State Board to Finance Water Projects

Re: Concerns of Senior Down Stream Water Right Owners

Howell Angus Ranch LLC
Spratling Ranches
Garrett Ranches
Mike and Cheri Howell Ranch (former Knudson Ranch
Hooper Ranching

As owners of 6682.59 acre-feet of water on Bishop Creek, (reference document # 2 (rd)) there are many concerns that have the above owners very concerned about the future of each ranches decreed water rights from Bishop Creek. It is important to note that none of the above Ranches are part of the Metropolis Irrigation District, and that their water rights are senior to all except the most senior right of 1876 for Metropolis Irrigation District which, is being challenged by Mike and Cheri Howell as to ownership of this water right. In most cases, dams benefit the downstream farmers and ranchers with the ability to hold water back for irrigation uses later into the season; along with other benefits like flood control, hydroelectric power, and recreation. However, the case of the Bishop Creek Dam it is defiantly not beneficial to the owners of senior rights on Bishop Creek.

As stated above the downstream owners have many concerns about the Bishop Creek Dam, the main concern being the hydrology of the whole basin and it's ability to serve all adjudicated water rights. In the Preliminary Design for the Bishop Creek Dam, a "synthetic monthly steam flow record for 91 years at Bishop Creek Dam was computed and identified an average annual flow of 6780 acre-feet, with 2140 acre-feet needing to pass through the dam in order to supply down stream water rights". (rd # 7) YET, in a feasibility study completed for the Nevada Division of Wildlife in 1992 it clearly states that the annual flow is closer to 3100 acre-feet. (rd # 4 page 2-12) It is also important to note that the "Core of Engineers 1979 report refers to the irrigation company (Pacific Reclamation Co.) records showing an average irrigation flow of 2905 acre-feet/year for the period of 1930-1961."(rd # 9 page 2-10) This along with the Mary's River Sub-Basin cooperative survey completed by the Nevada Department of Conservation and Natural Resources and The United States Department of Agriculture in 1963, states that the annual flow is around 1100 acre-feet. (rd # 4) Clearly, the synthetic computer model number of 6780 is highly exaggerated compared to these other studies, and the amount of 2140 acre-feet of "downstream water rights" is highly understated considering the 6682.59 acre-feet of senior water rights down stream of the dam. All this being understood the watershed being able to supply an extra 3500 acre-feet annually for storage at the Bishop Creek Dam is extremely unlikely. The average of all three studies only nets an average of 3760, which is well below the amounts of adjudicated senior water rights. As well, the synthetic model only leaves 98 acre-feet annually to storage after senior water rights have been served.

Another consideration that must be understood is that in order for South Fork Reservoir to have a minimum pool water rights had to be purchased. From the Preliminary Engineering

Report it is understood that the outlet gate is only 3 feet from the bottom, thus in theory leaving a minimum pool of 3 feet. But we all know that if recreation is proposed then state agencies like Nevada Division of Wildlife are going to be looking for more than 3 feet of water to put fish into.

The next main point to understand as described by Hugh Ricci State Water Engineer in Order 1165, (rd #1)

"Senior decreed water rights particularly proof 609, proof 521, proof 602, proof 601, and proof 603 must be served before any junior decree water rights from Bishop Creek that are owned by Metropolis Irrigation District." (rd #1)

"Any storage of Bishop Creek water by Metropolis Irrigation District cannot interfere with senior rights that were recognized in the Final Decree in case no. 1899 or the Bartlett and Edwards Decrees" (rd #1)

Order 1165 is very important in understanding downstream senior water right owners were not part of the land development scheme in 1909 that was all based around the Bishop Creek Dam. Thus, senior water rights remained with their owners and were not moved into the Bishop Creek Dam unlike the junior rights of the Metropolis Irrigation District. This being understood, there would have to be an accurate measuring devise located at the top of the reservoir and along any sub-drainages within the reservoir that are above the dam, but below the top measuring devise in order to properly gauge the amount of water entering the dam during the irrigation season. Also to serve the senior water rights the **Natural Bishop Creek Channel** must be put back in (rd #10) or another channel capable of conveying the senior water rights must be constructed around the northern side of Daltons alfalfa field. The current situation of taking senior decreed water rights around the southern side of Daltons alfalfa and through Peavey's swamp represents infringement of senior water rights and sets up a volatile legal situation.

As it was stated above, the downstream senior water rights owners are not part of the Metropolis Irrigation District so the "ability to pay"(rd #17) the 8 dollar to 24 dollar per acre is not going to happen since downstream owners are not part of the Metropolis Irrigation District and the water that is stored is only available to the Metropolis Irrigation District and it's members.

The downstream senior water rights owners have other concerns that are very serious in nature and according to the Preliminary Engineering Report (PER) completed by Dyer Engineering the potential for flooding and loss of life are very alarming. (rd # 8) Along these lines is that Bishop Creek Dam and Diversion structure is located along fault line in the Northern Snake Mountains. Further investigation showed that there are 4 different plates from the diversion structure to the dam. With a distinct thrust fault running parallel and not more than a 1/8 of a mile from the existing dam structure. (rd # 5) This is very alarming to the downstream water right owners particularly Mike Howell who owns the Knudson Ranch. Because according to the PER completed by Dyer Engineering the flood potential is much greater with a dam breach than it is with no dam located on Bishop Creek. (rd # 5) According to the Mary's River Sub-basin report, "If the dam should fail, considerable damage would occur, including possible lose of life,

property damage, field erosion, and loss of production for several years." (rd # 3) This being understood building a dam on a fault line with the potential of failure is very irresponsible and the potential losses far out weigh the benefits described in the PER.

The final point worth considering is the impact on the environment if Bishop Creek is dammed and only allowed to flow for 3 months of the year. The stretch of nearly 20 miles downstream of the dam has in the last 30 years become a more productive and natural environment for animals like sage grouse, chucker, and other waterfowl like ducks and geese along with many others not named. Also falling under environmental impact the production for downstream senior water right owners has increased significantly as well during the time that the dam has been nonfunctional. Along the same lines, Damming Bishop Creek of nine months out of the year only lowers the water table causing it to take that much longer to serve adjudicated water rights to down stream users.

All points being considered the senior water right owners are very troubled with the reconstruction of the Bishop Creek Dam. Everything from a possible dam breach to the simple fact the basin can not produce enough water for the decreed water rights, has the down stream senior water right owners willing to take what ever action necessary to protect their decreed water rights.

Sincerely,
Senior Downstream Water Right Owners

Howell Ranch LLC
Fred Howell
Spratling Ranches
Garrett Ranches
Mike and Cheri Howell (former Knudson Ranch)
Hooper Ranching

Enclosed Copies
Order 1165 **reference document # 1**
Letter from Division of Water Resources stating the total amount of Decreed Water rights on Bishop Creek **reference document # 2**
Mary's River Sub-Basin Report Appendix 1 page 51 **reference document # 3**
Mary's River Sub-Basin Report Appendix 2 page 41 **reference document # 4**
Geologic Map of Summer Camp Quadrangle and part of Black Butte Quadrangle **reference document # 5**
Financial Assessment page VI-I **reference document # 6**
Hydrology Report page IV-3 **reference document # 7**

Hydrology Report pages IV-6 and 7 **reference document # 8**
Nevada Division of Wildlife feasibility study Basin Yields **reference document # 9**
Pictures of Bishop Creek Dozed in through Daltons Alfalfa fields
reference document # 10
Aerial pictures of Bishop Creek showing Bishop Creek Natural Channel through Alfalfa fields **reference document # 11**
Evaporation and Seepage Numbers from NDOW feasibility study
reference document # 12
Cost for Grouting South Fork Reservoir **reference document # 13**
Application For Permit 1000 (Pacific Reclamation Co) **reference document # 14**
Application For Permit 1807 (Pacific Reclamation Co) **reference document # 15**
Certificate of Appropriation of Water # 2850 (Pacific Reclamation Co) **reference document # 16**
Evaporation Numbers NDOW study **reference document # 17**
Evaporation Numbers (PER) **reference document # 18**