

September 14, 2016

A regular meeting of the Walker River Irrigation District (WRID) Board of Directors was held on September 14, 2016. The meeting was called to order at 8:09 AM at the District Board Room, 410 N Main St, Yerington, Nevada by President Jim Snyder.

Present were:

Jim SNYDER	President
David GIORGI	Vice President
Richard NUTI	Treasurer
David LITTLE	Director
Dennis ACCIARI	Director
Jessica SMITH	Bookkeeper
Robert BRYAN	General Manager
Robert MARTINEZ	Water Master
Gordon DePAOLI	Legal Counsel
Dale FERGUSON	Legal Counsel

Public Present

Pete Fenili Nat Lommori Steven Fulstone

Public Comment

Water Master MARTINEZ presented a flyer from the Nevada Water Right Association regarding a Yerington Water Right Workshop on October 12th; the flyer was given to GM BRYAN and he will make the flyer available to the Board.

GM BRYAN advised he forwarded the Board an email regarding a meeting with USGS. Kathy Wilson from BIA is attempting to set up a meeting with USBWC, WRID, and USGS on October 3rd or 4th at the USGS offices. They (BIA) have submitted a formal request where they would like to see discontinued gauges on the Walker Basin put back in the system. They are looking for funding and have asked Water Master MARTINEZ to increase his assessments to cover the cost. There will be a meeting to discuss the topic; please let GM BRYAN know if anyone is interested in attending. Director LITTLE requested to know if the topic directly related to WRID and whether the District should get involved. GM BRYAN advised water users do pay for gauging on the system. The gauges they are asking for have not be in the system and have not been paid for from the beginning; that's why they are seeking more funding to bring the gauges back on line. Director LITTLE asked whose decision is it to say 'yes' that the gauges are put back on the system; GM BRYAN advised the USBWC has been asked to raise assessments and will discuss that at their annual meeting. So far, the BIA has not asked WRID to increase assessments because they are outside of the District boundaries and do not pay assessments. Director LITTLE asked who has the authority to install the gauges; GM BRYAN advised anyone can fund the gauges and the last round of funding came from the Desert Terminal Lake project. Director LITTLE confirmed they do not need the District's approval to go through with the project; GM BRYAN advised he believes they can go through with the project no matter what. GM BRYAN advised USGS is currently getting the data from our staff; a person was hired to go out and get the data and get it to USGS; we are not getting funding from USGS- the costs are being covered by the grant and the assessments. More farmers are opening up to the idea

of the gauging because the Department of Water Resources is going to need to know how much water is being put into the ditch and how much is actually getting to the ranches. Director LITTLE explained that because the project does not directly deal with the reservoirs or drains, the District shouldn't have an interest in this and it is not the Board's decision whether the project continues. GM BRYAN advised it may not directly deal with the reservoirs or drains now, but there is a possibility for future litigation that the upstream pumping (domestic, agriculture, primary, etc.) is contributing to the river falling out which is impeding or impacting them from getting their 1859 right. Director LITTLE confirmed the BIA can put the gauges regardless of the District's decision; GM BRYAN advised that is true and we would like numbers to give us better data and it gives Water Master MARTINEZ better data to operate the system. Director LITTLE advised that is MARTINEZ and his Board's business; Water Master MARTINEZ advised that is true, but if his Board makes a decision to increase the assessments, it affects the farmers and the District represents the farms. Director LITTLE confirmed, again, that the topic does not concern the reservoirs or drains and that topic is the business of the Water Master and his Board; GM BRYAN advised he brought the information to the Board to offer the chance for anyone to participate in the meeting and to ensure the District is cooperating and keeping informed of what goes on with the system. Treasurer NUTI inquired whether the data from when the gauges were being used was beneficial in making management decisions; GM BRYAN advised the data wasn't beneficial to him directly, but was beneficial for the Water Master's office when determining priority, deciding transportation, etc. Treasurer Nuti asked if any of the gauges were above the reservoir; GM BRYAN advised the ones they were more interested in were the ones in the District's area- Highway 208 & Antelope Valley. Water Master MARTINEZ advised he would like to see a gauge at the weir as there has never been a gauge at the weir on the river. Director LITTLE advised the Water Master does need better tools to get the measurement correct at the weir and he believes the District should do whatever the District can, and at any cost, to help the Water Master get the measurements correct. GM BRYAN advised the Board is more than welcome to come sit in the meeting.

Roll Call

All members present.

Review and discussion and possible approval and/or revision of August 4, 2016 draft Revised Walker River Irrigation District Rules and Regulations Governing the Distribution and Use of Water and resolution related to Bylaws of Walker River Irrigation District. (For possible action)

Counsel DePaoli suggested to leave the Bylaw discussions for later as they are paraphrases of statutes. Counsel DePaoli also suggested the Board takes the time to look at the current regulation and understand what it says then look at the proposed changes to ensure the changes are beneficial. He recommended the regulations be looked at one at a time so there can be discussion. Counsel DePaoli advised Exhibit shows the changes, but Exhibit C is the clean version without the lines crossed out.

- Existing Regulation 1: GENERAL
 - o *'The water of all sources of supply within the District, whether above or beneath the surface of the ground, belongs to the public.'*- Director LITTLE requested to know why the regulation was crossed out. Counsel DePaoli advised the first sentence in existing Regulation 1 is a restatement of Nevada Law; it can be there or not but it cannot be changed. He did not see the need for it to be included if it cannot be changed; Director LITTLE advised it is necessary if someone does not know what the law is.

- *'Subject to existing rules, all such water has been appropriated by the Walker River Irrigation District for beneficial use, as provided in the Water Law of the State of Nevada, and such water has been apportioned under the "apportionment of benefits" to each and every tract of land.'* - Counsel DePaoli advised the sentence is not correct. By stating 'all such water has been appropriated by the District for beneficial use', it is not accurate; most of the water within the District is appropriated by individual land owners either through the natural flow rights they have under the decree or through ground water appropriations they have made individually. The water appropriated by the District is the water stored in the reservoirs and it is appropriated under the laws of the State of California with the exception of one of the creeks that flows into Topaz from Nevada. The District has appropriated the ground water right for its well under Nevada law and has appropriated the certificated waters on the West and East under the State certificates. If the sentence is kept, it needs to be revised to reflect accurate information. Counsel DePaoli advised he does not think the sentence is necessary due to not being able to change anything by keeping it in regulation.
- DISCUSSION: President SNYDER expressed his agreement in cleaning up the regulations to make it as clear as possible. Director LITTLE advised he needs time to thoroughly read through the regulation book to fully understand what is being said and what is being proposed for change. GM BRYAN advised it was not expected to make any decisions today; this will be a process. Director LITTLE advised he likes the current wording 'the water of all sources of supply within the District, whether above or beneath the surface of the ground, belongs to the public.' and does not care for the wording in the proposal. Counsel DePAOLI advised Director Little was looking at the compare version and not the clean version; he recommended the clean version be viewed to eliminate some of the confusion. Treasurer NUTI advised he, in the capacity of a new water right holder, should be able to request the regulations or print them out from the website and be able to read and understand how things work. Treasurer NUTI asked whether the clean version of the proposed changes is understandable and simple enough for someone with limited knowledge to understand; Director LITTLE advised he is on the same page and agrees that the regulations need to be simple and concise, but they also need to be detailed enough to explain what is needed. President SNYDER suggested paragraphs explaining what each regulation means and explaining the referenced statutes/laws. Counsel DePaoli advised new water right holders can be used to an irrigation district being the entity that provides all of their water and it may be helpful to have something in the regulation explaining what the District represents; Director LITTLE agreed and suggested an introduction/paragraph be put in the front of the book. Counsel FERGUSON advised there are two conflicting ideas being presented- wanting to simplify the regulations so that someone who picks up the book for the first time will understand and also wanting to have detail enough so that there is no confusion and the reader will have enough information about laws/statutes.; the more information put in the regulations the less simple the regulation becomes. Counsel DePAOLI, speaking to President SNYDER, stated it would be best to make the regulation as understandable as possible instead of having the regulation stated and then having a paragraph explaining what the regulation means.

- *'Beneficial use shall be the basis, the measure and the limit of the right to the use of water appropriated by the District.'*- Counsel DePAOLI advised rather than having a regulation labeled 'General' have an introduction which explains what the sources of water in the district are and how they are appropriated, some references to state law where the general principles can be found and not call it a regulation but rather an introduction to the regulations.
- *'Priority of right to use the water appropriated by the District does not exist, but each user has an equal right with every other user to use the waters in proportion to his apportionment of benefits.'*- Counsel DePAOLI advised it is focused on the stored water but it is not clear when the regulations state all of the water in the District is appropriated. Director LITTLE confirmed Counsel DePAOLI's intent with the regulation is to either make the information accurate or eliminate it.
- DISCUSSION: Vice President GIORGI suggested a definition section may be beneficial to include for new water users; by looking at the current regulations, a new water user would not understand a lot of what is being said. Counsel DePAOLI advised proposed new Regulation 1 would be definitions and is a reference to Regulation 14 which has definitions. Counsel DePAOLI advised he suggests there be a definition section at the front of the book after the introduction. Director LITTLE advised it is a common thought that water law is understood, but when someone gets to court it is a different story; he would like definitions and explanations in the new regulations would be beneficial.
- Counsel DePAOLI confirmed the Board is okay with the reworking of old Regulation 1 as proposed in the clean proposed version.
- Existing Regulation 2: RECORD OF SERVICE
 - Counsel DePAOLI advised the proposed revisions are intended to bring the regulation consistent with what currently takes place.
- Proposed Regulation 2: RECORDS
 - The title was changed to simply 'RECORDS'
 - *Section 2.2 'In the case where the landowner of record subdivides acreage originally served through one delivery and creates multi-tenants, delivery will continue to be made at the original delivery point; however, a Record of Service will be separately maintained for each parcel.'*- Counsel DePAOLI advised he had forgotten the District had already began to draft a more detailed regulation on subdivision of land. Lyon County currently has provisions in its ordinances that require the District sign off on land division maps. Counsel DePAOLI gave the Board and audience what was previously drafted to review and comment on at the next meeting. The previous draft has ideas and language from similar provisions in Fallon and TCID because they have a lot of land divisions and have dealt with the issues; they are more formal and can require associations be put in place so the District has one point of contact for any issues. Treasurer NUTI questioned if the rules applied to land that is supplied by decree only and the owner wants to subdivide; Counsel DePAOLI advised he believed it could apply to them as well as someone who has stored water. The statute does not draw any distinctions between the source(s) of water. Counsel DePAOLI advised the old regulations refer to only ditches owned or controlled by the District, but the regulations could apply where stored and decree water is involved. FENILI questioned whether the District has the authority to specify

what type of measuring device is being used at the point of diversion; Director LITTLE advised the District should definitely have a say on what type of device is used so there is uniformity and accuracy among devices. President SNYDER asked Counsel DePAOLI if there is a regulation addressing devices; GM BRYAN advised the State does have a list of acceptable devices, but it has not been updated recently. Treasurer NUTI advised the District should have a form or list to give out when the subdivision map comes in for approval that states what the acceptable devices are and what is required; GM BRYAN advised a form/list could be created and can be put in place when a map comes in for approval. Treasurer NUTI advised the District should have a rated device that can be verified and signed off, possibly by ITRC; GM BRYAN advised that is doable and the crew can build one, rate it, and have it tested by ITRC.

- Existing Regulation 3: BASIS FOR CHARGES
 - o Counsel DePAOLI advised he had modified the regulation (see Proposed Regulation 3) but was looking at it and decided to keep the regulation as it is. General language could be added, but the existing regulation provides a better understanding as it stands. Counsel FERGUSON advised a sentence could be added referencing statutory basis and more specifics as to how the charges are done.
- Proposed Regulation 4: DISTRICT OFFICE HOURS
 - o Counsel DePAOLI advised the proposed regulation is very different from the existing. Counsel DePAOLI stated he questioned in the memo whether office hours should be in a regulation. Director LITTLE advised there are many farmers who would like to see change. Director LITTLE expressed concern of not being able to contact anyone on weekends or holidays; he suggests hiring or paying people to be on call on the weekends on holidays. Counsel DePAOLI advised what is being done is not what is currently in the existing regulations; he questions whether the office hours need to be in regulation because if any changes are made, a change to the regulations must be made. Counsel DePAOLI advised if the hours are in the regulations, he suggests have irrigation season and non-irrigation season hours. Director LITTLE advised the hours may need be changed on a year to year basis, but they should not be set in stone in a regulation; President SNYDER agreed. GM BRYAN advised his phone is always on, but he is unable to change gates without going through the proper channels. Vice President GIORGI advised the Water Master needs to be part of the equation as well since he is the one changing the gates. Counsel DePAOLI advised the regulation could state 'During non-irrigation season, the office hours are whatever, and during irrigation season, the office hours will be set by the District Board. These hours are to be set by March 1 each year.' GM BRYAN advised users usually call the office to place an order; there aren't many, if any, who come into the office to order water. The District has the technology to have users place water orders on the website, but there has not been anyone utilize the opportunity. Director LITTLE advised he has attempted to call the Ditch Rider on the weekends or holidays and he is not able to get ahold of anyone so he does not bother trying anymore. Director LITTLE advised when a Ditch Rider is hired, they need to be told to be available 24/7 so farmers can turn water on or off or make changes. GM BRYAN advised the Ditch Riders have been contacted on Saturdays and they have made changes; GM BRYAN has gone out to the ditches to make changes when Ditch Riders are

unreachable. Vice President GIORGI suggested the office hours be posted on the front door; GM BRYAN advised the hours have been posted on the front doors until recently. President SNYDER stated he does not see why it needs to be in the regulations; Director LITTLE questioned Counsel DePAOLI whether the regulation can be thrown out entirely. Counsel DePAOLI advised the regulation can state the hours can be available on the website and elsewhere. GM BRYAN advised instead of having a regulation, a page can be put at the front of the booklet with important phone numbers and hours, etc. Treasurer NUTI suggested the regulation read, 'Normal business hours are Monday through Friday 7:30am to 3:30pm. During irrigation season, the office will be staffed during x time to x time; after hours are flexible and the District Board may approve changes.' Treasurer NUTI suggested an emergency number also be included; GM BRYAN advised the last phone number on the office hour sign was Spooner's home number. Director LITTLE stated the regulation needs to be accurate; GM BRYAN advised that if the Board did not want to keep it a regulation, an informational page can be added at the front of the booklet. The Board was in agreement to strike Regulation 4 and put the necessary information at the front of the book.

- Proposed Regulation 5: ORDERING OF WATER

- o Counsel DePAOLI advised the existing regulation has been revised considerably but it still deals with the ordering of water with Ditch Riders.
- o *Section 5.1.b '... by telephone to the District Office during District Office hours as set forth in Regulation 4...'* Treasurer NUTI advised this section must be removed.
- o *Section 5.5 Quantity of Water Ordered or To Be Adjusted. 'Orders for the delivery of water shall be not less than one (1) cubic foot per second, and orders for adjustments to previously scheduled deliveries shall be for not less than one-half (0.50) cubic foot per second.'* Director LITTLE questioned the .50 cubic foot per second order; GM BRYAN advised it was not per individual user, but rather the entire ditch. Director LITTLE advised the amount is 'tight' and there is a question of beneficial use; GM BRYAN advised that gets into the 53 rules that the Water Master goes by and he can make the determination on whether the water will be delivered or not. Water Master MARTINEZ advised he can make the decision based on a futile call; if the order is for an amount of water that will not get to the destination, he can say the water will not be delivered. Water Master MARTINEZ advised if the water cannot be of beneficial use, he will make the determination not to deliver the water. Treasurer NUTI advised beneficial use has changed to include wildlife, fish, trees, etc.; Water Master MARTINEZ advised beneficial use has not changed and that is not what the decree rights state; Treasurer NUTI advised he has storage rights. FULSTONE requested clarification from Counsel DePAOLI on the minimum 2 cfs. Counsel DePAOLI advised 2 cfs is in the current regulation. FULSTONE inquired whether that regulation was per ranch or per ditch; Counsel DePAOLI advised that was one problem with the existing regulation- it did not specify. FULSTONE requested clarification; Director LITTLE offered a scenario. Director LITTLE gave the situation of someone ordering a foot and expects that foot to get to his ranch but cannot get the full order because of shrink; the regulation should not be decreasing the cfs, but increasing it. FULSTONE offered a comment regarding fractional decree being added to other fractional orders becoming a usable amount; the Water Master

should be able to look at the amount and make a decision whether the amount is beneficial use or not. FULSTONE suggested the District allow for some flexibility for individual ditch companies to add water together to get it to the users. FULSTONE also stated there was a user on Lateral B who ordered half a foot, but because there were other waters in the ditch with the half foot, the user was able to get it (minus shrink) to the place of use. GM BRYAN advised the topic falls in the 53 rules that the Water Master uses. Director LITTLE advised if a farmer has a sprinkler, he could get half a foot and put it to beneficial use. In regards to FULSTONE's comment about the Lateral B order, Treasurer NUTI advised other users had water in the ditch that helped carry the smaller order to the place of use. Counsel DePAOLI questioned how to word the regulation so that a user who has less than 1 cfs understands he can order water; as it reads, a user with less than 1 cfs will read the regulation and realize he cannot order water because it is less than the 1 cfs requirement. Treasurer NUTI suggested the regulation should state, 'Orders for delivery of water shall be in cubic feet per second.'

- *Section 5.6 Delivery of Water Under Order. 'The quantity of water delivered will be in accordance with the order, insofar as normal operations of the canal or ditch permit.'* FENILI stated his understanding is that the ditch or canal permit will decide whether the order, even if it is less than 1 cfs, is a good order. FENILI advised there were decree holders in Smith Valley who could not get their water because the Water Master could not deliver the water until there was more water in the ditch. FENILI stated because this District is complex, it is difficult to make one statement that will fill all scenarios. Water Master MARTINEZ requested the regulation state all orders will be made in cubic feet per second instead of acre feet because there is a lot of confusion regarding that topic; it doesn't need to quantify the amount of the order. GM BRYAN advised the cfs/acre feet conversion has caused problems in two valleys this season; he suggests there be a conversion page at the beginning of the book. Treasurer NUTI suggested the regulation state, 'Depending on the canal operation and judgement of the Water Master...' Water Master MARTINEZ interrupted to advise he has a problem with WRID putting regulations on him and what he does. Water Master MARTINEZ advised he as well as USBWC will be opposed to putting regulations on him and his Board. President SNYDER inquired if there were other instances in the regulations where the water master is noted, and MARTINEZ advised there are others but he will address it when they arise. Water Master MARTINEZ advised he would work with WRID and the Board, but does not work for WRID. Treasurer NUTI requested to know how the authority of the Water Master works with private ditch companies; Director LITTLE advised the WRID Board does not have the authority to deny water but the Water Master does. Treasurer NUTI questioned Counsel DePAOLI on how to have a balance between WRID, private canals, and the Water Master. Counsel DePAOLI stated he recommends the regulation state the orders must be in both cubic feet per second and duration; GM BRYAN advised the orders are in 24 hour increments. Water Master MARTINEZ stated the delivery duration gets into private canal problems and the rotation basis; GM BRYAN advised the District is not going to get into the rotation agreements. Director LITTLE asked the Water Master if Counsel DePAOLI's wording was okay with him; Water Master MARTINEZ agreed with the wording. Treasurer NUTI requested clarification on the revision; if a quarter of a foot

is ordered, but not received, the farmer just doesn't get the water. Counsel DePAOLI stated that is how the regulation reads. Treasurer NUTI questioned Water Master MARTINEZ whether he has the authority to make the decision to deny the order because the water would not get to the place of use; MARTINEZ advised he does have that authority.

- Discussion on water reporting: President SNYDER questioned whether the office staff keeps records of fractional days; GM BRYAN advised the staff records what the Ditch Rider gives them which is on a 24-hour period. The staff's records are set up on a 24-hour system.

- Existing Regulation 6: WASTE WATER

- Counsel DePAOLI advised he suggested to eliminate this regulation because it was not clear. Director LITTLE requested to know what the problem was and why. Counsel DePAOLI advised it was not clear and he did not know if it needed to be there and if it does, it needs to be made more clear. Treasurer NUTI requested to deal with the issue of return water arises and requested to know how much it happens; GM BRYAN advised it has happened a few times this year. Counsel DePAOLI advised he is under the understanding that waste water should make it back to the canal and then, possibly, back to the river. GM BRYAN advised the issue on the Saroni was occurring during the middle of the night where water was being put in the canal in the middle of the night and then out by the morning; the sensors show the changes. Water Master MARTINEZ advised there are changes in irrigation practices where there is more waste water than there was in the past. Water Master MARTINEZ stated there should be a regulation stating there cannot be a pump back system; the decree reads that there is a one-time use. Director LITTLE confirmed that decree is based on return flows; MARTINEZ confirmed. GM BRYAN advised prior notification plays a big part of the remedy; if there was prior notification of waste water, the Water Master can adjust his numbers and increase the decree if needed or find someone who can use the water. Vice President GIORGI questioned whether the person who is dumping it is being charged; GM BRYAN advised the person is being charged. Director LITTLE requested to know what to do when a farmer finishes irrigating early and has to put water back in the ditch and cannot contact the Ditch Rider. GM BRYAN advised if there were a prior notification, the Water Master can raise the priority and downstream users can benefit. Treasurer NUTI offered insight on situations occurring and the District does not want users to create new ways to dump water for their benefit on another piece of land; Director LITTLE requested a hypothetical situation. Treasurer NUTI gave the scenario of one user having excess water on a field and puts water back in the canal so he can use it a few fields down. Director LITTLE questioned if that was a bad thing; GM BRYAN advised it is a bad thing when the canal breaches because there is excess water in the canal. If the Ditch Rider is notified there will be excess water, he can make changes to accommodate the surplus of water. Director LITTLE questioned GM BRYAN on how to control each and every farmer; GM BRYAN advised not every farmer is dumping the water, but for those who are or will be, there needs to be something in regulation controlling the situation. Counsel DePAOLI clarified that the District is talking about a requirement regarding notifying the Ditch Rider if someone is done early or has excess water no matter what

time of day; Director LITTLE confirmed it is just a matter of notification and he thinks a regulation is necessary. President SNYDER clarified that notification needs to be made if the water is returning to a canal- drain canal included. FENILI requested to know how this would affect private ditch companies since the District does not have authority over the ditches and Ditch Riders. Director LITTLE advised there are situations where individuals are draining their fields into the canals and ditches and the Ditch Riders aren't aware of it. GM BRYAN stated if the Ditch Riders of the private companies are on notice of the extra water, they can find someone who can benefit from it. FENILI advised the Ditch Riders will be taking orders from the ditch companies and not the District; he believes the ditch companies should be under the authority of the District so the regulations can be enforced. FENILI advised the old system is fractured and is not accurate with the modern day practices. Treasurer NUTI questioned Water Master MARTINEZ on decree water being a one-time use, but the water is not going back to the system. MARTINEZ interrupted stating that is under the 53 rules; Treasurer NUTI continued is questioning on what happens when the water does not make it back to the system but stays in the canal and is used by someone before it gets to the system; does that go against the user's duty? Water Master MARTINEZ advised that is up to the user to decide on farm delivery. Vice President GIORGI asked what happens if no other users can use the extra water; Water Master MARTINEZ stated the ditch company President would need to be notified that the water is bad because of chemicals, etc. Director LITTLE advised there used to be a problem with white rot where the extra water goes into the ditch and spreads the white rot and no one wanted to use the water.

- Vice President GIORGI questioned Counsel DePAOLI on what needs to be done with the regulation; Counsel DePAOLI suggested the regulation be left out for now, but revisited later and make provisions to Regulation 5 to include notifications to the Ditch Rider.
- Proposed Regulation 6: IRRIGATION SEASON CHANGES TO STORED WATER
 - Counsel DePAOLI advised the Proposed Regulation 6 is similar to existing Regulation 7 but has more detail. Counsel DePAOLI advised there are revisions to transferring water from systems (East to West and West to East, etc.). GM BRYAN advised there are forms to be filled out for each transfer.
- Existing Regulation 7: TRANSFER OF STORAGE ON AN ANNUAL BASIS
 - *The temporary transfer of storage water to be used on non-water right land is prohibited.* Treasurer NUTI advised this sentence needs to be included in the proposed changes. Water Master MARTINEZ agreed and clarified that it was already established that under the California permit, the District has a storage right of 30,000 out of the 86,000 water righted acres and can put the storage water anywhere; but there is really no land that water can be transferred to that has no water rights. Counsel DePAOLI advised the regulation is not what California recognizes as the place of use, but rather that storage water cannot be transferred to, even temporarily, land that is not already recognized to have a water right. The past issues stemmed from the days where land had water rights then the water rights got foreclosed on and the land was stripped; there were restrictions on putting water back on the land. Statute stated the parcel had to be at least 40 acres, but that was to put water permanently back on the land. Counsel DePAOLI advised in this context, the regulation can be included, but it does not

necessarily need to be. Counsel DePAOLI questioned the Board on whether they want to allow temporary transfers from water righted land to non-water righted land. Director LITTLE asked Counsel DePAOLI if his understanding of the current statute is correct- that water cannot be placed back onto stripped land for irrigation; Counsel DePAOLI advised it was statute that it can be done if the parcel is 40 acres or more but the statute was changed to include parcels less than 40 acres if the proper process is completed. Director LITTLE requested confirmation that Counsel DePAOLI was talking about Nevada Statute and that it cannot be changed; Counsel DePAOLI advised he was referencing Nevada Statute, but that was for permanent changes, we are discussing temporary irrigation changes when deciding what to put into regulation. President SNYDER advised he does not see that the District needs to restrict the transferring of water; Director LITTLE agreed and stated there should be no restrictions on where water is moved to. Treasurer NUTI advised he reads the regulation as there is a problem if someone is using water on unwater righted ground; Director LITTLE requested to know what was wrong with taking water from one place and using it somewhere else. Director LITTLE requested Treasurer NUTI give a situation where using water on unwater righted property is not good. Treasurer NUTI offered the scenario of a user having water rights designated to a specific number of acres and all of those acres are being irrigated, but the user wants to start irrigating 5-10 acres of land that doesn't have water rights and uses the water assigned to the water righted acres. Director LITTLE stated that is not right; Treasurer NUTI advised that is how he is reading the regulation. Director LITTLE stated the Board should consider allowing users to take water from one piece of water righted land and use it on a piece of unwater righted land to help the farmers not restrict them. LOMMORI advised by doing that, it takes away from the junior water right holders; Director LITTLE questioned how that is. LOMMORI advised by taking water from a piece of water righted land and putting it on unwater righted land it does not allow for the junior water right holders to get their take. Director LITTLE clarified his view by stating both pieces of land would not be irrigated; the farmer would take the water he would use on field A and use it on Field B- the same amount of water is being used, but field A remains dry while field B gets the water. Counsel DePAOLI advised we are only concerned about stored water and only during an irrigation season; the transfer can only happen if a user has the stored water to use or if the user gets water from another user. Director LITTLE advised the regulation ties into the Australian Method of making water more liquid; by using water from one place on another piece of land, it accommodates change and is beneficial for the user. President SNYDER agreed. Director LITTLE gave the scenario of one field being infected with white rot and another field being clean; without having the regulation, the user can take the water that was intended for the white rot field and use it on the clean field. Water Master MARTINEZ advised the water cannot be moved on a temporary basis but can be done on a permanent basis because it is creating additional acreage. Under a temporary basis, water can be purchased from another user and put on already water righted ground, but cannot be purchased and put on unwater righted acres- that would require a permanent change because you are putting water onto unwater righted land. Vice President GIORGI questioned GM BRYAN on the recent water right transfer involving

Masini's. GM BRYAN advised Masini's permanently moved water rights from water righted ground to unwater righted land by going through that process. Director LITTLE advised the Board should accommodate people and change. Vice President GIORGI questioned who was going to police the transfers and ensure the water was going toward beneficial use; Director LITTLE advised the user should be smart enough to know what to do with the water and whether it is beneficial use or not. Vice President GIORGI requested to know what would happen next year when both pieces of land are being watered; Director LITTLE advised both pieces cannot be irrigated because there is only so much water. Treasurer NUTI advised with how efficient users are becoming, portions of water can be taken from one field and transferred, temporarily, to another field and that increases acreage. Director LITTLE stated the District should not care whether the water is being used on water righted ground or stripped ground; the District should be accommodating to the farmer not restricting. Director LITTLE advised the farmer should be allowed to move water wherever they want. Counsel DePAOLI recommended the regulation be drafted both ways- allowing transfer and not allowing transfer. Director LITTLE advised he has virgin farm ground that is stripped and he would like to get water to it; Treasurer NUTI asked that if a piece of ground is white rot infested, wouldn't it make sense to permanently change the water right? Director LITTLE advised there are crops that the white rot doesn't affect so, no, the water shouldn't be transferred permanently. Director LITTLE stated the District needs to accommodate change, not discourage it. Treasurer NUTI asked GM BRYAN if the water cards have specific locations for the water; GM BRYAN advised they are specific, but the office staff can add an internal control to document the temporary transfer. There may need to be a map to track the transfers.

- Proposed Regulation 6A: PERMANENT CHANGES TO STORED WATER FOR IRRIGATION USE WITHIN THE DISTRICT

- o Counsel DePAOLI advised this proposed regulation closely follows the process the State Engineer's office requires, the only difference is that the ultimate decision lies with the District Board rather than with the State Engineer's Office. There is a provision which prohibits the permanent change that would move stored water supplied by Topaz Reservoir to stored water supplied by Bridgeport Reservoir and vice versa even though that can be done on a temporary basis for a limited amount of time under Regulation 6. The other provision is that if it is a supplemental storage right, the natural flow right that it has to supplement has to go with it. Those are things the Board has to consider because of the potential problems that would come with the moving of water from Topaz to Bridgeport and vice versa. If that is going to be allowed, there has to be restrictions in place.
- o *Section 6A.8 Judicial Review:* Counsel DePAOLI advised there is a provision that states 'To Be Provided'. The reason nothing is there is that there needs to be a process on what to do when someone is unhappy and what court it will go to. The Nevada Statute on moving water back to stripped land is with the Lyon County District Court. Because of the decree, Counsel DePAOLI was unsure if it would be with the District Court or the Federal Court. Since the regulation only pertains to stored water, it should not affect the decree. Counsel DePAOLI advised he is still thinking about what to put into regulation.

Vice President GIORGI questioned whether this regulation would be the avenue to take when the water user needs to go through the Judicial system; Counsel DePAOLI advised it would state the process they would need to go through if the user or a protestant were unhappy. Treasurer NUTI confirmed this would have no bearing on NFWF's changes of stored water; Counsel DePAOLI confirmed. President SNYDER confirmed the natural flow right would have to be transferred with the water; Counsel DePAOLI advised that is how the proposed regulation is written in Regulation 6A.7.e. President SNYDER questioned whether the transfer of natural flow must be that way; Counsel DePAOLI advised his impression is that whatever distinction there was between supplemental and new lands storage has been blurred. He has not seen that the District is tracking how much natural flow someone with supplemental storage right is actually getting nor to make sure that someone who has supplemental storage right is using the water on the land that has the natural flow with it. If the District are really not doing that; then the question is a very good one. GM BRYAN advised it will be something that the District will have to keep track of soon. Director LITTLE confirmed that supplemental use is a higher priority than new lands; Counsel DePAOLI advised that is not necessarily correct- Director LITTLE advised on a ditch basis it was correct. Counsel DePAOLI advised the District does not consider whether a user has supplemental or new lands storage when determining allocation. Director LITTLE discussed the NFWF purchasing of lands and taking all water rights off of the lands; the District should have a say so on what is done with the storage rights. Counsel DePAOLI advised this only applies to a change that is within the boundaries of the District and is irrigation; the rights still have to be for irrigation; any other change is not in the District's hands. FENILI advised supplemental storage is different from new lands- new lands has a given amount and supplemental storage is related to how many decree rights you have. GM BRYAN advised there is a rate factor for the supplemental storage; FENILI advised the new lands and supplemental storage are not allocated the same. GM BRYAN advised they are all equated in how they are allocated the supplemental and new lands are not separated, they are already in the system with the water cards and based the rates. FENILI advised with the way the State Engineer is moving, there needs to be records because it is a separate issue.

- Discussion regarding NFWF's acquisition of stored water: Treasurer NUTI advised the District is looking at creating a proposal to change only stored water for irrigation, but there are thousands of acre feet of stored water potentially destined for Walker Lake; how does the District deal with or address that? Counsel DePAOLI stated one of the ideas of the lease program as to see how that would work with stored water. The District is going to have to come to grips that at some point in time, the topic has to be addressed. Right now, without the District's cooperation, NFWF cannot move that stored water anywhere. If the District says they are not going to let any stored water be changed to non-irrigation use and outside the boundaries of the irrigation district, the District will need to figure out how to put that water back in place. Either this way to where it now can be moved elsewhere within the District for irrigation use; this rule about including the natural flow right with it is going to be problematic. The District is going to have to think about what that means overall for NFWF's acquisition program, if

the stored water they acquired cannot be used for that purpose. They will want to turn that water into money or disposal of some other asset to acquire more natural flow water to meet their goal. Treasurer NUTI asked if they (NFWF) could sue the District if they are told they cannot transfer the water; Counsel DePAOLI advised they might sue the District. Treasurer NUTI inquired about past requirements of the supplemental rights had to be transferred with the primary rights; Counsel DePAOLI stated he was not certain. Treasurer NUTI recalled situations where the decree rights were transferred but the storage rights were left on the land with no direction, he understood all rights had to go at one time. Counsel DePAOLI advised those situations were happening with transfers within the District for irrigation; there isn't anything in the decree or in state law which prohibits them from applying the change of natural flow of water right. Their (NFWF) acquisitions include not only the natural flow, but the storage and any claim, right, title, or interest they may have with the District's certificated water rights which they have also applied for. They cannot apply to change any of those without the District's participation. If they want to change the storage on a permanent basis, they would have to go to California and there has to be compliance with the California Environmental Quality Act which would be a big environmental analysis; Director LITTLE confirmed that was for storage only. Treasurer NUTI asked if the regulations the District puts in place would cause problems when decisions are to be made; Counsel DePAOLI advised the Federal Court rules only allow the District to handle changes that are for irrigation and within the boundaries of the District. The District certainly has a big say when it comes to changing the California water right licenses; California is not going to let anyone change those without the District's participation. FENILI advised that any changes made today apply to NFWF since they are water right holders within the District; if changes need to be made in the future then they can be changed. The District cannot anticipate everything that may come in the future; Counsel DePAOLI advised the regulations are not set in stone and can be changed if needed.

Adjourn for break at 11:24 a.m.; reconvened at 11:35 a.m.

- Proposed Regulation 7: WATER FROM DISTRICT WELL
 - o Counsel DePAOLI advised the proposal is written in a way to recognize it is there but leaves the details to the Board to decide each year. Director LITTLE confirmed the Board would handle the specifics each year; GM BRYAN confirmed. Director LITTLE requested clarification on how it is decided on how much water users get. Director LITTLE offered the situation where he owns 1,000 water righted acres, but is only allowed 25 acre feet in the lottery. He believes he should be allowed to draw more water since he has more water than someone who has a 100-acre outfit; the District should be accommodating towards larger water right holders. GM BRYAN advised the current way is that if an entity has over 100 acres, they can only draw 25 acre feet per entity. Director LITTLE advised the regulation looks good to him.
- Existing Regulation 8: EXCHANGE WATER
 - o Counsel DePAOLI advised the existing regulation is not in the proposed regulations, but is not saying it should not be included. Treasurer NUTI requested clarification on tail water; once the water hits the canal, it is no longer their water and is distributed evenly among users. Counsel DePAOLI advised that is one of the questions he was uncertain of

and it needs clarification. Vice President GIORGI asked Treasurer NUTI if the water is tail water is going into a ditch or a drain ditch; if it hits a drain ditch it can only be used in excess of what goes down the stream. Counsel DePAOLI advised he believes it means they don't want someone manipulating return flow in exchange for surface water. The return flow in canals is to be proportionately distributed but seems to be conflicting. Vice President GIORGI questioned if the water is to be distributed to users below the user or among every user on the ditch. Counsel DePAOLI advised regulation 6 prohibits using a ditch as a primary waste water course. Director LITTLE clarified on whether that regulation means someone is not supposed to dump tail water into a major ditch; Counsel DePAOLI advised that is how he understands it. Director LITTLE stated regulation 6 must be changed to encourage tail water be dumped into a major ditch. Treasurer NUTI questioned Counsel DePAOLI on whether the regulation addresses individual wells or the District well; Counsel DePAOLI advised he assumed it was individual pumps. Director LITTLE confirmed with the Board that the well/storage exchange is being done even though it should not. GM BRYAN advised currently it is not allowed, but it is taking place; Director LITTLE advised it needs to be allowed. Treasurer NUTI asked who is enforcing where the water is being used; Director LITTLE clarified that the water is not being used on land that does not have a well. Director LITTLE advised the District is currently pumping water from the District well into the River so that the users in Smith Valley can use water; the well water is being exchanged for storage water. Treasurer NUTI requested to know if the exchanges are being done with the State Engineer's approval and who is enforcing where the water is being used; Director LITTLE advised all the water is going into the ditch so it does not matter where the water is used because it is comingled. Director LITTLE advised the District should make things better for the farmer, not worse. FENILI advised the District well is certificated for the whole District; NUTI is talking about individual wells. Vice President GIORGI gave the situation where he would pump water from his well into the Spragg and take the Spragg water and use it on his property; the State Engineer prohibits that. Director LITTLE stated that would have to be passed by the State Engineer but it should not matter where the water is used; only so much water can be pumped. Counsel DePAOLI advised with the District well and the provision, the District cannot change what the State Engineer says. If the ground water place of use is not a place of use for the well, the State Engineer can prohibit that. Counsel DePAOLI advised there is no way to track where the water is being used with what is going on right now. GM BRYAN reminded the Board that Counsel DePAOLI had not included the regulation in the proposed regulations.

- Proposed Regulation 8: DIVERSION WORKS/HEADGATES
 - o Counsel DePAOLI advised this new regulation is to take place of existing regulation 9 and intended to become consistent with the updated automation and current process. Counsel DePAOLI advised the proposed regulation now covers all ditches and canals instead of only those which the District owns. GM BRYAN advised there was back and forth discussion on how they should be regulated; as of late, Water Master MARTINEZ has been setting all of the gates. The District will not make adjustments unless directed by the Water Master. Director LITTLE confirmed manually does not override automatic;

GM BRYAN advised the gates can be manually overridden by the River Riders, under the direction of the Water Master, when the gates are not operating correctly. President SNYDER asked Water Master MARTINEZ if there were any problems with this regulation; MARTINEZ advised he gave the proposal to his Board and they are reviewing them. Water Master MARTINEZ advised there have been a few hiccups but the automation is working well. Director LITTLE confirmed MARTINEZ concurred with the proposal; MARTINEZ stated he does not concur, but is waiting for direction from his Board and his attorney.

- Counsel DePAOLI advised section 8.3 addresses ditches and canals owned by the District and who can make changes to the head gates that deliver water to the farm.

- Proposed Regulation 9: IRRIGATION SEASON

- Counsel DePAOLI advised this regulation replaces existing regulation 10 and addresses the irrigation seasons; the only change is the addition of the District well and the language is taken from the permit. Director LITTLE confirmed the information could be changed; Counsel DePAOLI advised the decree cannot be changed and if changes need to be made to the Certificated Water the Board would have to ask the State Engineer.
- *Section 9.1 Decree Water:* Counsel DePAOLI advised this section cannot be changed.
- *Section 9.2 District Certificated Surface Water:* Counsel DePAOLI advised any changes with this would have to ask the State Engineer's Office. Director LITTLE advised it makes no sense to start May 1st; if he is ready for water on April 1st, he should be able to call for it before then and July 31st is too soon and needs to be changed. GM BRYAN advised the dates are based on peak flows; Director LITTLE advised that is not beneficial to the farmer. PRESIDENT SNYDER questioned whether the dates can be changed; Counsel DePAOLI advised the dates are on the permits. The Board can change the dates to be more general, there is nothing that prohibits the District from asking to change the dates. Director LITTLE advised the District must go at least 30 days prior and 30 days after what is currently in regulation. Counsel DePAOLI stated for the time being, the regulation could state, 'The season for delivery of state permit water shall be as provided in the state permit.' Treasurer NUTI confirmed there is a set amount of water the District is allowed to draw; GM BRYAN advised there is a set amount and it is stated on the permit; once the cap is reached, that is all.
- *Section 9.3 District Stored Water:* Counsel DePAOLI questioned whether the Board wants to change any wording. Treasurer NUTI advised historically the April 1st to October 31st has worked; Director LITTLE advised the current dates do not work for him and he would like the dates changed to March 1st. Vice President GIORGI advised it is hard to say how much water is available; GM BRYAN advised March 1st is his cutoff date to store water. On March 1st, GM BRYAN advised he can take the numbers of what is available and make his determination on what the allocation can be. Counsel DePAOLI advised a way to go would be to allow the Board to establish the season in February instead of setting a hard and fast rule. Director LITTLE asked why would the Board not want to change the date to March 1st; Counsel DePAOLI advised it is not always known how much water is available that early in the year. Director LITTLE stated most farmers want to save their storage until late in the season, but he wants the flexibility to use the water early and requested a scenario when he could not have that flexibility. President

SNYDER requested clarification from GM BRYAN on when he can have the numbers available. GM BRYAN advised unless the Water Master has set full decree, he uses the numbers of what is in the reservoirs to determine how much water is available and he can determine the allocation. President SNYDER confirmed that GM BRYAN could have the numbers on March 2nd; GM BRYAN advised he could have the numbers on March 2nd, but ideally would present them at the March 7th Board Meeting and the water can be ordered March 8th. Director LITTLE advised that would be fine because he begins irrigation on March 17th. GM BRYAN advised he has rarely seen anyone even order storage water in April; Director LITTLE advised he would have called for water. Vice President GIORGI asked what needs to be changed; Director LITTLE does not want to go with Counsel DePAOLI's recommendation of leaving it up to the Board each year; he would like it changed to March. FENILI asked whether the change has to go before the State of California for the permits; Counsel DePAOLI advised he made a note to check, but did not believe it needed to go before them. FENILI advised the dates could have been a factor in the application for the permit; Counsel DePAOLI advised if the California licenses say water cannot be drawn before a certain date then the District is stuck with it.

- *Section 9.4 District Underground Water:* Counsel DePAOLI suggested to change the wording to reflect the other regulation, '... as provided in the state permit.'
- Proposed Regulations 10: DITCH RIDER REQUIREMENTS AND RECORD KEEPING
 - Counsel DePAOLI advised part of this regulation was in existing regulation 11. What is currently in regulation is that a Ditch Rider is on duty 24/7 during the irrigation season; that is not necessarily being done today. Water Master MARTINEZ asked how the District can have a regulation over a Ditch Rider who works for a private ditch company; Counsel DePAOLI advised statute states an irrigation district can adopt rules and regulations for the use and distribution of water within its boundaries; but saying and enforcing are two different things. Director LITTLE advised the Ditch Rider should know that this job is 24/7 during the irrigation season; each Ditch Rider must understand that he has to be able to be contacted no matter what time or day. Director LITTLE advised there are enough users to pay to hire someone who is on call on the weekends and who has the authority to change things. Director LITTLE stated the Ditch Riders should be paid overtime; GM BRYAN advised the Ditch Riders are paid a salary and the salary is decided upon by each individual ditch company. Director LITTLE advised if the ditch company values water, they will pay more.
- Proposed Regulation 11: WATER USE REPORTING AND RECORD KEEPING
 - Director LITTLE asked whether it needs to be stated that the records will be made available to the State Engineer; GM BRYAN advised the records are currently being sent to the State Engineer. Director LITTLE inquired whether it needs to be stated in regulations; Counsel DePAOLI advised it would not hurt to include it in the regulation so the users know the information is being sent.
 - *Section 11.1 District Reports to Chief Deputy Water Commissioner 'From the reports provided by ditch riders, the District shall prepare and provide the Chief Deputy Water Commissioner daily reports of delivery and use of decree water. Such reports will be provided electronically.'*: Water Master MARTINEZ asked if storage water could be

added to ‘... daily reports of delivery and use of decree water.’ GM BRYAN advised it could be changed to ‘all water’ instead of specifying types of water.

- *Section 11.2 District Reports to Water Users:* Counsel DePAOLI asked GM BRYAN if the regulation should be more specific than ‘periodically’. GM BRYAN advised we are currently sending them out monthly; Director LITTLE advised it needs to be more specific and that the District is doing excellent at keeping the records up to date. Counsel DePAOLI advised he was review TCID’s regulations and they have a process to appeal or question the report and there is a timeline; Director LITTLE advised that would be a good idea. LOMMORI expressed his agreement with including a timeline for questions/problems. GM BRYAN advised there have been calls about not getting the reports, but it is due to the user not changing their address with the District. Treasurer NUTI asked if it is in the works to be able to log onto the website and view the real time numbers; GM BRYAN advised the District is working towards that. GM BRYAN advised the database should be able to allow a user to log in using their user number and PIN to view the real time numbers. Treasurer NUTI inquired whether there could be an alert set up so that an email or reminder is sent to the user when they get to a certain amount of storage left; GM BRYAN advised that is exactly what he would like to see happen and is working toward that.

- Proposed Regulation 12: ROTATION OF WATER

- Counsel DePAOLI advised this regulation is nearly mirrors the existing regulation but includes more detail. Director LITTLE requested clarification on whether he can order storage with another user and use his storage water and give it back to him at a later date but it is not being allowed. Director LITTLE then corrected himself stating it is well water that is not allowed. GM BRYAN advised it is not allowed because of the District well lottery; the water won in the lottery it is applied to his storage balance but is used prior to storage water. Director LITTLE advised it should not be regulated because the well water is being treated as storage water and storage water can be sold for whatever price as the user sees fit. GM BRYAN advised it is not allowed because the well water is not to be sold for profit; there were problems with that in the past and it was restricted during an open meeting. Director LITTLE advised the District will not be making a profit, but the individual farmer would be and he does not see a problem with that. Treasurer NUTI advised if the well water is being treated as storage water and is being sold for a profit, that is brokering water. President SNYDER advised that is why there are restrictions in place. FULSTONE offered insight that there are farms who are hobby farmers who will sign up for the lottery with the intent to sell the water for profit and that hurts the larger farmers; Director LITTLE advised the District is making too many restrictions on the water and he does not agree with that. Water Master MARTINEZ advised if people are getting the water with the sole intent to sell it for profit, it does not make it a lottery; Director LITTLE asked what the problem was with making a profit. Treasurer NUTI advised there are too many users who can benefit from the water; Director LITTLE advised if someone wants water they can buy it- profit is not a bad thing. FENILI advised it is unethical for someone to take that water and turn it around for profit; Director LITTLE advised everyone gets one shot and it seems fair. Director LITTLE

asked if anyone has not been drawn; GM BRYAN advised there were several users who were not drawn until the very end of the season.

- Proposed Regulation 13: COMPLAINTS ABOUT THE DISTRIBUTION OF WATER
 - o Counsel DePAOLI advised the regulation comes about because of the possibility of users being unhappy. He advised the existing regulation was written when the District Manager was also the Water Master and would go to the District Board with a complaint. The proposed regulation states what the process is with decree water, stored water, and the combination of both. Counsel DePAOLI advised there is a decision in the penal codes that Judge Norcross made and he recollects that if the complaint was about stored water, the Water Master cannot do much about it, and if the complaint was about decree water, the District Board could not do much about it. Counsel DePAOLI could not recall what was stated about if the complaint was regarding both stored and decree water. Director LITTLE advised it makes sense that if there were a complaint about decree, then they should go straight to the Water Master. Water Master MARTINEZ advised the ditch Presidents have to be part of the equation as well. If users are complaining against each other, the ditch tender gets involved, after that the President of the ditch company must be advised, if there is a problem at that level, the complaint goes to the Water Master then the Civil Court or Decree Court. Director LITTLE advised that makes sense to him. Counsel DePAOLI stated he will review the Judge Norcross decision and send it to the Board.
- Next steps: Counsel DePAOLI advised the review of the regulations were good and allowed for discussion and changes. GM BRYAN suggested to get the proposed revisions drafted and out to the Board for review and address them at the next meeting. Water Master MARTINEZ asked Counsel DePAOLI to discuss his proposed recommendations on eliminating parts of the by-laws that are provisions controlled expressly by statute. Counsel DePAOLI advised that anywhere there is a by-law provision covered by statute either not say anything about it or if it is noted, state it is controlled by statute and cannot be changed by the Board. Treasurer NUTI advised it would be helpful that there are references to the statutes so the reader can go look at the specific statute. Treasurer NUTI asked GM BRYAN if these proposed changes had to be discussed at three meetings; GM BRYAN advised the District is covered because the proposals were introduced at the August meeting and these special meetings count toward allowing users to review and discuss the changes. Water Master MARTINEZ inquired whether the changes have to be published in the newspaper; GM BRYAN advised he has not found anything in statute stating it has to be published- Counsel DePAOLI confirmed.

Director's Comments

Vice President GIORGI advised the District's predecessors had a head on their shoulders and did a great job.

Public Comment

None

Adjournment

Director LITTLE made a motion to adjourn the meeting with a second from Director ACCIARI. The motion was voted on and passed unanimously. The meeting was adjourned at 11:50 am.

Jim Snyder, President

David Giorgi, Vice President

Richard Nuti, Treasurer

Dennis Acciari, Director

David Little, Director

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