

1 Arthur E. Mallory
Churchill County District Attorney
2 and Rusty D. Jardine, Civil Deputy,
Nevada Bar No. 4296
3 Attorneys for Churchill County,
Nevada
4 155 N. Taylor Street, Ste. 156B
Fallon, Nevada 89406
5 Telephone: (775) 423-6561

6
7
8 **BEFORE THE STATE ENGINEER, STATE OF NEVADA**
DEPARTMENT OF CONSERVATION AND WATER RESOURCES,
9 **DIVISION OF WATER RESOURCES**

10 -000-

11 IN THE MATTER OF CHANGE APPLICATION NOS.
73783, 73791 through 73800, 73849 through 73855, 73863
12 through 73872, 73908 through 73917, 73986, 73987,
74076 through 74085, 74193 74202 FILED BY THE
13 TRUCKEE MEADOWS WATER AUTHORITY

REFINEMENT OF PROTEST
GROUND AS TO TRUCKEE
MEADOWS WATER AUTHORITY'S
APPLICATIONS FILED FOR
STORAGE WITH BENEFICIAL
USE UNDER THE TRUCKEE RIVER
OPERATING AGREEMENT

14
15
16
17
18 **COMES NOW**, CHURCHILL COUNTY, NEVADA, a political subdivision of the State of
Nevada, by and through ARTHUR E. MALLORY, Churchill County District Attorney, and RUSTY D.
19 JARDINE, Civil Deputy District Attorney, and pursuant to the Status Conference conducted herein, the
20 14th day of March, 2008, here refines, reaffirms, alleges, re-alleges, and withdraws certain protest
21 grounds, in the above-captioned matter as follows:

22
23 **I.**

24 **Withdrawal of Certain Protest Grounds**

- 25 A. As to the above-captioned applications, Churchill County hereby withdraws protest
26 ground number 3 from its protests made, to-wit:
27 That the Churchill County Commission did not receive notice of proceedings as provided
28 for by NRS 533.363.
- B. As to the above-captioned applications, Churchill County hereby withdraws protest

1 ground number 4 from its protests made, to-wit:

2 That “[a]ny long-term reduction of river flows and ground water recharge in Churchill
3 County has potential long-term impact on production of renewable hydroelectric and
4 geothermal energy and will harm the communities and state agencies which benefit from
5 said energy production and use.”

6 C. As to the above-captioned applications, Churchill County hereby withdraws protest
7 ground number 11 from its protests made, to-wit:

8 That “[t]he application fails to adequately identify the beneficial use of water, the specific
9 place of use, or a specific project where the water will be applied for beneficial use.”

10 D. As to the above-captioned applications, Churchill County hereby withdraws protest
11 ground number 13 from its protests made, to-wit:

12 That the applications filed are actually joint applications for storage of the consumptive
13 portion and direct diversion of full diversion rate, which violates NRS 533.330 wherein
14 an application must be limited to one source for one purpose.

15 II.

16 Reaffirmation of Protest Grounds

17 Churchill County hereby affirms, reaffirms, alleges and re-alleges its protests of the above-
18 captioned applications as herein-after set forth; that illustrative of all such protest grounds are those
19 asserted by application No. 74783; that the protest grounds borne by application No. 74873, to which
20 particular mention is made, are representative of all protest grounds as to all other applications in this
21 matter and are intended to be applied as to all applications protested by Churchill County. They are as
22 follows:

23 A. Grounds 5, 6, 8, 9, 10, and 14 relating to application of the Truckee River
24 Agreement (TRA).

25 B. Grounds 6,8, 9, 10, and 14 relating to application of the Orr Ditch Decree.

26 C. Grounds 7, 15, and 23 relating to the Truckee River Operating Agreement
27 (TROA).

28 D. Grounds 1, 2 and 22 as relating to the impacts upon groundwater sources in
Churchill County, Nevada.

- 1 E. Grounds 12, 16, 17, 18, 20, 21, and 25 relating to surface water hydrology.
2 F. Grounds 19 and 23 relating to lack of information associated with releases and
3 use of the stored water.
4 G. Ground 24 as to secondary use of water.
5 H. Ground 26 as to preservation of right to add to or amend protest.
6 I. Ground 27 as proposed conditions to be included in any permit approved by the
7 Nevada State Engineer regarding the applications.

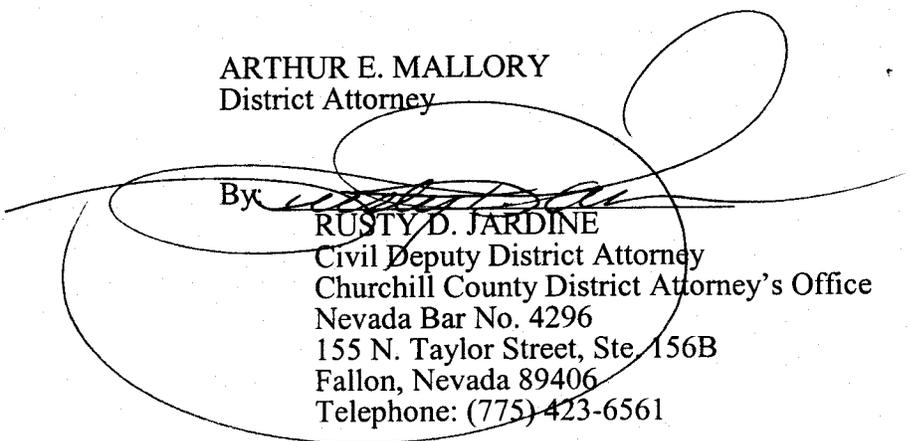
8 **III.**

9 **Effect of Implementation of TROA**

10 Churchill County has reviewed the "Narrowed Protest Points" provided by the Truckee Carson
11 Irrigation District (TCID), dated April 18, 2008. Churchill County joins in asserting with TCID that until
12 TROA is finalized, and the appropriate modifications are made to the *Orr Ditch* Decree, Churchill
13 County cannot adequately address the impacts the changes sought for will have on existing water rights
14 or the potential detriment to the public interest. Accordingly, we join with TCID in stating that until that
15 time, Churchill County cannot withdraw its protest points relating to TROA, the TRA, or the *Orr Ditch*
16 Decree.

17 **DATED** this 21st day of April 2008.

18
19 ARTHUR E. MALLORY
20 District Attorney

21 By 

22 RUSTY D. JARDINE
23 Civil Deputy District Attorney
24 Churchill County District Attorney's Office
25 Nevada Bar No. 4296
26 155 N. Taylor Street, Ste. 156B
27 Fallon, Nevada 89406
28 Telephone: (775) 423-6561

1 **CERTIFICATE OF MAILING**

2
3 Pursuant to NRCP 5(b), I certify that I am an employee of the Churchill County District
4 Attorney's Office and that on this date I caused the foregoing: **REFINEMENT OF PROTEST**
5 **GROUNDS AS TO TRUCKEE MEADOWS WATER AUTHORITY'S APPLICATIONS**
6 **FILED FOR STORAGE WITH BENEFICIAL USE UNDER THE TRUCKEE RIVER**
7 **OPERATING AGREEMENT** to be served upon all parties to this action by:

8
9 Placing an original or true copy thereof in a sealed, certified postage prepaid envelope in
10 the United States mail at Fallon, Nevada.

11 Fully addressed as follows:

12 Tracy Taylor, P.E.
13 Office of the State Engineer
14 901 S. Stewart St., Ste. 2002
15 Carson City, NV 89701-5250

16 Ken Briscoe
17 TMWA
18 P. O. Box 30013
19 Reno, NV 89520-3013

20 Michael L. Wolz
21 Office of the Attorney General
22 100 N. Carson St.
23 Carson City, NV 89701

24 Michael Mackedon
25 Mackedon & McCormick
26 170 S. La Verne St.
27 Fallon, NV 89406

28 Gary Stone
Federal Water Master
290 S. Arlington Ave., Ste. 3
Reno, NV 89501-1700

Gordon DePaoli
Woodburn & Wedge
6100 Neil Rd., Ste. 500
Reno, NV 89511

Churchill County District Attorney
365 South Maine Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

Churchill County District Attorney
365 South Maine Street
Fallon, Nevada 89406
(775) 423-6561 Fax (775) 423-6528

1 David Overvold
TCID
2 2666 Harrigan Rd.
Fallon, NV 89406

3
4 Don Springmeyer
Robert C. Maddox & Associates
3811 W. Charleston Blvd. #110
5 Las Vegas, NV 89102

6 Stephen M. Macfarlane
U.S. Department of Justice
7 Environment and Natural Resources
501 I St., Ste. 9-700
8 Sacramento, CA 95814

9 Fern Lee
City of Fallon
10 55 W. Williams Ave.
Fallon, NV 89406

11

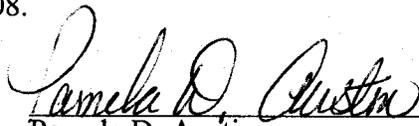
12

13

DATED: This 21st day of April 2008.

14

15



16

Pamela D. Austin
Legal Secretary for
Rusty D. Jardine
Bar No. 4296
Civil Deputy District Attorney
Churchill County

17

18

19

20

21

22

23

24

25

26

27

28