

February 24, 1989 Motion to be a renewal of its January 7, 1989 Motion and with respect to the State Engineer, reaffirms its denial of the earlier Motion and on the grounds set forth therein and on the additional grounds that the Tribe has not established its burden of establishing a disqualifying interest, either derivative or otherwise, and further has not offered any persuasive authority why the express language of the Alpine and Orr Ditch Decrees and related United States Supreme Court and Ninth Circuit Court of Appeals decisions should be rejected. It is the State Engineer's further ruling that under the "stern rule of necessity" he must first act on transfer applications due to his unique background and expertise subject to review by the Alpine and Orr Ditch Courts. See Loughton v. FTC, 143 F.2d 431, 433 (1944).

The State Engineer knows of no jurisdiction for him to rule on a motion to recuse the Attorney General, his statutory appointed legal counsel, and the Tribe has offered no authority supporting this request. Accordingly, the State Engineer offers no ruling with respect to recusal of either the Attorney General or his duly appointed deputies or deputy.

Finally, with respect to the Tribe's Motion to Withdraw the State Engineer's April 14, 1989 Ruling and request to embark on formal discovery first raised in the Tribe's April 26, 1989 Reply, it should first be noted the initial Motion was made in excess of one year ago with the Tribe's subsequent filings containing additional authority and exhibits which should have been submitted in the first instance. Accordingly, the Tribe's Motion to Withdraw the State Engineer's April 14, 1989, Ruling is

denied as is its request for formal discovery both of which are hereby ruled to be untimely.

Dated this 10th day of May, 1989.


STATE ENGINEER