

IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF APPLICATION NUMBER.....79047.....,
FILED BY....WALKER RIVER PAIUTE TRIBE AND UNISTED STATES
OF AMERICA....., ON ..NOVEMBER 24., 2009.., TO CHANGE
POINT OF DIVERSION, MANNER OF USE AND PLACE OF USE OF THE
WATERS OFWALKER RIVER.....



CONDITIONAL PROTEST

Comes now.....WALKER RIVER IRRIGATION DISTRICT.....
Printed or typed name of protestant
whose post office address is.....P.O BOX 820, YERINGTON, NEVADA 89447.....
Street No. Or P.O. Box, City, State and Zip Code.
whose occupation isIRRIGATION DISTRICT..... and protests the granting
of Application Number79047....., filed onNOVEMBER 24....., 2009.....
byTHE WALKER RIVER PAIUTE TRIBE AND UNITED STATES OF AMERICA.....to
temporarily change the point of diversion, place of use and manner of use of waters of WALKER RIVER situated in Mineral County,
State of Nevada, for the following reasons and on the following grounds, to wit:
.....See Exhibit "A" attached hereto and, by this reference, incorporated herein.....

THEREFORE the Protestant requests that the application begranted subject to the conditions set forth in Exhibit "A"
and that an order be entered for such relief as the State Engineer deems just and proper.....

Denied, issued subject to prior rights, etc., as the case may be

SignedGordon H. DePaoli.....
Agent or protestant

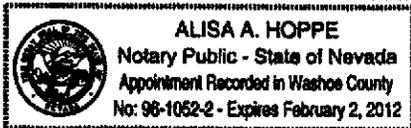
.....Gordon H. DePaoli.....
Printed or typed name, if agent

Address.....6100 Neil Road, Suite 500.....
Street No. or P.O. Box No.

.....Reno, Nevada 89511.....
City, State and Zip Code No.

.....775/688-3010.....
Phone No.

Subscribed and sworn to before me this 3rd day of February, 2010.....



.....Alisa A. Hoppe.....
Notary Public

State of.....Nevada.....

County ofWashoe.....

\$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.

ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

**EXHIBIT A
TO
CONDITIONAL PROTEST OF WALKER RIVER IRRIGATION DISTRICT
TO APPLICATION NO. 79047**

The Walker River Irrigation District requests the Application be granted subject to the following conditions:

1. The Application in Attachment B states that the "United States of America and the Walker River Paiute Tribe ("Tribe") jointly submit this application to change temporarily the manner and place of use of up to the maximum amount of water adjudicated for the benefit of the Tribe from irrigation to wildlife and conservation purposes." [Emphasis added]. Thus, it appears that it is at least possible that some portion of the right will continue to be used for irrigation. Therefore, any temporary permit issued should provide, when the portion actually changed is known, that the United States and the Walker River Paiute Tribe (the "Tribe") shall notify the State Engineer, the Court and its Water Master as to the quantity actually changed in acre feet, shall identify the lands which will not be irrigated as a result of the Temporary Change, and shall specify the portion of the 26.25 cfs flow rate to be devoted to wildlife and conservation.

2. Any Temporary Permit issued by the Nevada State Engineer and approved by the Court in the Walker River Action shall require that water be delivered during the time period set forth in the 2010 Plan of Distribution yet to be adopted by the United States Board of Water Commissioners and yet to be filed with the Court in the Walker River Action.

3. Any Temporary Permit issued by the Nevada State Engineer and approved by the Court in the Walker River Action shall recognize that water will be measured at the gaging station at Parkers at the lower end of Mason Valley as provided in the Rules and Regulations for Distribution of Water on the Walker River Stream System Under the Provisions of Paragraph 15 of Decree In Equity, No. C-125, which Rules and Regulations were approved on September 3, 1953 and as may be provided in a Plan of Distribution.¹

4. Any Temporary Permit issued by the Nevada State Engineer will not take effect until the Court in the Walker River Action finally approves it.

¹ The United States and the Tribe have previously filed the *Joint Comments of the Walker River Paiute Tribe and the United States of America to the Report and Petition for Approval of Budget and Approval of Rate of Assessment* in which they asserted that Parkers is not the point of diversion of the tribal water right under the Decree, and, therefore, the Decree should be administered so as to compensate for the carriage losses between Parkers and a point of diversion on the Reservation. The United States and the Tribe will likely file a similar statement with respect to the 2010 Plan of Distribution. This proposed condition is without prejudice to the position of the United States, the Tribe, and any other party on that issue.

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