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 21 IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEVADA

<p>22 UNITED STATES OF AMERICA, <i>et al.</i>,          23 Plaintiff,          24 v.          25 THE ORR WATER DITCH CO., <i>et al.</i>,          26 Defendants.</p>	<p>) Case No. 3:73-cv-00003-LDG          )          ) <b>MOTION OF THE UNITED STATES,          ) STATE OF NEVADA, PYRAMID LAKE          ) PAIUTE TRIBE, TRUCKEE MEADOWS          ) WATER AUTHORITY, AND WASHOE          ) COUNTY WATER CONSERVATION          ) DISTRICT TO MODIFY OR          ) AMEND THE FINAL DECREE ENTERED IN          ) THIS CASE IN 1944</b></p>
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Attorneys for Defendant Washoe County Water Conservation District

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1 Pursuant to Section 205(a)(4) of the Truckee-Carson-Pyramid Lake Water Rights Settlement  
2 Act, Title II of Public Law 101-618 (the "Settlement Act") and Rule 60(b)(5) of the Federal Rules  
3 of Civil Procedure, Plaintiff United States of America ("United States"), and Defendant-Intervenor  
4 State of Nevada ("Nevada"), Plaintiff-Intervenor Pyramid Lake Paiute Tribe ("Tribe"), and  
5 Defendants Truckee Meadows Water Authority ("Water Authority"), and Washoe County Water  
6 Conservation District jointly move the Court to modify the final decree entered in this matter on  
7 September 8, 1944, as provided in the "Proposed Order Modifying the Orr Ditch Decree" submitted  
8 concurrently herewith.

9 This Motion is based on Section 205 of the Settlement Act, in which the Congress of the  
10 United States directed the United States Secretary of the Interior ("Secretary") to negotiate an  
11 operating agreement with the States of Nevada and California to set forth the manner in which  
12 federally owned Truckee River Reservoirs would be operated in the future, including for the  
13 purposes stated in Section 205(a)(2) of the Settlement Act. To enter into effect, the operating  
14 agreement must have been executed by the Secretary, the State of Nevada, and the State of  
15 California and submitted to this Court and to the court in *United States v. Truckee River General*  
16 *Electric Company*, now No. S-643 (E.D. Cal.), originally entered in No. 14861 (N.D. Cal.) (1915),  
17 for approval of any necessary modifications in the provisions of the Orr Ditch Decree and the  
18 Truckee River General Electric Decree. Settlement Act, § 205(a)(4). The Operating Agreement that  
19 was required to be negotiated pursuant to Section 205 was executed by the Secretary, the States of  
20 California and Nevada and others on September 6, 2008, and the approval of this Court for the  
21 necessary modifications to the Orr Ditch Decree to allow the Agreement to go into effect is now  
22 requested.

23 This motion is also based on Rule 60(b)(5) of the Federal Rules of Civil Procedure because  
24 continuing to apply the Orr Ditch Decree's provisions directing the manner in which water must be  
25 passed through or released from Lake Tahoe and Boca Reservoir to satisfy Orr Ditch Decree water  
26 rights is not in the public interest and is no longer equitable in light of the substantial changes in  
27 legal and factual circumstances since the Orr Ditch Decree was entered in 1944.

28 This Motion is supported by the Truckee River Operating Agreement executed on September

1 6, 2008 (the "Operating Agreement"),<sup>1/</sup> by such other evidence as the Court may deem necessary,  
2 and by the accompanying Memorandum of Points and Authorities.

3 Respectfully submitted this 17<sup>th</sup> day of November, 2008, by:

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12 /s/ Fred R. Disheroon  
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22 FOR THE TRUCKEE MEADOWS WATER  
23 AUTHORITY:

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CHRISTOPHER W. MIXSON, Nevada State Bar No.  
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<sup>1/</sup> The signed Operating Agreement is attached as Exhibit B to the Declaration of Stephen M. Macfarlane, filed concurrently herewith.

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FOR THE WASHOE COUNTY WATER  
CONSERVATION DISTRICT

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