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STATE WATER RESOURCES
CONTROL BOARD

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DIV OF WATER RIGHTS
SACRAMENTO

April 19, 2013

State Water Resources Control Board
Division of Water Rights
Attn: Kate Gaffney
1001 I St., 14th Floor
Sacramento, CA 95814

Re: Petitions for Temporary Transfer and Change, Walker River Irrigation District
Licenses 6000 and 9407 (Applications 2221 and 1389)

Dear Ms. Gaffney,

On behalf of the National Fish & Wildlife Foundation (“NFWF”), its attorneys the law firm Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP, hereby provide comments regarding the February 28, 2013, Petitions of the Walker River Irrigation District (“WRID”) for Temporary Transfer and Change of Licenses 6000 and 9407 (Applications 2221 and 1389) (the “Petitions”).

The National Fish and Wildlife Foundation is a 501(c)(3) non-profit that preserves and restores our nation’s native wildlife species and habitats. Created by Congress in 1984, NFWF directs public conservation dollars to the most pressing environmental needs. NFWF administers the Walker Basin Restoration Program (“Program”)¹, established by Congress as part of Public Law 111-85, and subsequent authorities, in October 2009. The Program’s primary purpose is to restore and maintain Walker Lake, a natural desert lake in Nevada at the terminus of the Walker River stream system of Nevada and California. Walker Lake is critical to recovery of the threatened Lahontan cutthroat trout and is an important stopover for common loons and other migratory waterfowl. However, many decades of depleted freshwater inflows have resulted in declines of Walker Lake elevation and increases in lake salinity, which today threaten to result in its ecological collapse.

One crucial component of the Program is a three-year water leasing demonstration program to be administered and managed by WRID pursuant to a funding agreement with NFWF. In November 2012, NFWF and WRID entered into the required funding agreement, and

¹ WRID’s Petitions incorrectly refer to this as the “Walker River Restoration Program.”

the subject Petitions for temporary transfer and change represent an important step in implementing the Stored Water Program under that funding agreement, the overarching goals of which are to increase Walker Lake inflows and to obtain information regarding the establishment, budget and scope of a longer-term leasing program.

NFWF is fully supportive of the overall intent of the Petitions, which are consistent with the November 2012 funding agreement, as well as necessary to implement the Stored Water Program as set forth therein. NFWF is especially pleased to see water appropriated by WRID under California water rights licenses proposed for instream dedication to and including Walker Lake in order to assist with increasing the flow into Walker Lake for environmental restoration in the Walker River Basin. The Petitions state, "The releases by the District for the proposed temporary water transfer would occur during a period of up to one year following approval of this Petition." Petitions, Attachment 1 at p.1. NFWF does, however, request that the Board's approval of the Petitions include an additional condition that approval is for a period of up to one year following approval of this Petition "and all other necessary approvals," to allow adequate time for associated approval by the Nevada State Engineer and the federal *Walker River Decree* court (the United States District Court for the District of Nevada) subsequent to this Board's approval.

Moreover, because the Petitions are the first step in a three-year demonstration leasing program, the Board should be aware that it is intended that additional similar temporary petitions to change will be filed for two subsequent one-year terms. Therefore, NFWF asks that the Board consider this when reviewing the current Petitions so that future petitions can be reviewed and approved in an expedited manner.

As noted above, the primary purpose of the Walker Basin Restoration Program is to restore and maintain Walker Lake. The primary means of accomplishing those goals are to increase surface water inflows into the Lake through voluntary water leasing and through the purchase of water rights from willing sellers. Importantly, however, that primary purpose is to be pursued "consistent with protection of the ecological health of the Walker River and the riparian and watershed resources of the East, West and Main Walker Rivers." For these reasons, the Stored Water Program includes a commitment by WRID to evaluate the effects of the timing of water releases on river health and other ecological needs as part of its Annual Monitoring Plan. We appreciate WRID's commitment in its Petitions to consult with NFWF and other parties on these and related matters. Importantly, as a demonstration program, such monitoring and evaluation efforts can provide important feedback that informs adaptive management and joint learning in support of future operations and longer-term efforts.

Finally, the Petitions each state that "the maximum quantity of water that may be provided by the District from Topaz Reservoir or Bridgeport Reservoir, respectively, over a 30-day period is up to 25,000 AF." Petition(s), Attachment 1 at p.3. The District has since clarified to NFWF that 25,000 acre-feet is in fact a combined limit, i.e. a combined maximum of 25,000 acre-feet under both California licenses. NFWF is concerned that this limit may not be

consistent with the annual Stored Water Program goal of “at least 25 percent of the annual storage water allocation during the first program year.”² While the combined maximum proposed in the Petitions may not be limiting under current (2013) dry-year conditions, NFWF requests that this limit be applied to each reservoir individually, with a combined maximum of 50,000 acre-feet, to ensure consistency with the 2012 funding agreement as well as flexibility in future years.

Thank you for the opportunity to offer these comments. NFWF respectfully requests to receive copies of all communications to and from the Board related to the Petitions, to both the attorneys’ address provided below and to:

David Yardas, Director
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Sincerely,



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² The goal for subsequent years will be established following, and taking into account, the District’s evaluation of prior-year results.

CERTIFICATE OF MAILING

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