Gordon DePaoli  
Woodburn and Wedge  
6100 Neil Rd, Suite 500  
Reno, NV 89511

Mr. John Kramer  
Department of Water Resources  
PO Box 942836  
Sacramento, CA 94236

Mr. Robert Pelcyger  
Fredericks, Pelcyger & Hester, LLC  
1075 S. Boulder Rd, Suite 305  
Louisville, CO 80027

Mr. John Erwin  
Truckee Meadows Water Authority  
P.O. Box 30013  
Reno, NV 89520-3013

Mr. Fred Disheroon  
U.S. Department of Justice  
601 D. Street NW  
Washington, DC 20004

Mr. Jason King  
State of Nevada  
Department of Water Resources  
123 West Nye Lane  
Carson City, NV 89701