

## NOTICE OF INTENT TO AWARD

This Funding Announcement is not a request for applications. This announcement is to provide public notice of Reclamation's intention to fund the following project activities without full and open competition.

<b>ABSTRACT</b>	
<b>Funding Announcement</b>	R12AS20018
<b>Project Title</b>	Truckee River Operating Agreement (TROA) Desert Terminal Lakes Program – TROA Completion and Implementation
<b>Recipient</b>	Truckee Meadows Water Authority
<b>Principal Investigator/ Program Manager</b>	Sue Oldham
<b>Anticipated Federal Amount</b>	\$3,000,000.00
<b>Cost Share</b>	None
<b>Total Anticipated Award Amount</b>	Fiscal Year 2012: \$5,000.00
<b>New Award or Continuation?</b>	Continuation
<b>Anticipated Period of Performance</b>	Date of execution through December 31, 2014
<b>Award Instrument</b>	Grant Agreement
<b>Statutory Authority</b>	<b>Public Law 107-171</b> , Farm Security and Rural Investment Act of 2002, Section 2507, <b>Public Law 101-618</b> , Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990, Section 205 Truckee River Water Supply Management, <b>Public Law 108-7</b> , Consolidated Appropriations Resolution, Section 207
<b>CFDA # and Title</b>	15.508 - Providing Water to At-Risk Natural Desert Terminal Lakes
<b>Single Source Justification Criteria Cited</b>	Justification Criterion: (2) Continuation and (4) Unique Qualifications of the Department of Interior Single Source Policy Requirements
<b>Reclamation Point of Contact</b>	Vivian Davis, <a href="mailto:vdavis@usbr.gov">vdavis@usbr.gov</a>

## OVERVIEW

The proposed project will provide up to \$3,000,000 to the Truckee Meadows Water Authority (TMWA) (agreement R10AP20768, Modification 003) under the authority provided by Public Law 107-171, the Farm Security and Rural Investment Act of 2002, Section 2507, as amended, and Public Law 101-618, Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990, Section 205 Truckee River Water Supply Management. The Desert Terminal Lakes legislation provided funds to the Bureau of Reclamation to provide water to at-risk natural desert terminal lakes. TMWA needs funds for continuation of the work on their grant agreement related engineering and legal support in order to continue the work required to implement the Truckee River Operating Agreement (TROA). TMWA has a need to complete and implement TROA, which will allow improved management of water resources in the Truckee River basin, provide environmental and drought protection benefits to the general public in the basin, and increase inflows to Pyramid Lake. The increased flows to Pyramid Lake meet the requirement of the authorizing legislation to provide water to at-risk natural desert terminal lakes, of which Pyramid Lake is one.

### RECIPIENT INVOLVEMENT

The activities to be funded through this grant agreement modification would include:

1. **Woodburn and Wedge (Water Law Attorneys)** - Would provide legal services associated with the Truckee River Negotiated Settlement on an ongoing basis. The work includes legal opinions, attendance at TROA meetings and preparation and participation in court, change application and other regulatory proceedings for the implementation of the Negotiated Settlement.
2. **Murray, Burns and Kienlen (Hydrologists)** - Would provide the bulk of the engineering and hydrologist services associated with the Truckee River Negotiated Settlement on an ongoing basis.
3. **Susan L. Oldham, Attorney at Law (Water Law Attorney)** – Would provide legal services associated with the Truckee River Negotiated Settlement. This includes legal opinions, attendance at TROA meetings and preparation and participation in Court and regulatory proceedings for the implementation of the Negotiated Settlement.
4. **Best, Best and Kreiger (Water Law Attorneys)** As the attorneys for the Donner Lake activities to partition Donner Lake and provide counsel on the California change applications.
5. **Mc Donald Carano Wilson (Water Law Attorneys)** - General counsel to Truckee Meadows Water Authority and a partner in the firm has participated and will continue to participate in ongoing negotiations with downstream negotiations to settle TROA opposition and will participate in planning for and implementing the water quality provisions of TROA and integrating that work with the water supplies of TMWA.
6. **Stantec (Hydrologists)** – Provide engineering and hydrologist services associated with the Truckee River Negotiated Settlement. This includes engineering and hydrologist support, attendance at TROA meetings and testimony and preparation and participation in Court and regulatory proceedings for the implementation of the Negotiated Settlement.

### RECLAMATION INVOLVEMENT

No substantial involvement on the part of Reclamation is anticipated for the successful completion of the objectives to be funded by this award. Reclamation's involvement will consist of standard federal stewardship responsibilities including monitoring project performance, technical assistance at the request of the recipient, etc. Reclamation's involvement on the grant will be to provide technical assistance when requested and implement oversight of federal stewardship responsibilities, including monitoring of project performance and financial accountability and reporting in accordance with the terms of the grant agreement.

### SINGLE-SOURCE JUSTIFICATION

DEPARTMENT OF THE INTERIOR SINGLE SOURCE POLICY REQUIREMENTS
Department of the Interior Policy (505 DM 2) requires a written justification which explains why competition is not practicable for each single-source award. The justification must address one or more of the following criteria as well as discussion of the program legislative history, unique capabilities of the proposed recipient, and cost-sharing contribution offered by the proposed recipient, as applicable.
In order for an assistance award to be made without competition, the award must satisfy one or more of the following criteria:

- (1) **Unsolicited Proposal** – The proposed award is the result of an unsolicited assistance application which represents a unique or innovative idea, method, or approach which is not the subject of a current or planned contract or assistance award, but which is deemed advantageous to the program objectives;
- (2) **Continuation** – The activity to be funded is necessary to the satisfactory completion of, or is a continuation of an activity presently being funded, and for which competition would have a significant adverse effect on the continuity or completion of the activity;
- (3) **Legislative intent** – The language in the applicable authorizing legislation or legislative history clearly indicates Congress' intent to restrict the award to a particular recipient of purpose;
- (4) **Unique Qualifications** – The applicant is uniquely qualified to perform the activity based upon a variety of demonstrable factors such as location, property ownership, voluntary support capacity, cost-sharing ability if applicable, technical expertise, or other such unique qualifications;
- (5) **Emergencies** – Program/award where there is insufficient time available (due to a compelling and unusual urgency, or substantial danger to health or safety) for adequate competitive procedures to be followed.

**Reclamation did not solicit full and open competition for this award based on the following criteria:**

- (2) Continuation  
And  
(4) Unique Qualifications

**Single Source Justification Description:**

On November 16, 1990, Public Law 101-618 was enacted. Section 205(a), Truckee River Water Supply Management, Operating Agreement, directed the Secretary of the Interior to negotiate an operating agreement for operation of Truckee River Reservoirs with the states of California and Nevada, after consulting with other parties designated by the Secretary. Water supply and water right issues involving the Truckee River and its tributaries have been contested, challenged and litigated for decades. Implementation of the Truckee River Settlement Act will provide stability and finality for operating and managing water supplies under established water rights. Great strides have been made towards finalizing the Truckee River Settlement Act. The TROA document was signed on September 6, 2008. Many issues, both legal and administrative, remain to be resolved and it could take many more years for full and uncontested implementation to occur. The federal government has invested millions of dollars in facilitating the implementation of TROA in the form of grants to the five signatories (State of Nevada, State of California, the Truckee Meadows Water Authority, the Pyramid Lake Paiute Tribe, and the Federal Watermaster of the Truckee River).

In 2001, TMWA purchased from Sierra Pacific Power Company the right to deliver municipal and industrial water to the general Truckee Meadows area and to operate the four run-of-the-river hydroelectric plants on the Truckee River. Since that time, the Truckee Meadows Water Authority (TMWA) has diligently and in good faith worked to complete the negotiation and to fulfill the contingencies to the effectiveness of DOI's Truckee River Operating Agreement (TROA) as set forth in Article 12 of that Agreement.

The Secretary of the Interior has accepted TMWA as the mandatory signatory replacing Sierra Pacific Power Company in the agreement. Since TMWA purchased the water company, TMWA has maintained the same leadership and the same contractual relationships with contractors for the negotiation of TROA first for Sierra Pacific Power Company and now for TMWA. These leadership and contractual relationships provide continuity and the consistency to our negotiation team and assistance to the other mandatory signatories in performing the work to complete the California and Nevada change applications, the Court approvals and support for the work necessary to complete the EIS/EIR.

TMWA qualifies for a sole-source justification of unique qualifications because TMWA is a mandatory signatory to TROA and is involved in and significantly impacted by the implementation of TROA.

### STATUTORY AUTHORITY

**Public Law 107-171 (Farm Security and Rural Investment Act of 2002; May 13, 2002; 116 STAT. 134) SEC. 2507. DESERT TERMINAL LAKES as ammended.**

- (a) IN GENERAL. Subject to subsection (b), as soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall transfer \$200,000,000 of the funds of the Commodity Credit Corporation to the Bureau of Reclamation Water and Related Resources Account, which funds shall —
- (1) be used by the Secretary of the Interior, acting through the Commissioner of Reclamation, to provide water to at-risk natural desert terminal lakes; and
  - (2) remain available until expended.

**Public Law 101-618 (Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990)**

#### TITLE II--TRUCKEE-CARSON-PYRAMID LAKE WATER SETTLEMENT

##### SEC. 202. PURPOSES.

The purposes of this title shall be to--

- (a) provide for the equitable apportionment of the waters of the Truckee River, Carson River, and Lake Tahoe between the State of California and the State of Nevada;
- (b) authorize modifications to the purposes and operation of certain Federal Reclamation project facilities to provide benefits to fish and wildlife, municipal, industrial, and irrigation users, and recreation;
- (c) authorize acquisition of water rights for fish and wildlife;
- (d) encourage settlement of litigation and claims;
- (e) fulfill Federal trust obligations toward Indian tribes;
- (f) fulfill the goals of the Endangered Species Act by promoting the enhancement and recovery of the Pyramid Lake fishery; and
- (g) protect significant wetlands from further degradation and enhance the habitat of many species of wildlife which depend on those wetlands, and for other purposes.

SEC. 205. TRUCKEE RIVER WATER SUPPLY MANAGEMENT.

(a) Operating Agreement-

(1) The Secretary shall negotiate an operating agreement (hereafter 'Operating Agreement') with the State of Nevada and the State of California, after consultation with such other parties as may be designated by the Secretary, the State of Nevada or the State of California.

(2) The Operating Agreement shall provide for the operation of the Truckee River reservoirs and shall ensure that the reservoirs will be operated to:

(A) satisfy all applicable dam safety and flood control requirements;

(B) provide for the enhancement of spawning flows available in the Lower Truckee River for the Pyramid Lake fishery in a manner consistent with the Secretary's responsibilities under the Endangered Species Act, as amended;

(C) carry out the terms, conditions, and contingencies of the Preliminary Settlement Agreement as modified by the Ratification Agreement. Mitigation necessary to reduce or avoid significant adverse environmental effects, if any, of the implementation of the Preliminary Settlement Agreement as modified by the Ratification Agreement, including instream beneficial uses of water within the Truckee River basin, shall be provided through one or more mitigation agreements which shall be negotiated and executed by the parties to the Preliminary Settlement Agreement as modified by the Ratification agreement and the appropriate agencies of the States of Nevada and California;

(D) ensure that water is stored in and released from Truckee River reservoirs to satisfy the exercise of water rights in conformance with the Orr Ditch decree and Truckee River General Electric decree, except for those rights that are voluntarily relinquished by the parties to the Preliminary Settlement Agreement as modified by the Ratification Agreement, or by any other persons or entities, or which are transferred pursuant to State law; and

(E) minimize the Secretary's costs associated with operation and maintenance of Stampede Reservoir.

**Grant authority under the Desert Terminal Lakes Program:**

**Public Law 108-7, Omnibus Appropriations Bill  
enacted 2/20/03  
Bureau of Reclamation**

SEC. 207. RESTORATION OF FISH, WILDLIFE, AND ASSOCIATED HABITATS IN WATERSHEDS OF CERTAIN LAKES.

(b) ADMINISTRATION.--The Secretary of the Interior, acting through the Commissioner of Reclamation, may provide financial assistance to State and local public agencies, Indian tribes, nonprofit organizations, and individuals to carry out this section and section 2507 of Public Law 107-171.