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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF WATER RESOURCES  
BEFORE JON PALM, STATE ENGINEER

In the Matter of Applications  
57969, 57974 and 57975.

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TRANSCRIPT OF PROCEEDINGS  
PUBLIC HEARING & RULING  
TUESDAY, MAY 7, 1996  
WINNEMUCCA, NEVADA

APPEARANCES:

For the Applicant:                   STEPHEN R. PALMER  
  U.S. Fish & Wildlife Service  
  2800 Cottage Way  
  Sacramento, CA 95825

REPORTED BY:                         KATHRYN TERHUNE  
  Nevada CCR #209

1 demonstrated that it is in the public interests, very wide  
2 public interest, in fact, and because there is no proposed  
3 change in point of diversion or amount of use or any  
4 expansion in that regard, that I believe there is even a  
5 question of whether there is not water available at the  
6 source, status quo essentially as far as that goes.

7 We believe as expressed here, the controversy that  
8 led to many of these protests has been resolved by the  
9 agreement, cooperative agreement with Humboldt County.

10 And in summary, we request that the State Engineer  
11 grant the U.S. Fish and Wildlife Services the proposed change  
12 applications. Thank you very much.

13 THE HEARING OFFICER: Thank you. Let's go off the  
14 record for a second.

15 (Exhibits 21-27 admitted into evidence.)

16 THE HEARING OFFICER: Let's go back on the record.  
17 The State Engineer has authorized me to enter a ruling at  
18 this hearing. Therefore, I'm going to state findings of  
19 fact, conclusions and the ruling.

20 Findings of fact number one. It appears to me that  
21 many of the protests that were filed were to deal with the  
22 management of Sheldon Wildlife Refuge regarding the access to  
23 the refuge and the enjoyment by the public of the refuge.  
24 And I will just state that the State Engineer has no  
25 jurisdiction over the management of the refuge, but I'm going

1 to find that the use of water under Applications 57969, 57974  
2 and 57975, supports the management of the refuge for wildlife  
3 and the public.

4 I further find that the approval of subject  
5 applications is in the public interest.

6 Finding number two, we had testimony and evidence  
7 regarding the use of water on the refuge. There are no  
8 existing water rights, save the water rights held by the U.S.  
9 for the refuge existing on the refuge, and therefore, there  
10 can be no conflict with any existing rights as a result of  
11 the approval of subject applications.

12 Therefore, I find that there is no conflict with  
13 existing rights.

14 Conclusions number one, the State Engineer has  
15 jurisdiction over these applications as defined in Chapter  
16 533 of the Nevada Revised Statutes.

17 Number two, the State Engineer must deny an  
18 application to change existing rights if the proposed change  
19 conflicts with existing rights, or threatens to prove  
20 detrimental to the public interest. That is given in NRS  
21 533.370.

22 Conclusion number three is, or I conclude that  
23 there is no conflict with any existing rights based on the  
24 above findings.

25 Conclusion number four is, I conclude that the

1 approval of these applications will not threaten to prove  
2 detrimental to the public interest.

3 Ruling. The protests filed against Applications  
4 57969, 57974 and 57975 are hereby overruled, and these  
5 applications are approved subject to the payment of the  
6 statutory permit fees, and subject to any existing rights.

7 Having entered the ruling, I will declare this  
8 hearing closed.

9 (The proceedings concluded.)

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I, Kathryn Terhune, a Certified Shorthand Reporter,  
do hereby certify;

That on May 7, 1996, at Winnemucca, Nevada, I was  
present and took stenotype notes of the hearing held before  
the Nevada Department of Conservation and Natural Resources,  
Division of Water Resources in the within entitled matter,  
and thereafter transcribed the same into typewriting as  
herein appears;

That the foregoing transcript, consisting of pages  
1 through 32 hereof, is a full, true and correct  
transcription of my stenotype notes of said hearing.

Dated at Carson City, Nevada, this 12th day of  
June, 1996.

*Kathryn Terhune*  
KATHRYN TERHUNE, CSR #209