



THE STATE OF NEVADA

PERMIT TO CHANGE THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED

Name of applicant: WALKER RIVER PAIUTE TRIBE
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Source: WALKER RIVER

Basin: WALKER LAKE VALLEY-SCHURZ SUBAREA

Manner of Use: WILDLIFE

Period of Use: AS DECREED

Priority Date: AS DECREED

APPROVAL OF STATE ENGINEER

This is to certify that I have examined the foregoing application, and do hereby grant the same, subject to the following limitations and conditions:

This permit to change the place and manner of use of the waters of The Walker River Paiute Tribe and United States of America, Department of Interior, Bureau of Indian Affairs of the Walker River as appears in "Docket of Equity" C-125 file April 15, 1936, in the District Court of the United States of America in and for the District of Nevada is issued subject to the terms, conditions and period of use imposed in said decree and with the understanding that no other rights on the source will be affected by the change proposed herein.

This permit does not extend the permittee the right of ingress and egress on public, private or corporate lands.

The issuance of this permit does not waive the requirements that the permit holder obtain other permits from State, Federal and local agencies.

Permit 79047 is granted for 26.25 cubic feet per second and is subject to the final approval by the U.S. District Court for the District of Nevada.

The point of diversion and place of measurement is the Parker Gage.

The total quantity of water diverted for wildlife purposes shall be reported to the U.S. District Court for the District of Nevada, the U.S. Board of Water Commissioners and the Nevada State Engineer.

This permit shall expire **October 31, 2010**, which is the end of the decreed irrigation season, and all water changed by Permit 79047 shall automatically revert to the decreed uses.

The point of diversion and place of use are as described on the submitted application to support this permit.

(Continued on Page 2)

The amount of water to be appropriated shall be limited to the amount which can be applied to beneficial use, **and not to exceed 26.25 cubic feet per second, but not to exceed 9,355.5 acre-feet as decreed.**

Work must be prosecuted with reasonable diligence and proof of completion of work shall be filed on or before:

N/A

Water must be placed to beneficial use and proof of the application of water to beneficial use shall be filed on or before:

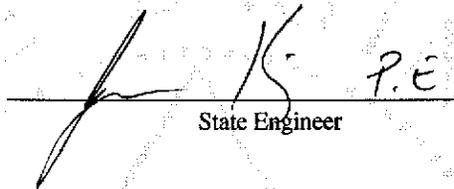
N/A

Map in support of proof of beneficial use shall be filed on or before:

N/A

IN TESTIMONY WHEREOF, I, JASON KING, P.E.,

State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 24th day of May, A.D. 2010



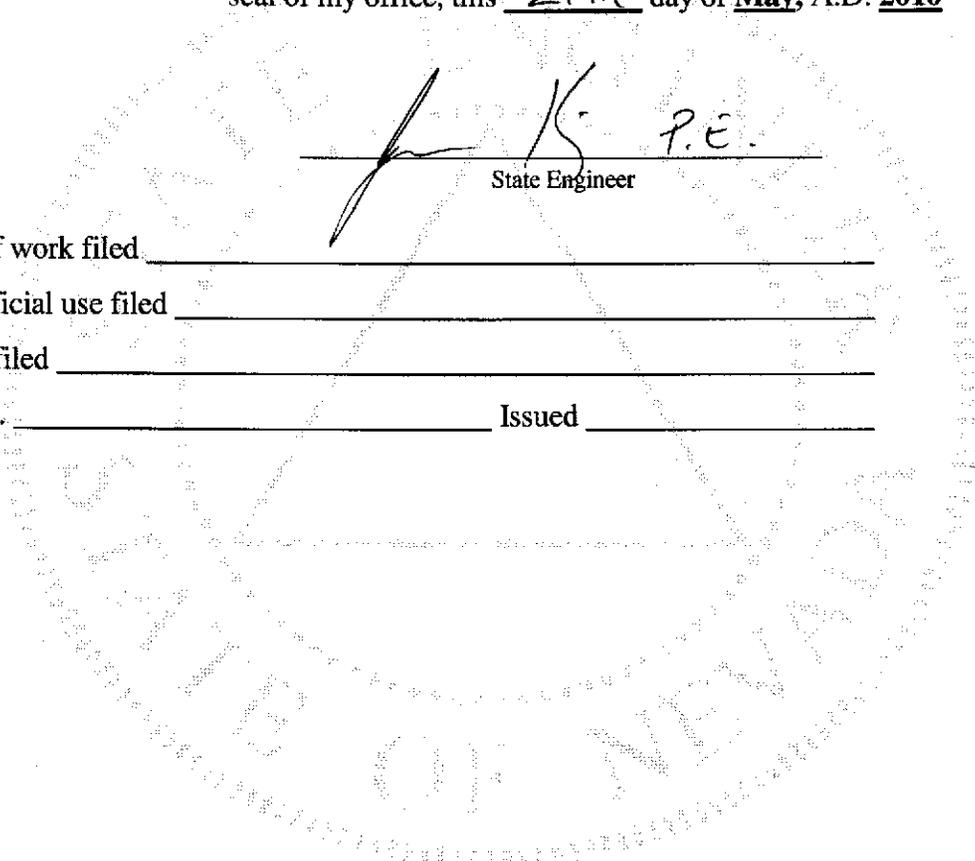
State Engineer

Completion of work filed _____

Proof of beneficial use filed _____

Cultural map filed _____

Certificate No. _____ Issued _____



AMENDED

Application No. 79047

APPLICATION FOR PERMISSION TO CHANGE POINT OF DIVERSION, MANNER OF USE AND PLACE OF USE OF THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED

THIS SPACE FOR OFFICE USE ONLY
Date of filing in State Engineer's Office NOV 24 2009
Returned to applicant for correction JAN 06 2010
Corrected application filed JAN 29 2010 Map filed NOV 21 2003 under 70649

The applicant See Attachment A.
of
Street Address or PO Box City or Town
hereby make(s) application for permission to change the
State and ZIP Code

- Point of diversion
[X] Place of use
[X] Manner of use
of a portion

of water heretofore appropriated under (Identify existing rights by Permit, Certificate, Proof or Claim Nos. If Decreed, give title of Decree and identify right in Decree.)

the Decree in United States v. Walker River Irrigation District, No. C-125(D. Nev 1936) as amended, 1940, for a portion of the Walker River identified as 26.25 cubic feet per second measured at the Tribe's point of diversion for use on 2,100 acres of land on the Reservation during a 180-day Irrigation season which may also be expressed as 9,355.50 acre-feet per year.

- 1. The source of water is Walker River.
Name of stream, lake, underground, spring or other sources.
2. The amount of water to be changed up to the entire amount of the Tribe's decreed direct flow of 26.25 cfs.
Second feet, acre-feet. One second foot equals 448.83 gallons per minute.
3. The water to be used for wildlife and conservation.
Irrigation, power, mining, commercial, etc. If for stock, state number and kind of animals. Must limit to one major use
4. The water heretofore used for irrigation as decreed.
If for stock, state number and kind of animals.
5. The water is to be diverted at the following point (Describe as being within a 40-acre subdivision of public survey and by course and distance to a found section corner. If on unsurveyed land, it should be stated.)
For that portion of the water to be changed, no diversion will occur on Little Dam and water will be allowed to flow into the main channel of the Walker River.
6. The existing point of diversion is located within (If point of diversion is not changed, do not answer.)
N/A

7. Proposed place of use (Describe by legal subdivisions. If for irrigation, state number of acres to be irrigated.)

Walker River from Little Dam to its terminus at Walker Lake.

8. Existing place of use (Describe by legal subdivisions. If changing place of use and/or manner of use of irrigation permit, describe acreage to be removed from irrigation.)

2,100 acres of land served by the Walker River Indian Irrigation Project, operated by the Bureau of Indian Affairs, located within the exterior boundaries of the Walker River Indian Reservation.

9. Proposed use will be from as decreed to as decreed of each year.
Month and Day Month and Day

10. Existing use permitted from as decreed to as decreed of each year.
Month and Day Month and Day

11. Description of proposed works. (Under the provision of NRS 535.010 you may be required to submit plans and specifications of your diversion or storage works.) (State manner in which water is to be diverted, i.e., diversion structure, ditches, pipes and flumes or drilled well, pump and motor, etc.) Existing dam, reservoir and natural river channel.

12. Estimated cost of works N/A

13. Estimated time required to construct works N/A
If well completed, describe well.

14. Estimated time required to complete the application of water to beneficial use N/A

15. Provide a detailed description of the proposed project and its water usage (use attachments if necessary): (Failure to provide a detailed description may cause a delay in processing.)

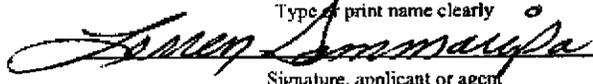
See Attached B.

16. Miscellaneous remarks:

STATE ENGINEERING OFFICE
2010 JAN 29 AM 10:42

l.sammaripa@wrpt.us
E-mail Address
775-773-2306
Phone No.

APPLICATION MUST BE SIGNED
BY THE APPLICANT OR AGENT

Lorren Sammaripa
Type or print name clearly

Signature, applicant or agent
Walker River Paiute Tribe
Company Name
1022 Hospital Road
Street Address or PO Box
Schurz, NV 89427
City, State, ZIP Code

Attachment A

The applicants are:

Walker River Paiute Tribe
P. O. Box 220
Schurz, Nevada 89427

United States of America
Department of the Interior
Bureau of Indian Affairs

By: Loren Sammaripa
Tribal Chairman
Phone: (775) 773-2306
Fax: (775) 773-2585

Chris Watso Attorney
Office of the Solicitor
Mail Stop 6513
1849 C Street, NW
Washington, D.C. 20240
(202) 208-4335

Attachment B

15. Remarks:

Please refer to maps under number 70649 on file with the Division of Water Resources.

The United States of America and the Walker River Paiute Tribe ("Tribe") jointly submit this application to change temporarily the manner of use of up to the maximum amount of water adjudicated for the benefit of the Tribe from irrigation to wildlife and conservation purposes. Nothing in this application shall be construed as a waiver of the sovereign immunity of the United States or the Tribe, except as otherwise provided by applicable law.

The application is for one year only, during the 2010 irrigation season. Under the Decree entered on April 14, 1936, and amended on April 24, 1940, the Tribe is entitled to a direct flow right from the Walker River of 26.25 cubic feet per second during an irrigation season of 180 days for use on 2,100 acres of land within the Walker River Indian Reservation. *Decree ¶ 1, United States v. Walker River Irrigation Dist.*, No C-125 (D. Nev. Apr. 14, 1936), *as amended, Order for Entry of Amended Final Decree to Conform to Writ of Mandate, Etc.* (D. Nev. Apr. 24, 1940).

Because the water right adjudicated for the benefit of the Tribe is a right for use on lands held in trust by the United States for the use of the Tribe and its members, reserved pursuant to federal law, the United States and the Tribe do not admit that application before the Nevada State Engineer is necessary in order to change the purpose of the right adjudicated for the Tribe's benefit, since the Nevada State Engineer does not exercise jurisdiction over such reserved water rights. However, the *Administrative Rules and Regulations Regarding Change of Point of Diversion, Manner of Use and Place of Use of Water of the Walker River and Its Tributaries and Regarding Compliance with California Fish and Game Code Section 5937 and Other Provisions of California Law, United States v. Walker River Irrigation Dist.*, No. C-125 (D. Nev. June 3, 1996) ("Administrative Rules"), by which the Federal District Court administers the waters of the Walker River as adjudicated under the Decree, require that the United States and the Tribe "file a change application with the State Engineer . . .," when seeking to change the place of use outside the Reservation and the manner of use of the water right adjudicated for the Tribe's benefit. Administrative Rules §§ 2.3, 3.1; *see Minutes of Court, United States v. Walker River Irrigation Dist.*, No C-125 (D. Nev. Apr. 9, 2004). Thus, the United States and the Tribe file this application seeking to change the manner of use consistent with the Federal District Court's Administrative Rules and recent rulings. The Administrative Rules do not require the Tribe and United States to file an application for a change of place of use if the change will be within the Reservation. Administrative Rules § 2.3.

The test for determining whether the Court should approve the United States' and the Tribe's application for a temporary change in the manner of use of some or all of the water right adjudicated for its benefit is limited to the test set forth in the Decree:

Any of the said parties shall be entitled to change the manner, place or purpose of use or the point of diversion of the said waters or any thereof in the manner provided by law, *so far as they may do so without injury to the rights of other parties hereto*, as the same are fixed hereby.

Decree ¶ X at 70-71. In other words, the only test that the State Engineer may apply in reviewing whether to grant the United States' and the Tribe's application is whether the proposed temporary change in the manner of use of the water right adjudicated for the Tribe's benefit would cause injury to any other right holder under the Decree. *See Order at 7-10, United States v. Walker River Irrigation Dist.*, No. C-125 (D. Nev. May 17, 1988) (reserved water rights may be considered by a state agency consistent with the McCarran Amendment, 43 U.S.C. § 666); *Arizona*, 463 U.S. 545, 571 (1983) (the substantive law by which reserved rights for the benefit of Indian Tribes are treated is federal law). The phrase in this case, is the Decree. *Transcript of Proceedings at 15, United States v. Walker River Irrigation Dist.*, No. C-125 (D. Nev. Apr. 9, 2004) (the phrase "as provided by law" does not mean "only Nevada state law . . .").

The total amount of the water right adjudicated for the Tribe's benefit which will be temporarily changed is unknown at this time, and will not be certain until the period for enrollment in the Tribe's 2010 Fallowing Program is closed. Accordingly, the United States' and the Tribe's application is for review of the temporary change in the manner of use of up to the entire amount of the Tribe's decreed direct flow right of 26.25 cfs during the 2010 irrigation season.