

**AGREEMENT REGARDING SECTION 1.E. OF  
DRAFT TRUCKEE RIVER OPERATING AGREEMENT**

This Agreement Regarding Section 1.E. of Draft Truckee River Operating Agreement, hereinafter referred to as "this Agreement", is entered into this 2nd day of May, ~~2006~~<sup>2007</sup>, by and among the Pyramid Lake Paiute Tribe of Indians (the "Pyramid Tribe"), County of Washoe, Nevada ("Washoe County"), City of Reno, Nevada ("Reno"), and City of Sparks, Nevada ("Sparks").

**RECITALS**

1. The Pyramid Tribe, Reno, Sparks and Washoe County expect to be parties to the operating agreement provided for in Section 205(a) of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act, Title II of Public Law No. 101-618 (104 Stat. 3324) (the "Truckee River Operating Agreement").
2. The Pyramid Tribe, Reno, Sparks, Washoe County and others are also parties to the Truckee River Water Quality Settlement Agreement dated October 10, 1996 (the "Truckee River Water Quality Settlement Agreement").
3. The October, 2003, Draft Truckee River Operating Agreement includes certain provisions pursuant to which, not later than when the Truckee River Operating Agreement enters into effect, Reno, Sparks and Washoe County will provide water rights to be managed for the purposes of water quality in accordance with the criteria in Section 3(c) of the Truckee River Water Quality Settlement Agreement (the "Section 1.E.4 Provisions").

4. The parties hereto desire to amend the Section 1.E.4 Provisions in the Truckee River Operating Agreement with the provisions of Section 3.1 of this Agreement, and to amend certain related provisions in the Truckee River Operating Agreement accordingly.

NOW, THEREFORE, the parties hereto intending to be legally bound hereby and in consideration of the mutual covenants and promises herein contained, agree as follows:

## ARTICLE I

### Recitals Part of Agreement

The foregoing recitals are incorporated herein by this reference and shall form a part of this Agreement as if recited herein at length.

## ARTICLE II

### Definitions

For purposes of this Agreement, words which appear in bold face and with the first letter capitalized shall have the meanings given them as set forth in the Truckee River Operating Agreement as it is finally executed. Where not used in bold face and capitalized, words shall connote their ordinary meaning.

## ARTICLE III

### Proposal to Amend Truckee River Operating Agreement

**Section 3.1 Amendment to Section 1.E.4.** The Pyramid Tribe, Reno, Sparks and Washoe County will promptly request that the **Mandatory Signatory Parties** to the Truckee River Operating Agreement amend the October, 2003, Draft so that Section 1.E.4 thereof reads as follows:

**Section 1.E.4 6,700 Acre Feet of Water Rights to be Provided.** Reno, Sparks and Washoe County agree to provide 6,700 acre feet of water rights to be used as Water Quality Water, no later than when this **Agreement** takes effect,

pursuant to an agreement between Reno, Sparks, Washoe County and the Pyramid Tribe.

**Section 3.2 Amendment to Section 1.E.2.** The Pyramid Tribe, Reno, Sparks and Washoe County will promptly request that the **Mandatory Signatory Parties** to the Truckee River Operating Agreement amend Section 1.E.2 of the October, 2003, Draft to delete the references in that Section to Section 1.E.4 in the two places where Section 1.E.4 is referenced therein.

**Section 3.3 Amendment to Section 12.A.4.** The Pyramid Tribe, Reno, Sparks and Washoe County will promptly request that the **Mandatory Signatory Parties to the Truckee River Operating Agreement** amend Section 12.A.4 in order to add thereto a new subsection (h) as follows:

**Section 12.A.4 Entry Into Effect of This Agreement.** Unless the entry into effect of this **Agreement** is delayed pursuant to the provisions of Section 12.A.6, it shall enter into effect and become operative within one (1) year of the date on which the last of the following conditions set forth in Sections 12.A.4(a) through (h) is satisfied.

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**Section 12.A.4(h) Provision of 6,700 Acre Feet of Water Rights.** The 6,700 acre feet of water rights for water quality has been provided pursuant to Section 1.E.4.

## **ARTICLE IV**

### **Agreement to Provide 6,700 Acre Feet of Truckee Meadows Water Rights**

This Article IV is the agreement referenced in Section 1.E.4 of the draft Truckee River Operating Agreement as amended pursuant to Section 3.1 above. All such water rights provided by Reno, Sparks and Washoe County pursuant to that Section 1.E.4 of the draft Truckee River Operating Agreement as amended pursuant to Section 3.1 above shall be Truckee Meadows

water rights and shall be used as Water Quality Water in accordance with the **Truckee River Water Quality Settlement Agreement** and the Truckee River Operating Agreement, and the **Water Quality Credit Water Established** with such rights shall be managed for the purposes of water quality in accordance with the criteria in Section 3(c) of the **Truckee River Water Quality Settlement Agreement**. All water rights provided hereunder shall be owned by Reno, Sparks and Washoe County and shall be entitled to the same treatment provided under Section 6 of the **Truckee River Water Quality Settlement Agreement** for the water rights acquired pursuant to the **Truckee River Water Quality Settlement Agreement**. "Truckee Meadows water rights" means: (a) water rights with original points of diversion from the Truckee River between Farad and Vista, and (b) water rights from Truckee River tributaries which reach the Truckee River upstream of Derby Dam and water rights with original points of diversion between Vista and Derby Dam excluding any contribution of effluent from the Truckee Meadows Water Reclamation Facility in such amounts that the yield for water quality purposes (including the ability to establish **Water Quality Credit Water** under the Truckee River Operating Agreement) is not less than water rights with original points of diversion from the Truckee River between Farad and Vista. The water rights provided hereunder may be utilized by Reno, Sparks and Washoe County to fulfill any requirement that may be imposed to replace any groundwater component of effluent that is not returned to the Truckee River or a tributary of the Truckee River, and for the cost share credit referenced in Section 113 of the Energy and Water Development Appropriations Act of 2006.

## **ARTICLE V**

### **Effective Date for Article IV**

Unless the parties hereto enter into a written agreement specifying an earlier effective date, the provision of 6,700 acre feet shall occur, and Article IV of this Agreement shall enter into effect, only when all of the parties to this Agreement become **Signatory Parties** to the Truckee River Operating Agreement and the Truckee River Operating Agreement enters into effect.

## ARTICLE VI

### Dispute Resolution

**Section 6.1 Informal Resolution.** In the event of a dispute arising under this Agreement, the parties each represented by a designee shall attempt to resolve the dispute within ninety (90) days from the time the dispute arises, or within such additional time as the parties may mutually agree. A dispute shall be deemed to arise on the date one party sends a written Notice of Dispute to the other party or parties. Such Notice shall contain a concise statement of the matter in dispute and the position of the party sending the Notice.

**Section 6.2 Binding Arbitration.** If resolution of the dispute has not been achieved through consultation within the time period agreed to in Section 5.1, then upon notice by any party to the others, the dispute shall be finally resolved by binding arbitration by the **Truckee River Special Hearing Officer** acting as the selected arbitrator. The rules and procedures of the **Truckee River Special Hearing Officer** shall be the rules for the arbitration. The decision of the **Truckee River Special Hearing Officer** shall be final.

**Section 6.3 Costs and Fees.** The costs and fees associated with the arbitration shall be determined and assessed by the **Truckee River Special Hearing Officer** as provided in Section 2.C.4 of the Truckee River Operating Agreement.

## ARTICLE VII

## Miscellaneous

**Section 7.1 Agreement executed Without Coercion.** The parties hereto acknowledge that each is making this Agreement of its own free will and volition, and acknowledge that no coercion, force, pressure or undue influence has been used against any party in the making of this Agreement either by the other party to this Agreement or by any other person or persons.

**Section 7.2 Independent Expert Advice.** The parties hereto declare that each of them has had independent expert advice by persons of their own selection, including attorneys and hydrologists, and that each has signed this Agreement freely and voluntarily upon such advice.

**Section 7.3. Notices.** All notices required or permitted to be given by law or by the terms of this Agreement shall be in writing and shall be considered given upon personal service of a copy on the party to be served, or by mailing such notice by certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

- (a) If to the Pyramid Tribe, such notices shall be sent to:

Chairman  
Pyramid Lake Paiute Tribe  
P.O. Box 256  
Nixon, Nevada 89424

- (b) If to Washoe County, such notices shall be sent to:

Washoe County Department of Water Resources  
Attn: Director  
P.O. Box 11130  
Reno, Nevada 89520

- (c) If to Reno, such notices shall be sent to:

City of Reno  
Attn: Sanitary Engineer

One East First Street  
Reno, Nevada 89502

(d) If to Sparks, such notices shall be sent to:

City of Sparks  
Attn: Public Works Director  
431 Prater Way  
P.O. Box 857  
Sparks, Nevada 89432-0857

The parties may change the address to which notices are sent by a notice in writing to the others.

**Section 7.4 Consent.** Whenever the approval or consent of any party is required for any purpose under this Agreement, that approval or consent will not be unreasonably withheld or delayed.

**Section 7.5 Waiver.** Neither a course of conduct, nor any waiver by either party with respect to a default or breach of any provision of this Agreement by the other party, shall operate or be construed as a waiver of any subsequent default or breach, or as a modification of this Agreement.

**Section 7.6 Captions.** The captions of this Agreement do not in any way limit or amplify its terms and provisions.

**Section 7.7 Binding on Successors.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective successors and assigns for all time.

**Section 7.8 Authorship.** This Agreement has been reviewed by attorneys representing the respective parties. For the purposes of interpretation of this Agreement, no party shall be deemed to have been the drafter of this Agreement.

**Section 7.9 Good Faith and Fair Dealing.** The parties shall implement the provisions of this Agreement in good faith and shall observe all standards of fair dealing with respect thereto.

**ARTICLE VIII**

**Effective Date**

Except as limited by Article V, this Agreement shall enter into take effect on the later of when the **Mandatory Signatory Parties** agree to amend the October, 2003 Draft Truckee River Operating Agreement as provided in Article III above.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date and year first above written.

**COUNTY OF WASHOE**

By: Robert M Larkin  
Its: Chairman

Approved as to Form:

By: Melanie Foster  
District Attorney

Attest: Randy Harvey  
Washoe County Clerk

**CITY OF RENO**

By: [Signature]  
Mayor of Reno

Approved as to Form:

**PYRAMID LAKE PAIUTE TRIBE  
OF INDIANS**

By: [Signature]  
Its: Chairman

Attest: [Signature]  
Tribal Secretary

**CITY OF SPARKS**

By: Geno P. Martin  
Mayor of Sparks

Approved as to Form:



By: [Signature]  
Reno City Attorney

By: [Signature]  
Sparks City Attorney

Attest: [Signature]  
Reno City Clerk

Attest: [Signature]  
Sparks City Clerk

