

1 John K. Gallagher, Esq.
 Nevada State Bar No. 956
 2 Patrick H. Gallagher, Esq.
 Nevada State Bar No. 14875
 3 GUILD, GALLAGHER & FULLER, LTD.
 100 West Liberty Street, Suite 800
 4 P.O. Box 2838
 Reno, Nevada 89505
 5 Telephone: (775) 786-2366
 Fax: (775) 322-9105
 6 *jgallagher@ggfltd.com*
pgallagher@ggfltd.com
 7 *Attorneys for Chad Blanchard, Water Master*

8
 9 UNITED STATES DISTRICT COURT
 10 FOR THE DISTRICT OF NEVADA
 11

12 THE UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ORR WATER DITCH COMPANY, et
 16 al.,

17 Defendants.

IN EQUITY

Case No. 3:73-CV-00003-MMD

18 **AGREEMENT OF FUNDING PARTIES FOR APPROVAL OF**
 19 **TRUCKEE RIVER OPERATING AGREEMENT BUDGET FOR**
FISCAL YEAR OCTOBER 1, 2021 TO SEPTEMBER 30, 2022

20 Pursuant to Section 2.C.3 of the Truckee River Operating Agreement dated September 6,
 21 2008 the required approval is needed of a majority of the three Funding Parties, to wit: The United
 22 States of America, the State of California and the State of Nevada.

23 The Federal Water Master, Chad Blanchard, the designated Administrator (“Federal Water
 24 Master”), herein, submits to the Court, that the Court previously approved by Order signed
 25 February 10, 2021, the “tentative” budget for the fiscal year October 1, 2021 to September 30,
 26 2022. This tentative budget has been updated and the Federal Water Master now submits this
 27 budget to the Court as his “proposed” budget for the fiscal year October 1, 2021 to September 30,
 28 2022. This Agreement is signed by the required majority of the Funding Parties and is attached

1 hereto as Exhibit "A". The proposed budget is the sum of \$1,425,000.00, which sum will be paid
2 from the Funding Parties per their previously agreed percentages as follows:

3	United States of America	\$ 570,000.00
4	State of Nevada	570,000.00
	State of California	<u>285,000.00</u>
5		\$1,425,000.00

6 The Federal Water Master is asking for the Court to approve this proposed budget.

7 The Federal Water Master, Chad Blanchard, also submits for approval by the Funding Parties,
8 his proposed tentative budget for the Truckee River Operating Agreement for fiscal year October 1,
9 2022 to September 30, 2023, as Exhibit "B" attached hereto. The projected budget is the sum of
10 \$1,500,000.00, which sum will be paid from the assessment of the Funding Parties per their
11 previously agreed to percentages as follows:

12	United States of America	\$ 600,000.00
13	State of Nevada	600,000.00
	State of California	<u>300,000.00</u>
14		\$1,500,000.00

15 The Federal Water Master also submits for approval by the Funding Parties, his proposed
16 tentative budget for the fiscal year October 1, 2023 to September 30, 2024, as Exhibit "C" attached
17 hereto. The projected budget is the sum of \$1,600,000.00, which sum will be paid from the
18 assessment of the Funding Parties as follows:

19	United States of America	\$ 640,000.00
20	State of Nevada	640,000.00
	State of California	<u>320,000.00</u>
21		\$1,600,000.00

22 In addition, TROA section 7(A)(2)(b)(3) provides "[i]n addition to any fees that may be
23 charged by United States, [Washoe County Water] Conservation District may impose fees [Annual
24 Fee] for its calculated annual cost of operation and maintenance of Boca Dam and Reservoir
25 performed in accordance with this agreement".

26 To better implement section 7(A)(2)(b)(3) of TROA, the Parties agree that the Federal Water
27 Master should be granted authority to establish a bank account to hold custody of the Conservation
28 District funds described as the Annual Fee in section 7(A)(2)(b)(3). Such funds shall be set aside

1 by the Federal Water Master in a separate and distinct bank account known as the Boca Dam and
2 Reservoir Account (the "Boca Account") and monies deposited in said account shall only be used
3 to reimburse the Conservation District in accordance with TROA section 7(A)(2)(b)(3).

4 The Parties agree that their apportioned share of the Annual Fee shall be calculated by the
5 Federal Water Master and that the Federal Water Master shall be granted authority to collect from
6 the Parties their apportioned share of the Annual Fee.

7 In order to properly calculate the Annual Fee, the Conservation District shall provide the
8 Federal Water Master the relevant components provided in section 7(A)(2)(b)(3) on an ongoing
9 basis based on their annual audit report for each fiscal year ending June 30, beginning with the year
10 ending June 30, 2021. The Conservation District shall provide this information to the Federal Water
11 Master on an ongoing basis no later than November 1 of each year, beginning with November 1,
12 2021.

13 The Average Proportion of Flow for the Annual Fee shall be calculated by the Federal Water
14 Master based on a running average as provided in section 7(A)(2)(b)(3), beginning with the water
15 year ending September 30, 2021.

16 No later than January 15, 2022, and no later than January 15 of each subsequent year
17 thereafter, the Federal Water Master's Annual Fee calculations shall be communicated to the
18 Parties.

19 The Parties agree to pay the Federal Water Master for their apportioned share of the Annual
20 Fee no later than April 30 each year based upon the latest calculation of the Annual Fee as
21 determined by the Federal Water Master.

22 The first Annual Fee has been calculated to be \$82,941.55 (Exhibit "D") and shall be paid
23 by the Parties no later than April 30, 2022 as follows:

24	United States of America	\$37,751.51
25	State of Nevada	\$33,176.62
26	State of California	<u>\$12,019.42</u>
	Total Annual Fee	\$82,941.55

27 The Federal Water Master shall distribute the Annual Fee collected for the Boca Account to
28 the Conservation District within 30 days upon receipt of all funds.

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The Federal Water Master shall include an accounting of fees collected and distributed in the Boca Account in his annual audited financial report to be filed with this Court.

These proposed tentative budgets are designed to give the Parties notice, and ample time to prepare for future budgets for the Truckee River Operating Agreement and the Water Master proposes to continuously provide two years of “tentative” budgets along with the “proposed” current budget. Signatures to this Agreement are not bound by these budgets, as costs and expenses may vary from year to year as circumstances may change, and actual budgets are submitted each year. Any and all surpluses of income over expenses shall be held in reserve by the Federal Water Master to be used for any budget short falls or unanticipated expenses.

The Federal Water Master, Chad Blanchard, also submits to the Court for its approval the audited Financial Report for Administration of the Truckee River Operating Agreement filed for the fiscal year October 1, 2020 to September 30, 2021.

This Agreement may be executed in two or more counterparts (including by facsimile or by an electronic scan delivered by electronic mail), each of which shall be deemed an original, but all of which together shall be considered one and the same agreement, and shall become effective when counterparts have been signed by the majority of the Funding Parties hereto and delivered to the other Funding Parties, it being understood that the majority of the Funding Parties need not sign the same counterpart.

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1 By executing this document, the parties hereby give their approval of the Budget as
2 submitted and submit the same to the Court for its approval.

3 DATED THIS 29th DAY OF December, 20 21.

5 U.S. DISTRICT COURT WATER MASTER

6
7 By: 
8 CHAD BLANCHARD

9 GUILD, GALLAGHER & FULLER, LTD.

10
11 By: 
12 JOHN K. GALLAGHER, ESQ.
13 Nevada State Bar No. 956
14 PATRICK H. GALLAGHER, ESQ.
15 Nevada State Bar No. 14875
16 100 West Liberty Street, Suite 800
17 Reno, NV 89501
18 Phone: 775-786-2366
19 Fax: 775-322-9105

20 *Attorneys for U.S. District Court Water Master*

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UNITED STATES OF AMERICA

By: _____
Print Name: _____
Title: _____
Date: _____

STATE OF NEVADA

By: *Adam Sullivan*
Print Name: ADAM SULLIVAN
Title: STATE ENGINEER
Date: January 27, 2022

STATE OF CALIFORNIA

By: _____
Print Name: _____
Title: _____
Date: _____

APPROVED BY THIS COURT

Date: _____

By: _____
United States District Judge

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UNITED STATES OF AMERICA

By: _____
Print Name: _____
Title: _____
Date: _____

STATE OF NEVADA


By: _____
Print Name: _____
Title: _____
Date: _____

STATE OF CALIFORNIA

By:  _____
Print Name: Juan Escobar
Title: Principal Engineer, WR
Date: 1/7/2022

APPROVED BY THIS COURT

Date: 2/2/2022

By:  _____
United States District Judge

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EXHIBIT LIST

- A. Proposed Budget
- B. Proposed Tentative Budget for the Truckee River Operating Agreement for fiscal year
October 1, 2022 to September 30, 2023
- C. Proposed Tentative Budget for the Truckee River Operating Agreement for fiscal year
October 1, 2023 to September 30, 2024
- D. Boca Dam and Reservoir Account

EXHIBIT A

EXHIBIT A

Exhibit "A"

In Equity 3:73-cv-0003-MDD
U.S. District Court - Chad J Blanchard, TROA Administrator
Truckee River Operating Agreement Administration

Proposed Budget Statements of Revenues, Expenses and Retained Earnings Fiscal Year ending September 30, 2022

Budgeted Revenues

Administrative Fees - United States	\$570,000
Administrative Fees - State of Nevada	\$570,000
Administrative Fees - State of California	<u>\$285,000</u>

Total Budgeted Revenue **\$1,425,000**

Budgeted Expenses

Computer Consulting, Software & Licensing	\$65,052
Depreciation	\$44,824
Habitat Restoration Fund	\$59,725
Hearing Officer	\$12,000
Payroll Taxes	\$40,111
Professional, Legal & Audit Fees	\$60,100
Rent, Telephone, Supplies & Overhead	\$108,135
RiverWare Modeling & Technical Consulting	\$300,000
Stream Gaging & Telemetry Data Retrieval	\$72,760
Travel & Conference	\$11,000
TROA Administration Staff & Benefits	<u>\$700,657</u>

Total Budgeted Operating Expenses **\$1,474,364**

Budgeted Net Income (Loss) **-\$49,364**
Item Not Affecting Working Capital (Depreciation) 44,824

Total Budgeted Working Capital Provided **-\$4,540**
Working Capital Applied To Budgeted Equipment Acquisitions -20,000

Budgeted Increase (Decrease) in Working Capital **-\$24,540**

EXHIBIT B

EXHIBIT B

Exhibit "B"

In Equity 3:73-cv-0003-MDD
U.S. District Court - Chad J Blanchard, TROA Administrator
Truckee River Operating Agreement Administration

Tentative Budget Statements of Revenues, Expenses and Retained Earnings Fiscal Year ending September 30, 2023

Budgeted Revenues

Administrative Fees - United States	\$600,000
Administrative Fees - State of Nevada	\$600,000
Administrative Fees - State of California	<u>\$300,000</u>

Total Budgeted Revenue **\$1,500,000**

Budgeted Expenses

Computer Consulting, Software & Licensing	\$69,606
Depreciation	\$47,962
Habitat Restoration Fund	\$63,906
Hearing Officer	\$12,840
Payroll Taxes	\$42,918
Professional, Legal & Audit Fees	\$64,307
Rent, Supplies & Overhead	\$115,705
RiverWare Modeling & Technical Consulting	\$321,000
Stream Gaging & Telemetry Data Retrieval	\$77,853
Travel & Conference	\$11,770
TROA Administration Staff & Benefits	<u>\$749,703</u>

Total Budgeted Operating Expenses **\$1,577,570**

Budgeted Net Income (Loss) **-\$77,570**
Item Not Affecting Working Capital (Depreciation) \$47,962

Total Budgeted Working Capital Provided **-\$29,608**
Working Capital Applied To Budgeted Equipment Acquisitions -\$22,000

Budgeted Increase (Decrease) in Working Capital **-\$51,608**

EXHIBIT C

EXHIBIT C

Exhibit "C"

In Equity 3:73-cv-0003-MDD
U.S. District Court - Chad J Blanchard, TROA Administrator
Truckee River Operating Agreement Administration

Tentative Budget Statements of Revenues, Expenses and Retained Earnings Fiscal Year ending September 30, 2024

Budgeted Revenues

Administrative Fees - United States	\$640,000
Administrative Fees - State of Nevada	\$640,000
Administrative Fees - State of California	<u>\$320,000</u>

Total Budgeted Revenue **\$1,600,000**

Budgeted Expenses

Computer Consulting, Software & Licensing	\$73,086
Depreciation	\$50,360
Habitat Restoration Fund	\$67,101
Hearing Officer	\$13,482
Payroll Taxes	\$45,064
Professional, Legal & Audit Fees	\$67,522
Rent, Supplies & Overhead	\$121,490
RiverWare Modeling & Technical Consulting	\$337,050
Stream Gaging & Telemetry Data Retrieval	\$81,746
Travel & Conference	\$12,359
TROA Administration Staff & Benefits	<u>\$787,188</u>

Total Budgeted Operating Expenses **\$1,656,448**

Budgeted Net Income (Loss) **-\$56,448**
Item Not Affecting Working Capital (Depreciation) \$50,360

Total Budgeted Working Capital Provided **-\$6,088**
Working Capital Applied To Budgeted Equipment Acquisitions -\$24,200

Budgeted Increase (Decrease) in Working Capital **-\$30,288**

EXHIBIT D

EXHIBIT D

Exhibit "D"

In Equity 3:73-cv-0003-MDD

U.S. District Court - Chad J Blanchard, TROA Administrator
Truckee River Operating Agreement Administration

Proposed Budget

Administrator Statement of Annual Fees and Expenses

Fiscal Year ending September 30, 2022

BOCA DAM AND RESERVOIR ACCOUNT

Boca Dam and Reservoir Annual Fees

United States of America	\$37,751.51
State of Nevada	\$33,176.62
State of California	<u>\$12,013.42</u>

\$82,941.55

Total Annual Fees

Budgeted Operating Expenses

Transfer to	
Washoe County Water Conservation District	<u>\$82,941.55</u>

Total Budgeted Operating Expenses

\$82,941.55

Budgeted Net Income (Loss)

\$0.00