

**EXHIBIT**

**TMWA 3-0**

**Written Testimony of Marc Van Camp**

1 GORDON H. DePAOLI  
Nevada Bar No. 195  
2 DALE E. FERGUSON  
Nevada Bar No. 4986  
3 Woodburn and Wedge  
4 6100 Neil Road, Suite 500  
Reno, Nevada 89511  
5 Tel: 775/688-3000  
6 Email: gdepaoli@woodburnandwedge.com  
Attorneys for Truckee Meadows Water Authority

7  
8 STATE WATER RESOURCES CONTROL BOARD  
9  
10 DIVISION OF WATER RIGHTS  
11

12 In the Matter of: ) Hearing Officers: Charles Hoppin  
) and Tam Doduc  
13 Water Right Applications 31487 and 31488 )  
14 filed by the United States Bureau of ) **WRITTEN TESTIMONY OF**  
14 Reclamation, and Petitions to Change License ) **MARC VAN CAMP**  
15 3723 (Application 5169) of Washoe County ) **ON BEHALF OF**  
15 Water Conservation District, License 4196 ) **TRUCKEE MEADOWS WATER**  
16 (Application 9247) of Truckee Meadows Water ) **AUTHORITY**  
16 Authority, Permit 11605 (Application 15673) )  
17 and License 10180 (Application 18006) of the ) Date: July 21-23; 28-29, 2010  
17 United States Bureau of Reclamation ) Time: 9:00 a.m.  
18 ) Dept: 1001 I Street, Second Floor  
18 ) Coastal Hearing Room  
19 ) Sacramento, California  
19 )

1 **Education, Background, and Experience**

2 1. My name is Marc Van Camp. I am a registered civil engineer in California,  
3 Oregon, and Nevada, and a Certified Water Right Examiner in Oregon. I specialize in the  
4 areas of hydrology, hydraulics, irrigation, water supply, water rights, project feasibility, and  
5 related problems. I am a Principal of MBK Engineers, located at 1771 Tribute Road, Suite  
6 A, Sacramento, California 95815. MBK Engineers specializes in water resources  
7 engineering, and performs these engineering services for cities, counties, state and federal  
8 agencies, individual landowners, irrigation districts, and other entities. MBK Engineers was  
9 formed in 1967 (then known as Murray, Burns and Kienlen), and currently employs 18  
10 professional engineers. MBK Engineers has provided services relative to water rights, water  
11 resources, and flood control throughout the Sacramento Valley, the San Joaquin Valley, the  
12 Truckee River System, and the Klamath River System. I joined MBK Engineers in 1984.  
13 I became a Principal in 1990.

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15  
16 2. A copy of my resume, which accurately describes my education and work  
17 experience, is TMWA Ex. 3-1.

18 3. Other related experience includes the following:

19 I began my engineering career with the U.S. Geological Survey (USGS) as a hydrologic  
20 data technician. My work for the USGS included measuring stream flows throughout the  
21 Sacramento Valley. I have developed a broad range of knowledge and experience in the water  
22 rights field over the past two decades. I have been providing water rights expertise to  
23 Sacramento Valley irrigation water users for the past twenty-five years. I have used this  
24 experience to assist water users with various water transfers throughout the State. I provided  
25 technical expertise for the execution of the 2001 Forbearance Agreement between the  
26 Sacramento River Settlement Contractors, Westlands Water District, and the U.S. Bureau of  
27 Reclamation (Reclamation) which resulted in 160,000 acre-feet of water being made available  
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1 by the Sacramento River Settlement Contractors. I have been involved in numerous water  
2 transfers. Most recently, in 2009 and 2010, I have prepared and filed petitions for the purpose  
3 of transferring water from water right holders in the Sacramento Valley to water users that  
4 receive water from the Sacramento-San Joaquin Delta.

5  
6 On March 1, 1996, I was appointed the Upper Putah Creek Water Master by  
7 Sacramento County Superior Court Judge Parks in the case titled *Solano Irrigation District,*  
8 *etc. v. Upstream Water Right Holders in Upper Putah Creek.* I am currently the Water Master  
9 with the responsibilities of implementing the Upper Putah Creek Settlement Agreement dated  
10 March 10, 1995. In this capacity, my duties include monitoring and estimating depletion of  
11 water available to a downstream water right holder to comply with the Settlement Agreement.

12  
13 I have provided expert testimony to the Sierra County Superior Court in the Sierra  
14 Valley Decree involving the Middle Fork Feather River. MBK was retained by a Sierra Valley  
15 landowner who was dissatisfied with the water master's service and the quantity of water  
16 received pursuant to his water entitlements. MBK made a thorough review of the Sierra Valley  
17 Decree in order to understand the entitlements pertinent to the landowner's property. Field  
18 investigations were made relative to the water master services being performed to allocate the  
19 available water supplies. My testimony identifying the lack of available water master records  
20 and the need to better document the available supply for allocation assisted in settling the court  
21 case.

22  
23 I have provided expert testimony to the California State Water Resources Control Board  
24 (SWRCB) on behalf of water users upstream of the Sacramento-San Joaquin Delta. This  
25 testimony was provided to address the water quality control plans regarding the Sacramento-  
26 San Joaquin Delta and proposed implementation plans involving water rights. My testimony is  
27 part of the record leading to the SWRCB Water Rights Decision 1641. The testimony  
28 concerned hydrologic issues related to the San Joaquin River Agreement, which includes the

1 Vernalis Adaptive Management Plan (VAMP). In addition, I was involved on behalf of  
2 Sacramento Valley water right holders in the settlement (referred to as the Sacramento Valley  
3 Water Management Agreement) for this same proceeding.

4 4. In regard to the Truckee River watershed, MBK has been involved since  
5 approximately 1975. The involvement has included assisting with preparation of Water  
6 Resource Plans, understanding and analyzing U.S. Bureau of Reclamation's Operating Criteria  
7 and Procedures for the Newlands Reclamation Project, interaction with the Division of Safety  
8 of Dams, operational evaluation and decisions, participation in settlement discussions, and  
9 general overall engineering evaluation and analysis for water supply studies.

10  
11 Personally, in the 1980s I gathered basic flow data at many sites important to Truckee  
12 Meadows Water Authority's (TMWA's) operations and needs. I provided assistance in  
13 preparing the petitions of the Truckee River Operating Agreement (TROA) parties that are the  
14 subject of this hearing. Most recently, I was a witness on behalf of TMWA in litigation  
15 brought against TMWA by the Truckee-Carson Irrigation District (TCID) in regard to the  
16 ownership and operation of Donner Lake. As part of this litigation, I became familiar with the  
17 records of water flow and operations maintained by the Federal Water Master. In preparation  
18 for the testimony, I made a thorough field investigation of the key facilities in the Truckee  
19 River system. I made this field visit on August 13 and 14, 2009, and was accompanied by Mr.  
20 Joseph Burns, Consulting Civil Engineer.  
21

22  
23 **Purpose of Testimony**

24 5. The purpose of my testimony is to explain why Petition for Change -  
25 Application 9247, License 4196 (Independence Lake), the "Independence Change Petition,"  
26 Petition for Change - Application 5169, License 3723 (Boca Reservoir), the "Boca Change  
27 Petition," Petition for Change - Application 15673, Permit 11605 (Stampede Reservoir), the  
28 "Stampede Change Petition," and Petition for Change - Application 18006, License 10180

1 (Prosser Creek Reservoir), the "Prosser Creek Change Petition," to which I sometimes refer to  
2 collectively as the "Change Petitions," and particularly the Independence Change Petition, will  
3 not injure any legal user of water, and why they do not, in effect, initiate a new water right.

4 **Background**

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6 6. As stated in the testimony of Chad Blanchard, the current operation of the  
7 Truckee River and Truckee River Reservoirs, as well as diversions to the Newlands  
8 Reclamation Project at Derby Dam, are the subject of a number of court decisions and of  
9 regulations promulgated by the Bureau of Reclamation under the Reclamation Act, generally  
10 referred to as Operating Criteria and Procedures for the Newlands Project, or "OCAP"  
11 (App/Pet. Joint-9).

12  
13 7. The General Provisions of the Orr Ditch Decree (App./Pet. Joint-7) provide for  
14 the appointment of a water master, and define the duties and responsibilities of the office of the  
15 water master. As Chad Blanchard has testified, those duties and responsibilities include,  
16 among other things, keeping track of water flows at various sites along the Truckee River  
17 system including Lake Tahoe outflows, flows out of Donner Lake, flows from reservoirs in the  
18 Truckee River system, including the Truckee River past the Derby Dam as it flows towards  
19 Pyramid Lake. Data sources include the United States Geological Survey (USGS), the  
20 California Data Exchange Center (CDEC), and others. The Federal Water Master maintains  
21 records of river flows, and implements Federal court orders about the use of and rights to water  
22 in the Truckee River and Truckee River Reservoirs.

23  
24 8. As Chad Blanchard and Ali Shahroody have stated, the Federal Water Master's  
25 Office has a schedule of water right priorities which are determinative of when reservoirs in the  
26 Truckee River Basin may store water. That schedule is as follows:

- 27 1. Deliver pre-1870 irrigation rights (only if Floriston Rates are not met);  
28

- 1                   2.     Divert up to 60 cfs to Sierra Valley (1870 priority) in accordance with
- 2 the *Sierra Valley* decree;
- 3                   3.     Donner Lake and Independence Lake (first 3,000 acre-feet);
- 4                   4.     Provide Floriston Rate flows;
- 5                   5.     Lake Tahoe and Boca reservoir (first 25,000 acre-feet);
- 6                   6.     Truckee River diversions to Newlands Project under Claim No. 3 of the
- 7 *Orr Ditch* Decree and OCAP;
- 8
- 9                   7.     Boca Reservoir;
- 10                  8.     Independence Lake;
- 11                  9.     Stampede Reservoir; and
- 12                  10.    Prosser Creek Reservoir.

13 **Summary of Water Rights**

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15           9.     TMWA holds License 4196 (Application 9247) for storage of water in

16 Independence Lake, as summarized below.

17	Priority Date:	February 24, 1938
18	Point of Diversion:	Independence Dam
19	Points of Rediversion:	Steamboat Ditch
20		Highland Ditch
21		Reno Plant (Idlewild) Ditch
22		
23	Amount:	17,500 acre-feet per annum
24	Season:	About December 1 to about July 1
25	Purpose of Use:	Municipal
26	Place of Use:	Cities of Reno and Sparks as shown on map on file with
27		State Engineer
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1           10.     License 4196 does not include a term which would limit the quantity of water to  
2 be withdrawn from Independence Lake. A review of the Division's inspection report for  
3 purpose of issuing License 4196 identifies a total of 15,145 acre-feet released for municipal use  
4 and an additional quantity of losses during the period July 1, 1953 through June 30, 1954 to  
5 arrive at 17,500 acre-feet of use. The Division's inspection report is contained in the  
6 Division's files for License 4196 (Application 9247) and is provided as TMWA Ex. 3-2.  
7

8           11.     TMWA claims, and the Federal Water Master through historic operations has  
9 recognized, a pre-1914 water right of up to 3,000 acre-feet of storage in Independence Lake.  
10 TMWA recently filed a Statement of Water Diversion and Use to document the use of water  
11 during calendar year 2009, as required by the Division of Water Rights ("Division") and  
12 strengthened by legislation passed in November 2009.  
13

14           12.     It is my understanding, based on review of the Division's file, License 4196  
15 overlaps the pre-1914 claim of TMWA for storage at Independence Lake.

16           13.     The testimony of Marty Kaiser provides a summary of the other existing water  
17 rights and proposed changes which are the subject of the Change Petitions.

18           **Change Petitions**

19           14.     From time to time, staff members of the Division participated with  
20 representatives of the signatory parties to TROA in meetings to better understand the proposed  
21 implementation of TROA as it related to the existing and proposed changes of water rights on  
22 the Truckee River system.  
23

24           15.     The Independence Change Petition was filed on December 23, 2003, together  
25 with the Boca Change Petition, the Stampede Change Petition and the Prosser Change Petition,  
26 all of which are the subject of this hearing. As provided in the testimony of Janet Carson  
27 Phillips and others, the purpose of the Change Petitions is to assist in implementing TROA,  
28 which has been negotiated over a number of years.  
7



1           16.    The Change Petitions were protested by entities and persons within the  
2 Newlands Reclamation Project. The Newlands Reclamation Project has land with water rights  
3 in two divisions. The Truckee Division receives water directly from the Truckee River by  
4 diversion at Derby Dam into the Truckee Canal. As stated in the testimony of Jeffrey Rieker  
5 and Don Mahin, much of the Truckee Division is no longer irrigated because it has been  
6 urbanized, and because water rights within it have been acquired for water quality purposes.  
7 The Carson Division is located in the area of Fallon, Nevada, and is supplied with water from  
8 both the Truckee and Carson Rivers. The water from the Truckee River is diverted to Lahontan  
9 Reservoir in the Carson River Basin by means of the Derby Diversion Dam and the Truckee  
10 Canal. The water in Lahontan Reservoir is then released for irrigation of lands in the Carson  
11 Division of the Newlands Reclamation Project.  
12

13           17.    As stated in the testimony of Jeff Rieker, diversions from the Truckee River to  
14 the Carson Division of the Newlands Reclamation Project are now closely regulated pursuant  
15 to OCAP, and the Truckee River is limited to being a supplemental water supply for the Carson  
16 Division of the Newlands Reclamation Project.  
17

18           18.    The operational flexibility provided by TROA will facilitate and make for the  
19 coordinated use of water for all in-basin uses, including those for consumptive and non-  
20 consumptive uses, such as fishery purposes, as agreed to by the signatories of the TROA.  
21

22           19.    The Independence Change Petition filed by TMWA and the other Change  
23 Petitions are for the addition of points of diversion, points of rediversion, redistribution of  
24 storage, and common downstream points of rediversion, places of use, and purposes of use to  
25 facilitate the goals and objectives of TROA. Pursuant to the Independence Change Petition,  
26 Stampede Dam and Boca Dam are proposed to be added as additional points of diversion under  
27 License 4196 to facilitate the potential of TMWA to bypass inflow that would have been stored  
28 pursuant to License 4196 in Independence Lake, and to allow that water to be stored in either

1 Stampede or Boca Reservoirs. Stampede and Boca Dams are proposed to be added as points of  
2 redirection to facilitate the release of water previously stored in Independence Lake for  
3 restorage in Stampede and Boca Reservoirs. Numerous points of redirection are proposed to  
4 be added downstream of Boca Reservoir to identify those places where previously stored water  
5 is being diverted for various uses consistent with the provisions of TROA. The place of use  
6 under License 4196 is proposed to be modified to be consistent with common place of use for  
7 the water rights of the signatories to facilitate TROA. To a certain extent, if approved, the  
8 Independence Change Petition will also make the Independence License consistent with current  
9 practices. As the Cities of Reno and Sparks and adjacent areas of Washoe County have grown,  
10 TMWA's service area has expanded, and it has built new water treatment plants. Although  
11 TMWA's direct diversion water rights in Nevada reflect these changes to its service area and its  
12 new treatment plants, the Independence License does not.

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14  
15 **Proposed Changes Do Not Initiate a New Water Right**

16 20. Based on my experience, the two key parameters of a permit, license, or a  
17 pending application that cannot be changed are the amount of water and the season of  
18 diversion. Any proposed change to the amount of water or season would represent the  
19 initiation of a new water right. (*See California Code of Regulations § 691.*) In addition, a  
20 proposed change in the point of diversion to a new source may represent an initiation of a new  
21 water right; however, it must be reviewed on a case-by-case basis using the following factors:  
22 hydrologic connectivity, geographic scale of the proposed change, water availability, no injury,  
23 and subordination. (*See Erin Mahaney Memorandum dated November 28, 2006, Senior Staff*  
24 *Counsel, Office of Chief Counsel.*)

25  
26 21. The Change Petitions do not initiate a new water right because in no case will  
27 the quantity of water diverted to storage be enlarged, the quantity of water allowed to be  
28

1 withdrawn from storage will not be enlarged, the diversion season will not be expanded or  
2 changed, and the source will not change.

3  
4 22. The Independence Change Petition requests the addition of Stampede Dam and  
5 Boca Dam as downstream points of diversion. Both Stampede Dam and Boca Dam are on the  
6 Little Truckee River for which Independence Creek is a tributary thereto. The purpose of this  
7 request is to allow the bypass of water that could have been stored under License 4196 at  
8 Independence Lake and store it in Stampede or Boca Reservoirs. The benefit of this proposal  
9 as envisioned by TROA is to provide fishery benefits downstream of Independence Lake  
10 without injuring TMWA's current right to store water under this license for future use. This  
11 benefit is provided for in Section 8.N.3 of TROA.

12  
13 23. This operation, to store water available at Independence Lake under License  
14 4196 at the downstream reservoirs, does not change the source of the Independence Lake water  
15 right because Independence Creek is a tributary to the Little Truckee River and the points of  
16 diversion are hydrologically connected. The distance from Independence Lake Dam to  
17 Stampede Reservoir is about 10 miles, and to Boca Reservoir is about 19 miles. There is no  
18 large geographic change here, and the points of diversion are high in the watershed of the  
19 Truckee River system. TMWA does not propose to divert water at either of the new points of  
20 diversion when there would not be a like quantity available in Independence Creek at  
21 Independence Dam. Finally, there is no injury, and no need to subordinate the Independence  
22 priority to the priorities on the Little Truckee River. The priorities for the Sierra Valley water  
23 right and Boca Reservoir are senior to License 4196 for Independence Lake. With respect to  
24 Stampede Reservoir and Boca Reservoir, the owners of those water rights, the United States  
25 and the Washoe County Water Conservation District, have agreed to the new points of  
26 diversion by becoming a party to TROA, and the Federal Water Master will not allow diversion  
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1 to occur at the new points unless the water is available in Independence Creek. Therefore, this  
2 operation and the requested changes to License 4196 do not constitute a new water right.

3 24. The Stampede Change Petition and Boca Change Petition do not involve a  
4 change in source because their existing and proposed points of diversion are on the Little  
5 Truckee River. The Prosser Change Petition does not seek any changes in points of diversion.  
6

7 **No Injury to Any Legal User of Water**

8 25. With respect to California requirements regarding points of diversion,  
9 rediversion, places of use and purposes of use, the Change Petitions facilitate many of the  
10 actions to which the parties to TROA have agreed for their mutual benefit and the benefit of the  
11 environment. By adding a point of diversion and rediversion and redistribution of storage for  
12 one of the reservoirs, such as Independence, at the other reservoirs, Stampede and Boca, the  
13 owner of the Independence water right can, for example, allow a release larger than the existing  
14 minimum required release from Independence to Stampede without a loss of control of its  
15 water. As you will hear from other witnesses, a similar situation prevails with respect to  
16 minimum, and in some cases maximum, flows in the Little Truckee River between Stampede  
17 and Boca Reservoirs.  
18

19 26. The approval of the Independence Change Petition will authorize the storage  
20 and restorage of water under License 4196 in Boca and Stampede Reservoirs as agreed to by  
21 the parties to TROA. Water initially stored in Independence Lake under License 4196 is  
22 envisioned to be withdrawn and restored in Stampede or Boca Reservoirs for potential later use  
23 by TMWA for municipal purposes.  
24

25 27. The Administrator and Federal Water Master will monitor and account for water  
26 to ensure water is stored in conformance with License 4196. Water will continue to be stored  
27 under this license in accordance with the priorities which are followed today by the Federal  
28 Water Master. The storage priority under License 4196 is junior to all Orr Ditch Decree water

1 rights, including those of the United States for use within the Newlands Reclamation Project.  
2 No water can be stored under License 4196, unless the water right for the Newlands  
3 Reclamation Project is fully satisfied. Thus, water stored under License 4196 is water which  
4 would not have been diverted to the Newlands Reclamation Project. To the extent water is  
5 withdrawn from Independence Lake for restorage in a downstream reservoir, the storage space  
6 made available will only be filled within the terms and conditions of License 4196 and the  
7 schedule used by the Federal Water Master. Thus, in order to divert water to storage pursuant  
8 to License 4196 to fill storage space made available as a result of approval of the Independence  
9 Change Petition, the water right for the Newlands Reclamation Project would need to be  
10 satisfied.  
11

12           28.     Therefore, the Independence Change Petition does not store or restore any water  
13 that the Newlands Reclamation Project would otherwise be entitled to either for the Truckee  
14 Division or for the Carson Division and Lahontan Reservoir. The Independence Change  
15 Petition does not allow for storage or restorage of any water adjudicated to others by the Orr  
16 Ditch Decree, and it does not affect the flow required to maintain Floriston Rates. Because this  
17 is water which would not be available to the Newlands Reclamation Project, its use after  
18 storage cannot cause injury to the water right of the United States for the Newlands  
19 Reclamation Project.  
20

21           29.     The Stampede Change Petition will authorize the storage of water under Permit  
22 11605 in Independence Lake, and the storage and restorage of water under Permit 11605 in  
23 Boca Reservoir. Water will continue to be stored under Permit 11605 in accordance with the  
24 priorities followed by the Federal Water Master currently. Permit 11605 is junior in priority to  
25 all Orr Ditch Decree Water Rights, including those of the United States for the Newlands  
26 Reclamation Project. To the extent water is withdrawn from Stampede Reservoir for restorage  
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1 in Boca Reservoir, the storage space made available will only be filled within the terms and  
2 conditions of Permit 11605 and the schedule used by the Federal Water Master.

3 30. The Boca Change Petition will authorize the storage of water and the  
4 redistribution of storage under License 3723 to Independence Lake, and to Stampede Reservoir.  
5 Water will continue to be stored under License 3723 in accordance with the priorities followed  
6 by the Federal Water Master.  
7

8 31. The Prosser Change Petition adds common downstream points of rediversion,  
9 places of use and purposes of use to facilitate the coordinated operation agreed to in TROA.  
10 The Prosser Change Petition does not provide for any rediversion to and redistribution of  
11 storage.  
12

13 32. Further assurance and remedy of any potential injury to any legal user of water  
14 as a result of TROA and these Change Petitions is covered in Article One, Section 1.C of  
15 TROA.

16 33. TROA enables other parties to restore their previously stored water through  
17 trades or exchanges. Since this would be water that was previously stored according to another  
18 water right, it is not storing any additional water from any source. The Change Petitions, by  
19 addition of downstream common points of rediversion, common places of use and common  
20 purposes of use, will facilitate these and similar actions to improve reservoir coordination and  
21 use. By establishing common downstream points of rediversion, places of use and purposes of  
22 use for all of the reservoirs, Independence, Stampede, Boca and Prosser, the Change Petitions  
23 facilitate exchanges of water by parties from one reservoir to another with the certainty that,  
24 when they make their water in one reservoir available to another party in exchange for that  
25 party's water in another reservoir, the water they receive in exchange will be authorized to be  
26 rediverted at their point or points of rediversion, useable at their place of use, and useable for  
27 their purposes of use. The other party or parties to the transaction are provided with the same  
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1 certainty. Thus, for example, if and when TMWA trades water in Independence Lake for water  
2 in Stampede Reservoir in a drought in order to maintain Independence Lake storage, TMWA  
3 knows that the Stampede water can be diverted at its treatment plants, and used within its  
4 service area for municipal purposes. Similarly, the United States and Tribe know that  
5 Independence Lake water can be used for instream purposes from Independence Lake to  
6 Pyramid Lake.  
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8 **Summary**

9         34. The Change Petitions filed by the United States, Washoe County Water  
10 Conservation District and TMWA have been agreed to by the major water users within the  
11 watershed, and are only being protested by entities who receive water exported from the  
12 Truckee River Basin. The Change Petitions provide coordinated use of water through TROA,  
13 and are within the quantities and seasons of the existing licenses and permits. The  
14 Independence Change Petition and the other Change Petitions do not constitute a new water  
15 right. No injury will occur as a result of the Change Petitions, because storage will remain  
16 within the quantities and seasons of the existing licenses and permit. In addition, the  
17 Administrator and the Federal Water Master will continue to enforce and abide by the historical  
18 priorities.

19         35. As is established by TMWA Ex. 1-5 (Ruling 6035), the Nevada State Engineer  
20 has approved change applications to allow TMWA to store the consumptive use portion of  
21 former Nevada direct diversion irrigation water rights in Boca, Stampede, Independence,  
22 Prosser and other reservoirs when it is not needed to meet TMWA's water demands. Each  
23 Change Petition requests that water stored in that reservoir pursuant to such permits issued by  
24 the Nevada State Engineer not be considered as water stored as a result of the provisions of that  
25 reservoir's license or permit issued by the SWRCB (California Water Code Article 3, Sections  
26 1230-1232), because such storage does not involve any water which could have been stored  
27 under the reservoir permit or license. It involves a direct diversion water right, the  
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1 consumptive use portion of which can only be stored as a result of the Nevada State Engineer  
2 permit. Without that Nevada State Engineer permit, it must be passed through the reservoir.

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