

1 MICHAEL A.T. PAGNI
 2 Nevada State Bar No. 6444
 DEBBIE LEONARD
 3 Nevada State Bar No. 8260
 McDONALD CARANO WILSON LLP
 4 100 W. Liberty St., 10th Floor
 P.O. Box 2670
 5 Reno, Nevada 89505
 Telephone: (775) 788-2000
 6 Facsimile: (775) 788-2020
mpagni@mcdonaldcaran.com
 7 dleonard@mcdonaldcarano.com
Attorneys for Washoe County Water Conservation District

8
 9
 10 STATE WATER RESOURCES CONTROL BOARD
 11 DIVISION OF WATER RIGHTS
 12

13
 14 In the Matter of:) Hearing Officers: Charles Hoppin
) and Tam Doduc
 15 Water Right Applications 31487 and 31488)
 filed by the United States Bureau of)
 16 Reclamation, and Petitions to Change License)
 3723 (Application 5169) of Washoe County)
 17 Water Conservation District, License 4196)
 (Application 9247) of Truckee Meadows Water)
 18 Authority, Permit 11605 (Application 15673))
 and License 10180 (Application 18006) of the)
 19 United States Bureau of Reclamation)
 20)
 21)
 22)
 23)
 24)
 25)
 26)
 27)
 28)

MCDONALD-CARANO-WILSON
 100 WEST LIBERTY STREET, 10th FLOOR • RENO, NEVADA, 89501
 P.O. BOX 2670 • RENO, NEVADA 89505-2670
 TELEPHONE: (775) 788-2000 • FAX: (775) 788-2020

WRITTEN TESTIMONY
OF
DAVID WATHEN

I. BACKGROUND INFORMATION

1. My name is David Wathen. I am employed by the Washoe County Water Conservation District ("the District") as the Dam Tender for the Boca Dam in Nevada County, California.

II. PURPOSE OF MY TESTIMONY

2. The purpose of my testimony is to provide general background information concerning the formation, purpose and current operation of the District and the District's operation of Boca Reservoir.

III. BACKGROUND AND OPERATIONS OF THE DISTRICT

3. I have been employed with the District for approximately 9 years, and in the course of that employment have become generally familiar with aspects of the origination of the District and current operations of the Boca Reservoir in coordination with the United States District Court Water Master's Office.

4. The District is an irrigation district established under Chapter 539 of the Nevada Revised Statutes.

5. The District is charged with the effective management of Boca Reservoir to ensure adequate water supplies for water rights holders within the District.

6. Originally known as the Truckee Meadows Irrigation District, the District was organized on June 25, 1929 and changed its name to the Washoe County Water Conservation District on August 7, 1929.

7. The District was created, inter alia, (1) to facilitate conclusion of litigation over the waters of the Truckee River system and Lake Tahoe for the benefit of property owners within the District and (2) to prevent shortages of irrigation water and reduce floods by providing storage and regulatory reservoirs to conserve water.

MCDONALD·CARANO·WILSON
100 WEST LIBERTY STREET, 10TH FLOOR • RENO, NEVADA 89501
P.O. BOX 2670 • RENO, NEVADA 89505-2670
PHONE 775-786-1000 • FAX 775-786-2020

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

100 WEST LIBERTY STREET, 10TH FLOOR • RENO, NEVADA 89501
P.O. BOX 2670 • RENO, NEVADA 89505-2670
TEL: 775-784-1400 • FAX: 775-784-0020
MCDONALD • CARANO • WILSON³

1 8. The District generally encompasses all lands within the Truckee Meadows that
2 were irrigable in 1929, together with portions of land in the Truckee canyon east of Sparks.

3 9. Beginning in 1929, the District began investigating the feasibility of storing water
4 at the Little Truckee Canyon. To this end, the District started to take actions, including pursuing
5 federal appropriations, to construct and operate a dam or control works (later known as Boca
6 Dam) for water storage and release on the Little Truckee River, which is a tributary to the
7 Truckee River. In furtherance of these purposes, in 1930, the District filed an application with
8 what was then the California Water Commission to store 50,000 acre feet of water at what would
9 later become the Boca Reservoir.

10 10. Construction of the Boca Dam was completed in 1939, and the District has been
11 responsible for the care, operation and maintenance of the Boca Dam since 1942.

12 11. The District paid for the construction of the Boca Dam and continues to fund
13 ongoing maintenance and operations of the Boca Dam.

14 12. The District holds California Water Application 5169, License 3723, which grants
15 the District rights to store in Boca Reservoir and use up to 40,850 acre feet of water per year for
16 irrigation and domestic uses.

17 13. Surface water from the Lake Tahoe and Truckee River Basins is the primary
18 source of water stored in Boca Reservoir, and the Reservoir serves, among other functions, as a
19 critical drought supply for water rights owners in the District.

20 14. The District is an original participating party with respect to the decree entered in
21 *United States v. Orr Water Ditch Co., et al.*, In Equity, No. A-3, in the United States District
22 Court for the District of Nevada (the "Orr Ditch Decree"). That Decree incorporated a July 1,
23 1935 agreement known as the Truckee River Agreement, to which the District was an original
24 party.

25 15. Upon information and belief, the Boca Reservoir is currently operated in
26 coordination with Lake Tahoe for purposes of meeting Floriston Rates.

27 16. Releases from Boca Reservoir are directed by the Federal Water Master appointed
28 by the Orr Ditch Decree Court. In my experience, the Federal Water Master has required releases

 MCDONALD-CARANO-WILSON
100 WEST LIBERTY STREET, 10TH FLOOR • RENO, NEVADA 89501
P.O. BOX 2670 • RENO, NEVADA 89505-2670
PHONE: 775-788-1800 • FAX: 775-788-3020

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

from Boca Reservoir and/or Lake Tahoe if the Floriston Rate flows set forth in the Truckee River Agreement are not being met by natural flow, and releases have been required from Boca Reservoir if the Lake Tahoe elevation is more than 6,225.5 feet above mean sea level.

17. My responsibility as Dam Tender for Boca Dam includes the operation of Boca Reservoir for the purposes of meeting and maintaining Floriston Rates or reduced Floriston Rates, as directed by the Federal Water Master, and storage and release of water as directed by the Orr Ditch Decree and Federal Water Master.

18. I also coordinate the operation of Boca Reservoir with the Bureau of Reclamation's Washoe Project (Stampede and Prosser dams) for the purpose of flood control. For flood control, Boca Reservoir must have 8,000 af of storage space by November 1 of each year.

19. The District is a party to the Truckee River Operating Agreement ("TROA"), referenced and provided for in Title II of Public Law 101-618, 104 Stat. 3289 (1990), also known as the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (the "Settlement Act").

20. The District has filed Petition for Change – Application 5169, License 3723 with the California State Water Resources Control Board ("Board") in order to facilitate coordinated operations with other Truckee River reservoirs and to facilitate implementation of TROA.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of McDonald Carano Wilson LLP, and that on the 29th day of June, 2010, I caused a true and correct copy of the foregoing **WRITTEN TESTIMONY OF DAVID WATHEN PROVIDED AT THE REQUEST OF APPLICANT AND PETITIONERS** to be delivered electronically to the following persons:

Truckee Carson Irrigation District
Michael J. Van Zandt
Hanson Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94015
mvanzandt@handsonbridgett.com

City of Fernley
Paul G. Taggart
Taggart & Taggart, Ltd.
108 North Minnesota Street
Carson City, NV 89703
paul@legaltnt.com

Pyramid Lake Paiute Tribe
Don Springmeyer
Christopher W. Mixson
Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP
3556 E. Russell Road, 2nd Floor
Las Vegas, NV 89120
dspringmeyer@wrslawyers.com
cmixson@wrslawyers.com

U.S. Bureau of Reclamation
Stephen R. Palmer
Office of the Solicitor, Dept. of Interior
2800 Cottage Way, Room E-1712
Sacramento, CA 95825
Stephen.palmer@sol.doi.gov

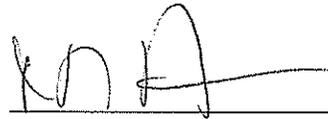
California Department of Water Resources
Erick D. Soderlund
1416 Ninth Street, Room 1118
Sacramento, CA 95814
esoderlu@water.ca.gov

 **MCDONALD-CARANO-WILSON³**
100 WEST LIBERTY STREET, 10TH FLOOR • RENO, NEVADA 89501
P.O. BOX 2670 • RENO, NEVADA 89505-2670
PHONE 775-788-8000 • FAX 775-788-2020

1 Churchill County
2 Rusty D. Jardine
3 Churchill County District Attorney's Office
4 155 North Taylor Street, Suite 156B
5 Fallon, NV 89406
6 rjardine@churchillda.org

7 Truckee Meadows Water Authority
8 Gordon H. DePaoli
9 Woodburn and Wedge
10 6100 Neil Road, #500
11 Reno, NV 89511
12 gdepaoli@woodburnandwedge.com
13 dferguson@woodburnandwedge.com
14 jill.willis@bbklaw.com
15 stefanie.hedlund@bbklaw.com

16 City of Fallon
17 Michael F. Mackedon
18 P.O. Box 1203
19 Fallon, NV 89407
20 fallonlaw@phonewave.net



Micki Nichols