Office of the Churchill County Manager

December 27, 2004

Mr. Kenneth Parr
U.S. Department of the Interior
Bureau of Reclamation
Lahontan Basin Area Office
705 North Plaza Street
Carson City, NV 89701

Dear Mr. Parr:

Churchill County submits the following comments and questions with respect to the Revised Draft Environmental Impact Statement/Environmental Impact Report, Truckee River Operating Agreement, California and Nevada, August 2004.

Comments:

ES - 10 Growth Inducing Impacts - No mention is made as to the limitations upon growth in the absence of water. The only source of water for growth stems from agricultural water rights on the Truckee and Carson Rivers. What will happen after the year 2033, the window of analysis described in this document?

ES - 14 - Table 1 - Summary of effects of alternatives on resources - The column summarizing TROA impacts on Lahontan Reservoir makes no mention of the likely reduced inflow to Lahontan Reservoir as a result of multiple dry hydrologic events. The document fails to analyze any long-term dry hydrologic conditions (multi-year events). The model appears to rely on artificially high end of season storage numbers and then utilizes a single-year dry event to predict minimal impacts in the following year. Averaging the dry-hydrologic cycles utilizing the 100-year database tends to soften the impact of an abnormally dry period.

ES - 15 - Table 1 - Summary of effects of alternatives on resources - The column summarizing impacts to Agriculture with respect to exercise of water rights to meet demand fails to factor anything more than a single-year dry event with an unusually high end-of-year storage level in Lahontan Reservoir thus overstating the percentage of demand met in a minimum supply year.

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EXHIBIT
tabbies
TCID 184

ES - 19 - Table 1 - Summary of effects of alternatives on resources - Recreation - no mention of Lahontan Reservoir with respect to Boat ramp usability. Lahontan Reservoir is the second largest warm water recreational resource in Nevada.

ES - 21 - Table 1 – Summary of effects of alternatives on resources - Social Environment - Seems to imply that Air Quality is only an issue in the Truckee Meadows ignoring the dust hazards created due to cumulative effects from actions either authorized under the provisions PL 101-618 (the enabling statute for TROA) or past, present or reasonably foreseeable future actions undertaken by Federal or non-Federal agencies or persons (see 40 CFR 1508.7)

Table of Contents-xvi - Chapter 4 - Cumulative Effects III. Actions Authorized by Public Law 101-618 B, there is no mention of Section 210(b)16 addressing domestic groundwater impacts in the Lahontan Valley in the compiled actions.

Page 15 Executive Summary - Table 1. Exercise of water rights. The table needs to explain that "much less agricultural demand" is due to assumed wetlands purchases which may or may not occur. A more accurate representation would be Newlands Project Demand which would capture wetland as well as agricultural water right demand.

Chapter 2 - Alternatives

General comments to Chapter 2:

The discussion detailing development of alternatives excessively focuses on the negotiations process to limit the number of options to just three; those being the No Action, LWSA and TROA. Since the No Action and LWSA options are virtually identical, the analysis is severely limited and fails to adequately consider other "reasonable alternatives" as is mandated under the provisions of 40 C.F.R § 1502.14, which requires a detailed consideration of all reasonable alternatives. Failure to adequately address a broad range of alternatives is not in keeping with the requirements of the NEPA process and CEQ guidelines. Several alternatives previously introduced by participating entities include: development of additional upstream storage to allow for water quality, fish flows, irrigation and M&I demands; and, leasing of irrigation water in low water years to meet non-agricultural needs. A water leasing proposal is now being considered for the Walker River and Walker Lake to meet environmental needs and appears to be favorably received by the parties in that watershed. In order to fully meet the requirements of NEPA and CEQ regulations, shouldn't the TROA DEIS/EIR address all reasonable alternatives?

Page 2-27 2nd para. Needs to state that TROA must ensure that Orr Ditch Decree water rights are met.

Page 2-28 Table 2.6 does not indicate all changes from the no-action. Specifically it does not mention changes to Floriston rates and changes to water storage in Lake Tahoe and Boca. Please include these elements.

Page 2-29 If the U.S. District Court maintains authority over the Orr Ditch Decree, why do Orr Ditch water right owners need to bring disputes before the Special Hearing Officer? What authority does the Special Hearing Officer have over the Orr Ditch Court and its jurisdiction? A section on the DEIS needs to be dedicated to better understanding the authority envisioned by two different regulatory bodies. It is not clear legally what is the impact to those who will continue to rely upon the federal water master for Orr Ditch decisions. A more effective implementation of TROA would be for the federal water master to prevent conditions that would lead to reduced water deliveries.

Page 2-29 2nd para. Suggest that the Orr Ditch Court would not have the ability to take corrective actions with respect to operations that "inadvertently" reduced the delivery amount. Is this consistent with the role of the Orr Ditch Court? The Court would be able to take corrective actions when the delivery amount is adversely affected by TROA operations whether "inadvertently" or otherwise. Please explain. The Orr Ditch Court either maintains jurisdiction or they do not. It appears that TROA is attempting to relegate the court's role to one that is largely ceremonial.

How can the DEIS and TROA contemplate radical changes to an existing court decree (Orr Ditch Decree and Truckee River Agreement inclusive) particularly as it relates to the Newlands Project without a substantial analysis of the water resources. The reader of the DEIS and decisions makers have no real information to rely on in their understanding of the TROA proposal and evaluation of impacts.

Pg. 2-34 Table 2.7 Does not include Newlands Project Credit water. The table needs to show how much credit water will be accumulated for each category. How much credit water will be stored and how much credit water will be stored in each reservoir?

Pg 2-36 paragraph 1 How can Sierra Pacific's non-consumptive rights for hydropower generation be utilized for Fish Credit Water? Sierra's hydropower generation is not the only right served by this water. TROA is only supposed to store the consumptive use portion of water rights. Please explain how Sierra's non-consumptive use of water for hydropower can now be accumulated as credit water.

Pg 2-38 last paragraph. The first sentence does not appear to be an accurate portrayal of TROA intent. Please define the total amount of credit water that will be accumulated and when the reductions in Floriston Rates will occur. What does TROA propose to do and what will be the impacts to all water right holders and their ability to meet demand when Floriston Rates are reduced for credit water accumulation at the margin?

Pg. 2-39 a. i. Lake Tahoe and Boca. What is the average and maximum amount of credit water that will be stored in Lake Tahoe and Boca? Under what hydrologic conditions will this storage accumulate? Please include information in this section to better describe the proposed action.

Page 2-47 4th paragraph. Why should Sierra Pacific receive compensation for a reduction in Truckee River flows (reduction in Floriston Rates) for the accumulation of credit water? Please explain. Isn't the proposed compensation for Sierra Pacific an admission of adverse impacts from the reduction in Floriston Rate flows? Will other users who depend on Floriston Rate flows receive the opportunity for committed mitigation? If not, why not? Please explain.

Page 2-49 Alternatives Considered and Rejected-.General Comment. The Truckee River Irrigation District on behalf of Newlands Project Water Right Owners submitted a number of proposals for TROA consideration during the portion of negotiations they were allowed to attend. Please identify the proposals submitted by TCID, the reasons for rejection and the basis for rejections. This section notes that numerous alternatives were evaluated to assist negotiators in developing an operating agreement. There must have been some analysis completed in order to deny TCID requests. Shouldn't there be a complete analysis of the alternatives under the provisions of 40 C.F.R § 1502.14, which requires a detailed consideration of all reasonable alternatives? Please explain. Please include at least a summary of analysis that supports the rejection of Newlands Project proposals.

The Report to Negotiators—The federal government made several attempts to issue EISs that were incomplete and did not adequately address all the issues.

It appears for the description on Page 2-50.... Section 205(a) of P.L. 101-618 which states water is to be stored and released from Truckee River Reservoirs to satisfy the exercise of water rights in conformance with both the Orr Ditch and the Truckee River General Electric Decrees is only an important consideration when it is unacceptable to mandatory signature parties. What happens when other actual parties of the Orr Ditch Decree (inclusive of the Truckee River Agreement) and the General Electric Decree find the adverse effects unacceptable? Please explain. Are there acceptable adverse impacts? Please explain. Should adverse effects acceptable to the mandatory signature parties be included as part of TROA? Please explain.

Page 2.10 Table 2-55 If the no-action creates lower Lahontan April-September releases than under the current conditions and TROA is the same as the no-action, then doesn't TROA create lower April-September releases from Lahontan Reservoir? Would the lower releases occur if OCAP were not in place? Is the no-action in conformance with the Orr Ditch Decree, Truckee River Agreement and Truckee River General Electric Decree? Please explain how lower April through September releases could be consistent

with existing court decrees particularly in light of OCAP's responsibility to minimize diversions.

Page 2-59 Table 2.10 There is no mention of Lahontan Reservoir Recreation. Did the DEIS contain such analysis? If not, why not? Should the results be included in the summary?

Affected Environment-Why is past cumulative effects included in the Affected Resources?

Chapter 3 - Affected Environment and Environmental Consequences

General comments to Chapter 3:

The Affected Environment Section of the DEIS only provides general descriptions of resources and does not provide the quantitative information for comparison purposes that is needed in the analysis section

General Comment. The DEIS fails to analyze impacts to groundwater aquifers in the vicinity of the Truckee and Carson Divisions of the Newlands Project. The TROA DEIS assumes water quality water and Fernley M&I credit water will be stored in upstream reservoirs making the acquisitions of water quality water part of the TROA proposed action. Why did the federal government exclude this analysis? If another EIS was relied upon for the impact analysis, please provide a summary of activities undertaken to investigate this issue.

There is little or no baseline description in Chapter 3 regarding water resources of the Newlands Project. The information presented is largely general descriptions which provide the reader with very limited ability to understand the current conditions and how they might be affected by the proposed TROA. There is no ability to understand the current conditions or base line for the Newlands Project and then compare them against the impacts.

Page 3-2 - we question the inclusion of Hazen as "small" population center together with Fernley and Fallon. Hazen has not had a significant population since the construction of Lahontan Dam and the Truckee Canal. Further, it is not a "city" as its inclusion with Fernley and Fallon imply.

Page 3-5 -typo in 2nd par., last line

Page 3-5 no mention in 5th par. on historical hydrology regarding prolonged periods of drought such that fully mature trees have been located 200 feet below the surface of Lake Tahoe as well as other alpine lakes serving the Truckee Drainage indicating severe prior drought conditions in the region. Some mention must be made about a longer historical record than the past 100-years utilized for this DEIS. Recent articles such as that appearing in the *Reno Gazette Journal*, Saturday, October 9, 2004 indicate that decades-long droughts are very possible given the current climatological trend.

Page 3-9 - first par. refrain from editorializing by the use of the term "reclaim" in quotation marks. Eliminate any references in document that might be construed as editorial comment.

Page 3-11 last paragraph blames the Newlands Project solely for the decline in Pyramid Lake elevations when in reality changing hydrologic conditions have affected Lake Levels. How much Truckee River inflow would have been needed to maintain Pyramid Lake and Winnemucca Lake? How much has Lake levels risen since OCAP was implemented?

Page 3-12 - b. Groundwater. some reference should be made with respect to the perennial yield in the Lahontan Valley, which has been estimated by USGS at <1500 AFA.

Page 3-15 b. Carson River Basin. There is no information on water quality in the Basin. No information on current conditions of ground or surface water quality. Please include.

Page 3-16 Carson River Basin 150,000 acres of wetlands could not have existed in the Lahontan Valley unless 750,000 acre-feet entered the Valley. The USFWS estimates that 5 acre-feet of water is needed for each acre of wetlands. Did the Carson River produce 750,000 acre-feet of inflow at Lahontan Valley? Please explain.

Page 3-23 - 3rd par. Phrase should be added to indicate that to date very few if any properties purchased with water rights have been returned to the private sector thus reducing the tax base of Churchill County. Additionally, there is some question as to the suitability of these fallowed lands for other development owing to their location away from centralized services such as schools, public safety and other governmental services. Churchill Code adopted in 2000 requires all developments to dedicate surface water rights based on the number of dwellings proposed for construction if the subject property had those surface rights as of the date of adoption of the code amendment. Further, the State Engineer through Order No. 1116 limited the amount of ground water which may be withdrawn under a quasi-municipal permit to not more than 4000 GPD, an amount insufficient to serve more than two dwellings. State Statute allows the appropriation of groundwaters of the State of Nevada in an amount not to exceed 2.02 AFA for domestic purposes to serve a single residence. State Health regulations require at least one acre of

land for an individual sewage disposal system for a single-family residence. Thus development, if at all possible on fallowed lands, is pretty much limited to single family residences on at least one-acre of land. This results in sprawl and a tax base insufficient to provide services such as schools, public safety, streets and highways and other public functions thereby transferring much of the mitigation costs associated with an assured drought supply in the Truckee Meadows, coupled with OCAP, the WQSA and WRAP, to the residents in the Carson Division of the Newlands project.

Page 3-28 Comparative Evaluation of Alternatives- The no-action alternative creates significant adverse impacts to Cui-ui and LCT compared to the current conditions. So the federal government could allow the no-action to be implemented without mitigation or changing the no-action conditions which impact the Cui-ui? The no-action in this EIS is simply not valid nor is it adequately defined. Can the Orr Ditch Court allow shortages to the Newlands Project when water is available to divert or when greater carryover storage would eliminate shortages? Did the DEIS consider these scenarios in its analysis?

What are the feasible measures to avoid significant adverse impacts to the Cui-ui and LCT and non-compliance with respect to Orr Ditch Decree water rights in the Newlands Project? There appears to be no discussion of such measures in this document. Please identify the appropriate page numbers where feasible measures are discussed in the DEIS.

Page 3-28 Appears to imply that NEPA may not require mitigation for the no-action. However, other rules, regulations, laws and court decrees do. NEPA is not the only regulatory framework for this EIS. The EIS is required to identify the regulatory framework and address the impacts under each regulatory requirement. Is it enough to say that the No-action Alternative does not require mitigation when existing laws and regulations are either disregarded or even considered by the federal government?

The logic throughout the EIS appears to be to establish a no-action alternative that is similar to TROA; claim there is no difference between TROA and the no-action alternative, and then, abrogate responsibility for impacts by saying there is no mitigation required for the No-Action. Mitigation is not required for the no-action alternative but it is required for action proposals. The no-action is used as the basis of comparison. With respect to the Newlands Project, both the no-action and TROA have significant adverse impacts on water resources.

Page 3-28 Use of the Truckee River Operations Model- The water model is not set-up to evaluate the critical conditions for which the alternatives including TROA would impact the Newlands Project. The model appears to be structured in a manner that makes it incapable of evaluating specific hydrologic conditions which are most critical to TROA:

Page 3-29 4th par. We recommend that the last sentence be modified to read as follows: "Such a short (in natural historical terms) record serves as the only available record in evaluating proposals relative to variability of regional runoff and availability and use of water supplies." This is in deference to the longer historical/paleoclimatological record that indicates much longer periods of extreme drought as evidenced by mature trees several hundred feet below the current level of Lake Tahoe. In fact, it could even be said that the PLT oral history indicating the origin of Pyramid Lake seems to indicate long periods of drought revealing the tufa formation by the edge of the Lake known as "the Stone Mother." Certainly the lake elevation may have been higher in pre-historic times but it is unlikely that the oral history would have been handed down about a rock formation hidden in the depths of Pyramid Lake.

Page 3-31 III. Study Assumptions, A. Population and Water Demands - There is no mention of population growth and demands for M&I water for Churchill County and the city of Fallon. In fact there are some 4,907 domestic wells in Churchill County (source: Churchill County Assessor 10/08/2004) mostly located within the Lahontan Valley where the bulk of the Newlands Project irrigated lands are located. All domestic and M&I water is supplied by groundwater resources in Churchill County recharged almost exclusively by the application of surface irrigation water (perennial yield estimated at <1300AFA vs. >10,000AFA current demand). It should also be mentioned that Churchill County is actively pursuing water right dedication as a condition for development.

Page 3-32 C. Water Right Transfers-Will approval be needed to store Sierra Pacific's non-consumptive water that is currently be used to generate ~~Hydroelectricity~~? If not, why not? Is water being used for non-consumptive use available for credit water storage?

Table 3.2 Do the historic annual flows consider changes under OCAP in the calculations of the average discharges? If not, why not? This information needs to be included. How are the historic annual flows in this table used in the impact analysis? Please explain.

Table 3.2 How will this information be used to understand impacts or changes from TROA? Please explain.

The historic annual minimum releases do not accurately portray actual minimum releases from Lahontan Reservoir. Please refer to recent records to provide accurate information. How do changes in OCAP affect the results in Table 3.2? Why does this DEIS ignore real data and opt for what appears to be modeled conditions with improbable assumption?

The diversions through the Truckee Canal needs to recognize amounts for irrigation in the Truckee Division and amounts for storage in Lahontan Reservoir. Again, historic data is not a good description of baseline operating conditions of Truckee Canal diversions.

Table 3.2 in what year does the maximum diversions through the Truckee Canal occur? Would OCAP allow for a diversion of 287,500 acre-feet from the Truckee? In what year did the minimum releases occur from Lahontan Reservoir?

Page 3-33 Water Resources, 1 Affected Environment, A. Supply, 1. Surface Water - Modify the first introductory sentence to include the word "Carson" following Tahoe...

Page 3-38 a. Agriculture - under 2nd par. add language to explain that the 275,700 acre-feet demand in the Carson division is made up of combined Carson and Truckee River water.

Page 3-39 no mention is made of M&I demands for city of Fallon, NAS Fallon, FPST and domestic demands for unincorporated areas in Churchill County of which at least a portion results from diversion of water from the Truckee River basin. In so doing, Table 3.3 - Current (2002) annual consumptive demands in the Lake Tahoe and Truckee River basins could be relabeled to indicate inclusion of the Carson Division.

Page 3-40 Table 3.4 Current (2002) nonconsumptive water demands (cfs) in the Lake Tahoe and Truckee River basins should be modified to include a reference to the hydropower generation at Lahontan Dam in the Carson Division of the Project since this fact is mentioned on page 3-41.

Page. 3-42, 1. Truckee River General Electric Decree. This paragraph is not a complete representation. Floriston Rates are also maintained to provide adequate Truckee River flows for downstream diversions including the Truckee Carson Irrigation District. The paragraph gives the reader the impression that the only function for Floriston Rates was for a pulp and paper mill. Please provide a more thorough discussion for the purpose of Floriston Rates

Pages 3-42& -43, 2. Orr Ditch Decree - it should be noted that although the Orr Ditch Decree reduced Floriston Rates the rate set was for the purpose of maintaining adequate flows to ensure that diversions at Derby Dam would allow the full allotment of water to Project irrigators.

Page 3-44 Current Operations. General Comment. There is no discussion of storing waters in Lahontan Reservoir. This section needs to include a discussion of Newlands Project storage procedures.

Pg 3-45 Changes to the Floriston rates are a key element of the TROA. Yet, the baseline description only provides a general description about the rates. Additional information needs to be included in the DEIS about Floriston rate flows.

There is no information or baseline description of flows available for diversion to the Newlands Project from the Truckee River. This information needs to be included for different hydrologic conditions.

Pg 3-49 Please define Carson Division demands under wet, median, and dry hydrologic conditions.

3-49 B. - Summary of Effects - 3rd par. insert "single-event" following...and dry...

Pg 3-55 Last paragraph states that the period 1993 to 2002 represents a wide range of hydrologic conditions, which can be used to average historic end of September storage. With the exception of 1994, this period can generally be characterized as wet. Even 1994 followed a wet water year 92-93. Were any truly dry periods used to calculate end of September storage? If not, why was this not done?

Page 3-56 5th paragraph indicates that surplus TMWA rights would be injected through wells into the groundwater. How much would be injected into groundwater? When would the injections occur? At what time of the year? Which groundwater aquifers are capable of storing water and what is the total capacity? Please identify studies or other data which support recharge programs in local aquifers. How much of the M&I credit water storage is assumed stored under the no-action alternative?

Page 3-57 Table 3.11. Please describe the reasons for an increase in M&I water demands for Pyramid Lake under the no-action and TROA? How will this water be used? Will the increase in Pyramid Lake consumptive water demand impact the Cui-ui and LCT? Shouldn't this water remain in the River to ensure the survival and habitat for the Cui-ui? Please explain.

3-57 - Table 3.11. Modeled annual consumptive demands in study area (acre-feet) - Other M&I demands - no listing of domestic and M&I demands in lower Carson (i.e., city of Fallon, NAS Fallon, FPST, unincorporated area of Churchill County).

Page 3-58 Consumptive Demand. This section describes a wetland acquisition program that is unrealistic and has not been seriously considered since a record of decision was implemented for the final EIS. Only a small component of Navy water rights have been transferred.

Page 3-58 paragraph 2. How can the model assume increases in agricultural water use under Claims 1 and 2 when the no-action alternative results in significant adverse impacts to the Cui-ui and LCT? Please explain. Is this a valid assumption?

3-58 - 1st par. Is it erroneous to assume that the transfer of water rights under WRAP to the Stillwater Wildlife management area will result in a full credit to the Truckee Basin as a result of lower demand since there is a matter of "fungibility" resulting from the mingling of Carson and Truckee River water in the Carson Division?

3-59 - 2nd full par. – There should be a discussion of M&I increases anticipated for the Carson Division (i.e., city of Fallon, NAS Fallon, FPST, and the unincorporated portions of Churchill County experiencing urbanization) since a portion of Truckee River water makes up the total water available in the Lahontan Valley.

Page 3-75 Figure 3.15. The figures indicate that under wet conditions January storage remains above 260,000 af.; median conditions about 155,000 af., and dry conditions approximately 105,000 to 110,000 acre-feet for the current conditions and between 85,000 to 90,000 acre-feet under dry conditions. Actual records show that January 04 Lahontan Storage was 112,718; Jan 03, 115,474; Jan 02, 101,468, and Jan 01, 100,718af. It appears that Lahontan Storage over the last 4-years reflects the dry scenario analyzed in the water model. Is the modeled portrayal of the dry storage conditions in Lahontan Reservoir accurate or does the model simply over-inflate storage levels under the dry period for the purpose of ensuring water right demands in the Newland Project are met? Please explain.

There is no analysis of Floriston rate reductions and impacts to the Newlands Project during various hydrologic conditions. Why? How can Floriston Rates be reduced to accumulate credit waters when the Newlands Project has the right to divert? Is the amount available for diversions to the Newlands Project impacted? Does the document contain an analysis that answers this question?

Water Resources-General Comment. During the review of the last 2 draft EISs produced for the TROA, Churchill County repeatedly asked for an analysis of multiple or sequential dry years. This revised DEIS again ignores the need to provide this type of analysis even when drought periods tend to occur over a 5 to 7 year drought cycle normally in successive years according to TMWA. Why has this analysis been excluded from the DEIS?

Page 3-78 - c. TROA. Model results under TROA demonstrate greater upstream storage, which comes at expense of water reliability for agricultural interests in the Project. All other stakeholders achieve greater reliability of supply.

Page 3-83 - *viii.* The presence of question marks seems to reinforce the questionable nature of the projections with respect to meeting water demands in the Carson Division. How much of that demand offset from decreased depletions due to water right purchases in the Truckee Meadows has been factored into the model?

Page 3-90 - E. Exercise of Water Rights to Meet Demand - 1. Method of Analysis - while the model results are based upon a determination of a "minimum supply year", defined as the year with the least supply to meet water rights over the 100-year period of simulation, there appears to be no multi-year analysis of the minimum supply year scenario. It is unlikely that the 100-year period of analysis included a prolonged period of drought exceeding five to eight years. Further, averaging drought years in a rolling multi-year scenario softens the one-year supply number. In August 2004, a paper published by researchers from the University of Nevada and Scripps Institution of Oceanography stated "the current drought condition was the seventh worst to affect the Upper Colorado River Basin in the past 500 years." (Source: *Reno Gazette-Journal*, Saturday, October 9, 2004) Surely, the minimum supply year developed for this DEIS needs to develop some additional analysis for a true evaluation of a "worst case scenario." Far too many people, communities and businesses depend upon the limited water resources in our region to ignore the possibility of a decades-long period of drought. How about a multiple drought-year scenario?

Page 3-90 - 2. a. Current Conditions - need to include the Carson River basin in the discussion since the bulk of agricultural water demands occur in the Carson Division of the Newlands Project which is discussed in the Evaluation of Effects following.

Page 3-95 c. TROA *i. Agriculture* (b) Carson Division - the sentence "Timing of Truckee River supplies results in a minimal decrease in diversions to the Newlands Project in some years" is misleading in that it fails to take into account multi-year drought scenarios where water is repeatedly retained as Upper Truckee storage for M&I, in-stream and fish flows to the detriment of agricultural diversions. A snapshot in time is not realistic. Please show the total decrease in demand met between the no-action and current conditions and the TROA and current conditions. Why did the decline in ability to meet demands occur under TROA? Is this consistent with the Orr Ditch Decree and the PL101-618?

Page 3-97 - 3. Evaluation of Effects - some sort of statement should be made reflecting that the 100-year period used in the analysis is not reflective of research indicating that there were periods of extreme drought conditions, which may not be descriptive of the period of analysis.

Page 3-106 - Groundwater, 1. Affected Environment - 4th par. There is no mention of the "reliable small water supply" in and around Fallon and the Carson Division in Churchill County with 4,907 domestic wells (Source: Churchill County Assessor). Groundwater serves 100% of the domestic supply in the Carson Division including the city of Fallon, NAS Fallon, the Fallon Paiute-Shoshone Tribes and the majority of the population in the unincorporated area of Churchill County.

Page 3-107 - II. Environmental Consequences, A. Introduction - 1st par. - correct 4,500 domestic wells to reflect 4,907 wells as of 2004. While TROA is not a significant determinant, in and of itself, of water supply availability in the Carson Division of the Project, it is never-the-less a factor in the storage and release of water under OCAP, which in turn determines the acquisition of water rights under WRAP for the Stillwater Wildlife Management Area.

Page 3-108 - B. Summary of Effects - No mention is made of the impacts to groundwater in the Carson Division. The State Engineer has already determined that changing agricultural practices (i.e., reduced water deliveries to ag. lands) will have an effect upon groundwater in the Lahontan Valley resulting in a moratorium on further drilling of wells with a capacity over 4,000GPD (State Engineer Order No. 1116). Lahontan Reservoir does not lend itself to surface water supply for M&I due to known high concentrations of mercury.

Page 3-108 - Table 3.14 Summary of effects on groundwater - "Well pumping in the shallow aquifer" makes no mention of the absolute reliance on groundwater by almost the entire population residing in the Carson Division of the Project.

Page 3-110 - D. Recharge of the Shallow Aquifer in the Truckee Meadows, 1. Method of Analysis. - Why was the study limited to the Truckee Meadows? As stated previously, the entire population of Churchill County residing in the Carson Division relies on groundwater for domestic M&I uses. Why should the loss of canal seepage and deep percolation on the irrigated fields in the Truckee Meadows not produce a similar reduction in local groundwater recharge in the Lahontan Valley? In fact, Public Law 101-618 Sec. 210 b (16) contemplates a reduction in groundwater quality and quantity charging that "[T]the Secretary in consultation with the State of Nevada and local interests, shall undertake appropriate measures to address significant adverse impacts, identified by studies authorized by this title, on domestic uses of groundwater directly resulting from the water purchases authorized by this title." To date, no definitive study has taken place cumulatively addressing all of the significant adverse impacts directly resulting from the water purchases authorized by P.L. 101-618. If all of the proposed acquisitions authorized by the Act were to be implemented, they add up to significantly more water than is available in the Lahontan Valley (See Churchill County Water Resource Plan: 25 Year 2000-2025: 50 Year 2000-2050 (Water Research and Development, Inc. 2003)

Page 3-111 - D. Recharge of the Shallow Aquifer in the Truckee Meadows, 3 & 4. No mention is made of the approximately 4,900 shallow wells in the Lahontan Valley located in the Carson Division of the Project either as being affected or requiring mitigation due increase to depth of the groundwater table or the loss of quality or both.

Page 3-112 - Model Results and evaluation of Effects - While TROA purports to produce minimal incremental impacts to groundwater in the Newlands Project; when coupled with the WQSA, OCAP, WRAP and potential recoupment, the potential will likely be significant. Throughout the TROA DEIS document there is minimal acknowledgement of any significant impacts on the Carson Division.

Page 3-320 - Economic Environment, 1 Affected Environment, A. Current Economic Environment, 2. Nevada - 1st par. The Nevada portion of the study mentions all of the Counties and communities lying with in the Truckee and lower segment of the Carson Rivers. Yet the city of Fallon is set apart as an "agricultural community" rather than as a "population center" such Fernley, Reno-Sparks and even Wadsworth, Nixon and Sutcliffe. This gives the reader the impression that Fallon is somehow apart from the other cities and towns subsisting on what has been painted as a dying economic segment (agriculture). In fact, Fallon is a vibrant and growing regional economic hub drawing from most of rural north-central Nevada. The community is economically diverse with retail businesses, manufacturing, energy production, military and agriculture all contributing to our economy. Our local hospital has estimated that there is a population of some 60,000 to 70,000 persons served by their facility from as far away as Austin, Round Mountain, Hawthorne, Gabbs, Lovelock and even Fernley who also take the opportunity to shop and take care of other business while in town for their medical needs. Fallon's role as a population center should not be minimized by implying that it is a single sourced economy.

Page 3-320 - Economic Environment, 1 Affected Environment, A. Current Economic Environment, 2. Nevada - last par. The speculation that the decline in irrigated acreage is most probably due to changing agricultural markets and increasing demand for nonagricultural water is understating the obvious. As the next sentence only delicately hints at, the reduction is primarily due to the ever-increasing burdens placed upon the water right holder. Such burdens stem from legal challenges by the Federal government, the Pyramid Lake Tribe of Indians and upstream interests reaching clear back to such actions as OCAP, recoupment, bench-bottomland duties, transfer challenges and numerous other impediments and measures resulting in a steady erosion in water quantity and reliability to the economic detriment of the agricultural water users in the Newlands Project.

Page 3-322 - C. Agricultural and M&I Water Use - why limit the discussion to the Truckee Meadows area where the agricultural production has declined precipitously since 1995, and further, why rely on 1995 agricultural employment and personal income data? For example, in the Carson Division, Churchill County is the largest dairy producer in northern Nevada. Agriculture is a valuable contributor to an export economy bringing dollars into the community. This paragraph should be restated to accurately reflect the overall agricultural picture (utilizing the latest information - it's available on the Internet!)

for all of the users of Truckee River water whether in the Truckee Meadows or the lower Carson Division of the Newlands Project, most specifically those in the Carson Division.

Page 3-323 - 2. Employment and Income Affected by Changes in Water Use - the section is entirely silent on the effect upon Carson Division economy. Please address this issue.

Page 3-325 - 4. Groundwater Pumping Costs - This section is silent with respect to groundwater pumping costs in the Lahontan Valley. There are nearly 5,000 individual wells in the shallow aquifer that may be affected as a result of the combined actions of Public Law 101-618 including TROA. Why isn't the Carson Division more fairly addressed?

Page 3-325 - C. Recreation-Related Employment and Income, 1. Method of Analysis - although the last paragraph mentions portions of Churchill County, Nevada as being a part of the study area, no further reference is made in this section on the impacts to the community. For example, if the analysis is only intended to include Donner Lake, Prosser Creek, Stampede and Boca Reservoirs in the analysis, will there be a reduction in recreation-related employment and income due to reduced downstream storage at Lake Lahontan and water availability at the wetlands in the lower Carson Division? Or, did the authors mean to imply an increase in recreation-related employment and income in the lower Carson Division due to some sort of shift away from agriculture to recreation due to wetlands enhancement?

Page 3-326 - no mention is made of the inclusion of Churchill, Lyon and Washoe Counties in either the Economic or Recreation Model discussion yet the Method of Analysis ((page 3-325) indicates that the model considered them among others including El Dorado, Nevada, Placer and Sierra Counties in California. Does the model only derive economic benefit to the California counties? If so, what are the economic losses to the affected Nevada counties?

Page 3-329 - Table 3.84. - Recreation visitation and expenditures - The compilation is silent with respect to impacts to recreation and visitation expenditures at Lahontan Reservoir in the Carson Division. The cumulative impacts associated with Public Law 101-618 and associated prior actions have already impacted visitor days at Lake Lahontan, the second largest warm water recreation area in Nevada. The State of Nevada has already expended sums to extend boat launch ramps and improve docks in an attempt to accommodate the annual wide fluctuation in lake elevation, which would certainly be exacerbated under TROA as it relates to prolonged drought. Please state what the anticipated loss in recreation expenditures for the Lahontan Reservoir might be in a prolonged drought condition.

Page 3-330 - D. Employment and Income Affected by Changes in Water Use - Impacts to the Carson Division of the Newlands Project is dismissed as insignificant since a negligible amount of water rights would be transferred as a result of TROA. Yet in the very next sentence at the top of page 3-331, TROA is touted as allowing greater flexibility in the Truckee Meadows to meet future water demand as a result of greater amounts of M&I water stored in the upper basin reservoirs. The scheme will work as long as the conditions are conducive to storage of flows in excess of demands (i.e., high water years). Very little effort is expended on addressing multi-year drought conditions which are likely to worsen if the prospects for precipitation continue to lessen based upon the long-term climatological record and the findings of those respected in the paleoclimatological sciences. In the event there are longer term drought conditions beyond those derived from the 100-year record and minimum end of year storage targets for Lahontan Reservoir coupled with Project delivery demands cannot be met, what is the potential cumulative economic impact to Carson Division employment and income? While water rights may not be "transferred" from the Carson Division, the storage, timing of releases and volume of flows in the upper Truckee River will surely affect the reliability of water available to irrigators in the Carson Division. The model indicates that the greatest impact to Project irrigators is during a dry year condition when Credit Water storage for fish flows and M&I drought protection take precedence. How many years of very dry conditions would it take before the agricultural industry would collapse?

Page 3-331 through 3-333 - 4. Evaluation of Effects - is completely silent with respect to impacts to Carson Division employment and income affected by changes in water use. This section (along with other sections) needs to be revised to include those impacts to the Carson Division resulting from the loss of a reliable water supply.

Page 3-235 No Action. How does a reduction of 4,490 acre-feet of inflow to Pyramid Lake Result in a significant adverse impact? This amount of water is almost undetectable; it represents less than 1 percent of the total average inflow into the Lake and is within the margin of measurement error. There are inconsistencies throughout the document in the way "significant impact" is defined differently between upstream interests and downstream interests.

Page 3-235. Please explain how an additional flow of 9,730 acre-feet on average would result in significant beneficial impacts over the current conditions. Page 3-235 indicates that the greatest benefits would occur in dry and very dry years which are most critical for Cui-ui survival.

Page 3-340. Social Environment, I. Affected Environment, 4. Agricultural Lands on the Newlands Project, 1st full par. - it is true that agriculture contributes to the economic vitality of Fallon and Churchill County. However, the paragraph should also be expanded to indicate that agriculture contributes substantially to a rural way of life that includes green open spaces, wildlife habitat and stability that comes from a diverse economy.

Page 3-342 C. Urbanization of Truckee Meadows - no mention is made with respect to growth in the urban population of Fernley or the city of Fallon and surrounding urbanizing areas of Churchill County. Again, upstream urbanization appears to be valued more greatly by authors than downstream urbanization.

Page 3-343 through 3-345 - D. Air Quality - this section is completely silent with respect to air quality impacts in the area of Swingle Bench on the Truckee Division located in Churchill County. Significant wind erosion and resultant air quality impacts have been documented by qualified experts retained by Churchill County. While the AQI may have been stabilized or even improved in the Truckee Meadows, the air quality in Churchill County (specifically in the Swingle Bench area) has been negatively impacted. Perhaps it can be said that TROA and the related actions contemplated under PL 101-618 are simply exporting urban ills to a rural area. Increased fallowing of agricultural lands as a result of WRAP in the lower Carson Division is also coming under increased scrutiny as a contributor to a worsening AQI and noxious weed infestations. This section needs to be fleshed-out to include downstream impacts as a result of actions contemplated under TROA as well as other related measures as set forth in PL 101-618.

Page 3-347 - Environmental Consequences - this section simply ignores the effects on the social environment indicators of population, urbanization of the Truckee Meadows, and air quality on surrounding areas impacted by the proposed actions. This section needs to be expanded to include the Truckee Division in the vicinity of Fernley, the Swingle Bench in Churchill County and the cumulative impacts of the proposed action occurring on the Carson Division in the vicinity of Fallon. Growth in the Truckee Meadows is impacting its downstream neighbors on the Truckee and Carson Divisions of the Newlands Project.

Page 3-351 - E. Air Quality. This entire section is extremely weak in that it fails to include any consideration of air quality degradation on neighboring communities resulting from growth in the Truckee Meadows enabled by a greater reliability of the M&I water supply. Such growth fuels the need for mitigation such as the WQSA with its purchase of Truckee Division water rights and reduction in irrigation water reliability to meet demands on the Carson Division of the Newlands Project. Other related actions specifically included in the enabling legislation for TROA such as affirmation of OCAP and the resulting WRAP further contribute to potential air quality degradation. There is a serious omission of factual details regarding this element.

Page 3-388 1st par. Please add "the Newlands Project becomes increasingly dependent upon Truckee Canal Diversions during dry periods."

Page 3-388 Newlands Project Operations-General Comment. The analysis in this section is misleading at best. Again, the analysis does not consider multiple dry year periods. Beginning storage targets are inflated and do not resemble actual data and the analysis assumes that full and reduced Floriston rates are being met. The averages are not a realistic representation because they smooth out actual impacts that would occur over a one or two year period but not be as impactive over a ten-year period.

Chapter 4 - Cumulative Effects

General comments:

Nowhere in the TROA DEIS/EIR document is there any mention of the need to implement a long-range monitoring program to ensure the anticipated outcome resulting from the implementation of TROA is achieved with a minimum amount of impact to the affected areas, both upstream on the Truckee River and in the lower reaches of the Newlands Project, specifically in the Carson Division. Suggest that a long-term periodic study be proposed to ensure that the interests of the affected parties is addressed and that adequate provision be made to provide mitigation for both direct and indirect impacts resulting from TROA.

Page 4-5 - Table 4.1 - Status of selected actions authorized by P. L. 101-618 -
Section 206(a)(1) WRAP - indicates that CE analysis is not required because EIS authors feel TROA would not affect measures to fully implement WRAP. This position fails to acknowledge that storage, timing and flows of Truckee River water will likely affect water available for Carson Division. Water rights and water available to meet demand are two entirely different concepts.

Section 206(d) - regarding cost sharing for protection of Lahontan Valley Wetlands indicates "no CE analysis is required because this is a coordination action only with no effect on acquisitions" assumes that the Department of the Interior will not expend Federal resources to acquire additional water. In the event that Federal dollars will be used to acquire additional water rights, an EA will be required and acquisitions will further affect the total amount of private water available for irrigation possibly increasing O&M for the Truckee-Carson Irrigation District.

Section 206(b) - Project Efficiency Study assumes that no CE is required because this was a study only. But, authors have overlooked the outcome which resulted in higher efficiencies that may drive upstream Credit Storage in Truckee Reservoirs for Project irrigation water users, which has not been included in the Draft TROA agreement.

Section 210(b)(16) - assumes that no CE required because the authors have overlooked the legislative record for P.L. 101-618 to determine the meaning of the term "address" in the language of this section. While the current studies have not identified any immediate

negative impacts, the authors have dismissed the long-term impacts and ignored the reasonably foreseeable impacts on groundwater recharge and availability resulting from the modification to timing of storage, timing of releases and flows of the upper Truckee River Reservoirs on the potential availability of irrigation water in the Carson Division. While there may be a number of studies extant on the lower Carson River Basin, there is no study quantifying and analyzing the cumulative impacts all of the actions proposed under Public Law 101-618 will create. Suggest that this entire table be reviewed to reflect the variability of storage, timing and flows on the availability of water to the Carson Division.

Page 4-8 through 4-9, actions 1, 3 and 4 - in these three Water Management Elements of P.L. 101-618 under *Potential Impacts* the statement that TROA in combination with WRAP and OCAP would not have a significant impact on the priority of Newlands Project water rights or the ability to divert water from the Truckee River to Lahontan Reservoir is, perhaps, a "half-truth." TROA affects storage, timing of releases and flows, which if managed in a manner adverse to Project water right owners could potentially impact the total amount of water received. This situation is more likely to occur in low-flow drought periods than in times of relative plenty.

Page 4-11 - 7. Section 209(j) OCAP, *Potential Impacts* - the potential impacts delineated in this section are downplayed by stating that "TROA would not affect the priority of Newlands Project water rights, calculation of Newlands Project maximum allowable diversions, or the ability to divert water from the Truckee River to Lahontan Reservoir to achieve monthly storage targets" claiming that it would therefore have no cumulative effect on the implementation of OCAP. It is entirely possible that while satisfying the letter of TROA, the spirit and intent of the *Orr Ditch Decree and the Truckee River Agreement* as limited by OCAP could not be met with respect to diversions to meet those allowed forcing Project water right owners to go through a lengthy appeals process and possibly court action built into TROA while foregoing the diversion of the full amount of water to which they might be entitled. Since the model upon which this and other statements, with respect to the protection of Newlands Project water and water rights, is based upon the limited information on flows in the Truckee River for the past 100-years, we feel that the authors of this document overstate the ability to divert water to the Carson Division when the TROA calls for storage in the upper Truckee reservoirs. It's not the high flow water years that give us pause; it is the prolonged drought-periods that do not seem to have been adequately analyzed in the model.

Page 4-13 - 1. Urban Development Plans, *Potential Impacts* - We totally reject the statement that TROA would have no effect on community planning activities. By encouraging a FIRM drought supply, Truckee Meadows sprawl proceeds at an unchecked pace consuming ever-greater amounts of natural resources such as land, water and air. Such growth creates ever-growing wastewater discharge problems requiring mitigation through the acquisition of irrigation water to offset increases in TDS and nutrient loading.

The WQSA is a prime example of this. The acquisition of water from the Truckee Division of the Newlands Project, in turn, has already created air quality problems arising from fallowed lands on Swingle Bench choking the canals and laterals with sand and increasing costs and otherwise hampering the remaining agricultural water users. We also contend that TROA in conjunction with OCAP has the potential to further limit the amount of water reaching the irrigators in the Carson Division of the Newlands Project. This is based upon the overly optimistic year-end storage target projections in Lahontan Reservoir used for modeling results, which are proving faulty based upon actual storage numbers for the past four years. Coupling the erroneous assumptions in the TROA model with the storage, timing of releases and duration of flows to ensure upstream retention of water for in-stream flows and drought reserves only serve to embolden urban planners who seek to maximize the resources thought to be at hand.

Page 4-16 - c. *Churchill County, Nevada, Potential Impacts.* The seemingly innocuous statement that "TROA would have no direct impact on development of local water systems or on water rights on the Newlands Project" begs the relationship of TROA to the storage, timing of releases and duration of flows with potential impact to allowed diversions from the Truckee River under OCAP. 100% of all water for domestic M&I uses in the Lahontan Valley comes from groundwater. USGS studies have determined that the perennial yield in the valley is between 1300 and 2500 AFA with a demand in excess of 10,000 AFA. Yet to date, there has been very little reduction in groundwater elevation except in the vicinity of irrigation canals and laterals on a seasonal basis. As the seeds of Public Law 101-618 bear fruit, the resulting reduction in total water available in the Lahontan Valley will diminish. The State Engineer recognized the relationship of irrigated agriculture and groundwater some time ago when he issued State Engineer Order #1116 limiting the appropriation of groundwater for new quasi-municipal wells to not greater than 4000 GPD (that's less than four households). The near term impact of this order has been to dramatically increase the value of groundwater and the adoption of stringent development standards and water right dedication requirements in the unincorporated areas surrounding the city of Fallon (which we concede are appropriate actions). The long-term impacts are less confidence inspiring. They include the potential of having developed a significantly expanded community (we have a right to grow too) utilizing a steadily decreasing groundwater resource with increased water treatment requirements to meet public health standards, the potential devaluation of property and loss of economic value and viability due to the lack of adequate water resources. Does the document deal equally with and value equally upstream and downstream interests?

Page 4-21 - F. Water Quality. It should be noted that without the WQSA, growth in the Truckee Meadows could be severely limited since advanced tertiary wastewater treatment to meet water quality standards on the lower Truckee River would be a financially challenging prospect. Instead, upstream interests have entered into the WQSA utilizing prime irrigation water from the Truckee Division of the Newlands Irrigation Project to supplement flows in the lower Truckee River. The resulting water is used to dilute

wastewater to meet discharge standards and mitigate growth impacts resulting from urbanization. In so doing, the environmental consequences of growth have been transferred to the Truckee Division, most specifically Swingle Bench in Churchill County, resulting in air quality degradation and soil erosion. Such impacts have translated into additional operating costs for remaining agricultural operators as well as created dust hazards and at least one traffic accident (due to reduced visibility) on US Highway 50 with resulting injuries. To date, there has been no mitigation of the impacts occurring on the Bench by any party to the agreement. What are the plans to mitigate for the impacts to improve water quality in the lower Truckee caused to the Swingle Bench area of the Project?

Page 4-27 - A. Water Resources. The introductory paragraph is overly simplistic in its explanation and extremely optimistic in its outcome. While TROA will likely result in reduced Truckee River flows to create Credit Water, the proposal, based on the model, would only be effective in high runoff years or single season dry cycles. It would not allow for satisfaction of irrigation demands in the Carson Division when TROA calls for Credit Storage in multi-year dry cycles.

Pages 4-27 through 4-29 - Table 4.2 Cumulative effects on water resources by action category and alternative. Shouldn't agriculture have its own listing of cumulative effects on water resources by action category and alternative since it contributes substantially to the current ecosystem?

Page 4-31 - 2. Potential Cumulative Effects of TROA. We question the statement that TROA would not affect the amount of storm or wastewater treated by a facility, degree of treatment, or quality of (or constituent loading by) its discharge. Growth creates greater areas of pavement and increased stormwater runoff plus wastewater flows and the increased need for dilution or replacement for land application. Doesn't TROA by virtue of creating a FIRM drought supply allow for a lower dedication rate for development thus encouraging growth beyond our current capacity to provide water to urban areas in the Truckee Meadows? Further, conservation efforts to reduce per household water consumption create greater constituent loading because of lower volume? (the solution to pollution is dilution)

Page 4-33 - Table 4.5 - Analysis of effects on sedimentation and erosion by action category and alternative. To state that water rights acquisitions and transfers would not affect dynamics of erosion and sedimentation is puzzling. While TROA is not directly responsible for wind erosion of soils at Swingle Bench, it is nevertheless a part of the cumulative impacts resulting from implementation of P.L. 101-618. The use of highly questionable assumptions for the model could make TROA more directly responsible for wind erosion in the Carson Division of the Newlands Project.

Page 4-35 through 4-38 - Tables 4.6, 4.7, 4.8 and 4.9 - Water Quality. While reduction in unit loading to water bodies could occur, the increase in population resulting from a FIRM drought water supply for M&I purposes would result in higher total loading. Has total loading to receiving bodies of water been factored, and if so, what will be the ultimate outcome of such loading and when?

Page 4-40 - Table 4.10 - Analysis of effects on recreation by action category and alternative - Water rights acquisitions and transfers. We disagree on the effects on Lahontan Reservoir under the TROA alternative as being "minimal." See prior discussions on the assumptions under the model, which overstate carryover storage and fill probability of Lahontan in a multi-year dry condition.

Pages 4-41 & 4-42 - Tables 4.11 & 4.12 - Water rights acquisitions and transfers. Why is there no detail under the TROA alternative for this category since fallowed farmlands may not be economically viable for other uses thereby devaluing them and why is there no consideration given to the health related issues relative to dust and soils erosion on Swingle Bench and in the Carson Division?

Page 4-43 Conclusion. For the proposed action the DEIS reaches the conclusion that there would be no need for mitigation and therefore none is proposed. Such a statement for a document that took in excess of fourteen years to draft because of its complexity and the controversy surrounding it is inaccurate at best and downright misleading at worse. The fact of the matter is that only a handful of parties were involved in the negotiations leading up to this document leaving in excess of 2,400 water right owners, including a number of local governments, with a cumbersome recourse in the event they are not served when calling upon their water. One of the major faults with this agreement lies with the overly complex and convoluted model used to make decisions with respect to upstream water storage on the Truckee River to the detriment of the water right owners in the Newlands Project. Only a few people seem to have been privy to the model during the initial drafting that resulted in the original agreement in May 1996. At that time, the major problem seemed to be deficient modeling and inability to validate modeling documentation and assumptions to the public. It seems that this issue has not yet been resolved. Another issue manifests itself in inadequate analysis of reasonable alternatives. NEPA and CEQ regulations afford no room for the dismissal of adequate analysis of all reasonable alternatives, negotiated agreements notwithstanding. Legal proceedings on this very issue seem to support the fact that a negotiated set of criteria does not trump 40 C.F.R § 1502.14, which requires a detailed consideration of <u>all</u> reasonable alternatives. This has resulted in a very narrow range of alternatives confined to No Action, LWSA and TROA. The similarity of the No Action and the LWSA alternatives further call into question the validity of the TROA DEIS/EIR conclusions. Coupling that with no baseline conditions to allow for a true comparison of alternatives creates unanswered questions and questionable conclusions.

We appreciate the opportunity to comment on the TROA DEIS/EIR but find that the document falls short of meeting the requirements of NEPA and CEQ regulations even now after years of hard work and effort.

Sincerely,

BRAD T. GOETSCH
County Manager

BTG:wm