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10 Truckee-Carson Irrigation District

11 **STATE WATER RESOURCES CONTROL BOARD OF THE STATE OF**  
12 **CALIFORNIA**

13 IN THE MATTER OF WATER RIGHT  
14 APPLICATIONS 31487 LITTLE  
15 TRUCKEE RIVER, and 31488  
16 PROSSER CREEK; AND PETITIONS  
17 TO CHANGE APPLICATION NOS.  
18 5169 BOCA RESERVOIR, 9247  
19 INDEPENDENCE LAKE, 15673,  
20 STAMPEDE RESERVOIR, 18006  
21 PROSSER CREEK RESERVOIR,  
22 FILED BY THE UNITED STATES  
23 DEPARTMENT OF THE INTERIOR,  
24 BUREAU OF RECLAMATION,  
25 TRUCKEE MEADOWS WATER  
26 AUTHORITY, AND WASHOE  
27 COUNTY WATER CONSERVATION  
28 DISTRICT TO IMPLEMENT THE  
TRUCKEE RIVER OPERATING  
AGREEMENT

**DIRECT TESTIMONY OF ERNEST C.  
SCHANK IN SUPPORT OF PROTEST OF  
TRUCKEE-CARSON IRRIGATION  
DISTRICT**

**Date: July 21, 2010**

**Time: 9:00 a.m.**

**Dept: Coastal Hearing Room**

**I. Introduction**

I, Ernest C. Schank, am the President of the Truckee Carson Irrigation District ("TCID"). I have held this position for twelve years and have been a TCID Board member for a total of sixteen years, first serving on the Board in 1978. I hold a Bachelor of Science degree in Animal Science from Brigham Young University. I am 59 years old and have lived in Fallon Nevada my entire life. My occupation is a farmer and rancher, and I am a Newlands Project water right owner. My family has been

1 farming in Fallon since 1939, and I live on the same farm that was originally purchased  
2 by my grandfather. Until 1976 my family operated a dairy farm. Currently, I own water  
3 righted land, including pasture in the Newlands Project. My principal crop is alfalfa,  
4 which is rotated with small grains occasionally.

5 My testimony will center on the history of the Newlands Reclamation Project and  
6 TCID, and the necessity of a reliable water supply in Lahontan Valley, the impact of  
7 reduced water supply to the Newlands Project and resulting impacts to the water  
8 dependent economy of Lahontan Valley. This testimony implicates the public interest  
9 and public trust related to impacts to Project Water Rights from the operation TROA;  
10 including of how the subject Petitions for Change and Applications affect the public  
11 interest and public trust.

## 12 **II. The Newlands Project History and Water Sources**

13 TCID is responsible under contract with the United States Bureau of  
14 Reclamation ("BOR") to operate and maintain the Newlands Reclamation Project  
15 ("Newlands Project") and to deliver water to landowners who have contracted either  
16 with the United States or with TCID, and to comply with water right decrees for water  
17 rights appropriated by the United States under The Reclamation Act (43 U.S.C. 371, et  
18 seq.) and as a party to the water rights decree of the Truckee River, known as the *Orr*  
19 *Ditch Decree (US. v. Orr Water Ditch Co., Equity A-3-LDG U.S. District Court, Nevada,*  
20 *September 8, 1944).* (TCID-49) The TCID Board of Directors is organized under  
21 Nevada Revised Statutes, section 539, and is elected by the water right owners. It has  
22 overall responsibility for the operation and maintenance of the Newlands Project.

23 In 1902, the United States Congress passed the federal Reclamation Act to  
24 reclaim arid lands of the west in order to establish farming communities. In 1903, the  
25 Secretary of Interior designated the Truckee-Carson Reclamation Project (now called  
26 the Newlands Reclamation Project), near Fallon, Nevada, as one of the first projects  
27 under the new Reclamation Act. The Newlands Project was authorized for the  
28 reclamation and irrigation of land in the Carson and Truckee River watersheds. In

1 1926, the BOR contracted with TCID to operate and maintain the Newlands Project.  
2 (TCID-5) The most recent contract between TCID and the BOR is dated November  
3 25, 1996. (TCID-161) The water rights in the Newlands Project are owned by the  
4 individuals.

5 The Newlands Project contains the Lake Tahoe Dam and Derby Diversion Dam  
6 on the Truckee River, the Truckee Canal, Lahontan Dam and Reservoir, the Carson  
7 Diversion Dam, three hydroelectric power facilities, and over 900 miles of canals,  
8 laterals and drains. Title to these facilities belongs to the United States, but the capital  
9 construction were paid for by the individual water right owners in the Newlands Project.  
10 The Newlands Project contains approximately 73,700 acres of water-righted lands of  
11 which approximately 59,000 acres are currently being irrigated with a diversion  
12 requirement of approximately 300,000 acre-feet. Water users currently pay to provide  
13 for the maintenance and operation of Project facilities.

14 Water supplies for the Newlands Project are derived from Carson River and  
15 direct diversions on the Truckee River and as well as releases of previously stored  
16 water in Donner Lake, Lake Tahoe, Prosser Creek Reservoir, Boca Reservoir, and  
17 Lahontan Reservoir. There are two divisions in the Newlands Project. The Truckee  
18 Division begins at Derby Dam on the Truckee River and continues to Lahontan  
19 Reservoir. The Truckee Division can only be served directly with water from the  
20 Truckee River via the Truckee Canal. The Carson Division is down stream of  
21 Lahontan Reservoir and utilizes stored water from both the Truckee and Carson  
22 Rivers. The date of priority for water rights in the Newlands Project in the Truckee  
23 River is 1902, as adjudicated in the *Orr Water Decree*. Water rights on the Carson  
24 River were adjudicated in the *Alpine Decree (United States v. Alpine Land & Reservoir*  
25 *Co., 3:73-CV-003 (Nev. 1980). (TCID-134)*

26 The Truckee River and its tributaries supply water to several hundred thousand  
27 individuals, to farms, ranches, businesses, and to flora and fauna over a vast area,  
28 stretching from the Sierra Nevada Mountains to the Stillwater Range in Churchill

1 County. There are several thousand individuals and entities that own water rights from  
2 water supplied by the Truckee River and its tributaries. These water rights were  
3 adjudicated in the *Orr Ditch Decree*. The *Orr Ditch Decree* was finalized after the  
4 parties agreed to stipulate to its entry after they had entered into the Truckee River  
5 Agreement ("TRA") in 1935. (TCID-19) The main participants in the negotiation of the  
6 TRA were the United States of America, TCID, the Washoe County Water  
7 Conservation District ("Conservation District"), and Sierra Pacific Power Company  
8 ("Sierra"). Sierra's water resource responsibilities have been taken over by the  
9 Truckee Meadows Water Authority ("TMWA") as of the year 2001. The TRA provides  
10 for the agreed upon management of the Truckee River for the releases from the  
11 reservoirs and Lake Tahoe in order maintain Floriston Rate flows for all downstream  
12 beneficial uses, including uses in the Newlands Project.

13 TCID and TMWA are also the sole co-tenant owners of water rights in Donner  
14 Lake. Operation of Donner Lake is governed by an agreement related to "Donner  
15 Lake Operation and Maintenance Cost Sharing and Use of Donner Lake Water,"  
16 ("Agreement") entered into by TCID and Sierra, the predecessor in interest to TMWA.  
17 (TCID-44 & TCID-45) The Agreement specifies all permissible uses of Donner Lake  
18 water and mandates that releases shall be for the sole use and benefit of the parties to  
19 the Agreement.

20 **III. Impacts of Water Shortages on TCID and Community in Lahontan Valley**

21 It is my understanding, based on the comment letters submitted by TCID, as  
22 well as technical experts acting on behalf of TCID who commented on the Draft  
23 Truckee River Operating Agreement ("TROA") EIS/EIR, that TROA will cause  
24 shortages to the Newlands Project. (See TCID-178, TCID-182, and TCID-185). Water  
25 shortages in the Newlands Project directly effect the public, i.e. the farmers and  
26 individuals in surrounding communities, who individually hold water rights in the  
27 Truckee River. TCID and the Newlands Project as a whole will also experience a drop  
28 in hydropower generation and revenues, and a reduction of water delivery fees

1 received by TCID.

2 Water shortages in downstream portions of the Truckee River means adverse  
3 impacts on the operation of the Newlands Project, particularly the economic effects of  
4 water shortages on the agricultural revenues of individual farmers and the public, due  
5 to a reduction in crop yields. The predominate crop grown in the Newlands project is  
6 alfalfa. Under the *Alpine* Decree, farmers in the Newlands project are allocated either  
7 3.5 or 4.5 acre feet per acre of water depending on their land type. Typically alfalfa  
8 crop requires seven (7) irrigations a year with a 3.5 afa allocation and nine (9) with a  
9 4.5 afa allocation.

10 The economic viability of alfalfa crop is related directly to the number of cuttings  
11 that can be achieved in an irrigation season. This in turn is directly dependent on the  
12 amount of water available. In water short years, there is generally fewer cuttings. For  
13 example, in general, I rely on four cuttings in the growing season to start seeing a profit  
14 in my operation. Where the Newlands Project experiences water shortages, there is a  
15 direct reduction in crop production and thus profitability. Artificial shortages caused by  
16 TROA will exacerbate this problem and generally reduce Project farming operations  
17 profits.

18 When there are shortages, water allocations in TCID have to be reduced, and  
19 shortages are shared across the Project with every one receiving less than 100% of  
20 their annual allotment. This will reduction of water delivery fees received by TCID,  
21 making Project operation more difficult. Shortages affect the Truckee and Carson  
22 divisions of the project differently. The Truckee Division receives 100% of its water  
23 from the Truckee River with diversions in the Truckee Canal. Shortages in the Truckee  
24 River directly impacts the availability of water to divert to water right owners in the  
25 Truckee Division. For example, last year flows were reduced in the Truckee River at  
26 the end of the irrigation season to the point where flows in the Truckee Canal were  
27 insufficient in some areas to satisfy the demands of the Truckee Division water right  
28 owners. Shortages in the Truckee River will also negatively impact storage levels in

1 Lahontan Reservoir impacting the Carson Division. Last years reduced flows provided  
2 less carry over storage in Lahontan Reservoir potentially impacting this years Project  
3 operation. Reduced carry over storage in Lahontan impacts TCID's ability to manage its  
4 water supply over dry and wet climatic cycles. Fortunately, it was a wet winter, but if  
5 we had another dry year the outcome could have been disastrous to the individual  
6 farmers and to the overall Lahontan Valley community. Artificial shortages in the  
7 Truckee River caused by TROA will only serve to exacerbate these conditions.

8 A decrease in farming revenues will impact the communities in the Newlands  
9 Project. This is a rural area that exists primarily as a result of the lands reclaimed, the  
10 water appropriated, and the resulting agricultural. Artificial water shortages to the  
11 Newlands project cause by TROA would negatively effect this agricultural based  
12 economy. Water shortages to the Newlands Project will also reduce the amount of  
13 water stored downstream in Lahontan Reservoir, limiting the public recreational  
14 opportunities in Lahontan Reservoir that are associated with higher water levels.

15 Finally, TCID obtains substantial revenue from its hydroelectric power plants in  
16 the Carson River down stream from Derby Dam. TCID has three hydroelectric power  
17 plants. Two at the foot of Lahontan Dam, the "Old Lahontan" and the "New Lahontan,"  
18 which generate six megawatts of power. Approximately six miles further down the  
19 Carson River TCID has what is called the "26-Foot Drop" hydro-plant, which generates  
20 an additional megawatt of power. Increased shortages in the Newlands Project will  
21 artificially decrease the storage available in Lahontan Reservoir, and thus decrease  
22 the head pressure and the amount of water available for diversion through the  
23 hydropower plants. The revenue from the hydroelectric operation is used to off set  
24 TCID's operating expenses. If hydroelectric production is decreased, TCID will be  
25 forced to increase it operation and maintenance charges causing an undue hardship  
26 on the water right owners in the Project.

27 **IV. Impacts To TCID's Operation From TROA's**

28 It is my understanding that TROA allows for credit storage and water exchanges

1 in the upstream reservoirs in California. Further, I understand that this process is  
2 accomplished without filing a change application in Nevada or a Petition for Change in  
3 California stating the new use, place of use, or point of diversion. This causes a  
4 concern for TCID who will have no notice of these exchanges, rediversions, and  
5 changes in use, and will not be in a position to challenge any changes that results in  
6 reduced return flows or causes shortages to the Newlands Project.

7 Further, it is my understanding that TROA supersedes the TRA and reduces  
8 Floriston Rates. TCID relies on the Floriston rate flow structure to supply water rights  
9 in the Newlands Project and should not be forced to accept unilateral changes in the  
10 TRA and the Floriston rate structure. Each party, including the United States, agreed  
11 to abide by the terms of the TRA and stipulated to entry of the *Orr Ditch* Decree in  
12 accordance with the terms set forth in the TRA. There is no provision in the  
13 Agreement that allows a party to withdraw from the TRA.

14 Finally, it is my understanding that TROA proposes to allow for storage of water  
15 in Donner Lake to accomplish TROA's management scheme. TCID is a co-tenant  
16 owner of water rights in Donner Lake. This water must be released for the sole use  
17 and benefit of the owners of the Donner Lake water right. (TCID-45) TCID does not  
18 derive a benefit from TROA, which causes shortages to the Newlands Project, and  
19 TCID does not consent to the storage of water under TROA in Donner Lake.

20  
21 Respectfully Submitted

22   
23 ERNEST C. SCHANK

24 Dated: July 28, 2010