

AMENDED STIPULATION FOR WITHDRAWAL OF PROTESTS

This Amended Stipulation is made and entered into between the Lincoln County Water District and Vidler Water Company, Inc. ("LCWD&VWC") and the United States Department of the Interior, Fish and Wildlife Service (FWS). Collectively, LCWD&VWC and the FWS are referred to as the "Parties".

RECITALS

- A. On February 14, 2005, LCWD&VWC filed Applications 72278, 72219, 72220, and 72221, for a combined maximum duty of approximately 17,375.28 acre-feet per year (afy), with the Nevada State Engineer's Office. The above listed applications shall hereinafter be referred as the "Applications". LCWD&VWC initially intend to pump up to 5,000 afy of groundwater from the Kane Springs Valley Hydrographic Basin (hereinafter referred to as "Kane Springs Valley") pursuant to these Applications, for municipal and domestic uses associated with the Coyote Springs Project in Lincoln County.
- B. The FWS filed timely protests to the granting of water rights under the Applications pursuant to the FWS' responsibilities under the Endangered Species Act and administration of the National Wildlife Refuge System. FWS holds a Nevada State water right certificate for a flow rate of not less than 3.5 cfs as measured at the Warm Springs West flume (Permit No. 56668; Certificate No. 15097 issued subject to the terms of Permit No. 56668) for the maintenance of habitat of the Moapa dace and other wildlife purposes ("FWS Water Right"). The Moapa dace (*Moapa coviacea*) is an endemic fish that inhabits the upper Muddy River and tributary thermal spring systems within the Muddy River Springs/Warm Springs Area in Clark County, Nevada. The Moapa dace was federally listed as endangered on March 11, 1967 (32 FR4001). FWS manages the Moapa Valley National Wildlife Refuge established in 1979 as part of the National Wildlife Refuge System.
- C. LCWD&VWC assert that the withdrawal of up to 5,000 afy of groundwater from the proposed wells in Kane Springs Valley will not have an unreasonable adverse affect on endangered species in the Coyote Springs Valley or the Muddy River Springs/Warm Springs Area. LCWD&VWC propose to request the State Engineer hold in abeyance the remaining amount requested in the Applications, until a determination is made from the monitoring of the initial groundwater withdrawal that there are no unreasonable adverse affects due to LCWD&VWC's groundwater pumping.
- D. The FWS together with the United States National Park Service sent a letter to the Nevada State Engineer, dated February 6, 2006, recommending that the State Engineer amend his Order 1169 to include Kane Springs Valley and these Applications. This Stipulation is entered into in part to address the FWS's concern expressed in the February 6, 2006 letter. As such, the FWS will withdraw its request to the State Engineer by so stating on the record at the beginning of the hearing when the Stipulation is presented to the State Engineer as provided in paragraph 6 of the Stipulation.

- E. The FWS asserts that the proposed groundwater withdrawals from Kane Springs Valley pose a risk of adversely impacting senior federal water rights and water-related resources, as described above, and are desirous of working in a cooperative manner with LCWD&VWC to protect these resources.
- F. There are a number of existing monitoring programs required by the State Engineer for existing rights and pending applications within Coyote Spring Valley Hydrographic Basin. The State Engineer has determined in Order No. 1169 (Order) that further hydrological study is needed before a final determination can be made on pending applications and new filings to appropriate water from the carbonate-rock aquifer system in Coyote Spring Valley (Basin 210), Black Mountains Area (Basin 215), Garnet Valley (Basin 216), Hidden Valley (Basin 217), Muddy River Springs (Basin 219) and Lower Moapa Valley (Basin 220) in Lincoln and Clark Counties, Nevada. While the Order does not currently include Kane Springs Valley or the Applications, the FWS and LCWD&VWC agree there is a need to develop data relating to a better understanding and analysis to assist the State Engineer in studying the impacts from the pumping of groundwater in the regional aquifer system.
- G. The Parties acknowledge that Nevada Water Law provides pursuant to NRS 534.110(4) that "It is a condition of each appropriation of ground water acquired under this chapter [534] that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion." Further, pursuant to NRS 534.110(5), Nevada Water Law "does not prevent the granting of permits to applicants later in time on the ground that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as the rights of holders of existing appropriations can be satisfied under such express conditions." It is the intent of the Parties that this Stipulation provides the initial "express conditions" to allow the development of the LCWD&VWC Applications to proceed, however, such future conditions may be different based on implementation of the monitoring, management and mitigation plan specified in Exhibit A, attached to this Stipulation and made a part hereof.
- H. The State Engineer has set an administrative hearing on the protests of the FWS and other protestants commencing April 4, 2006.
- I. The Parties acknowledge that White Pine County, Wayne, Ruby and Bevan Lister, and the United States National Park Service have lodged protests to the Applications, but that those entities are not Parties to or in any way bound or prejudiced by this Stipulation. Further, these protestants may enter into stipulations with LCWD&VWC concerning the LCWD&VWC Applications. Such stipulations shall not require the participation of the FWS nor modify in anyway the intent or content of this Stipulation, nor shall the FWS be bound or prejudiced by such stipulations.

- J. The Parties agree that the preferred conceptual approach for protecting senior federal water rights from injury and federal water-related resources from unreasonable adverse impacts from ground water pumping is through the use of monitoring, management and mitigation of groundwater pumping. The common goal of the Parties is to manage the development of the regional carbonate-rock aquifer and overlying basin-fill aquifer systems as a water resource without causing any injury to senior federal water rights and/or unreasonable adverse impacts to federal water-related resources. Groundwater and the effects of pumping need to be properly monitored and managed to avoid adverse impacts to the water rights and water resources of the FWS. To accomplish this goal, there is a need to obtain accurate and reliable information of the aquifer's response to pumping stresses and the impact of that pumping on water rights and resources of interest. This is to be accomplished by implementing the monitoring, management and mitigation plan as set forth in Exhibit A to this Stipulation. The Parties have determined that it is in their best interests to cooperate in the collection of additional hydrologic and hydrogeologic information as set forth in Exhibit A to this Stipulation.
- K. The Parties desire to resolve the issues raised by the protests according to the terms and conditions contained herein.
- L. On April 10, 2006, LCWD & VWC filed application nos. 74147, 74148, 74149, and 74150 to appropriate underground water in Kane Springs Valley Hydrographic Basin (subsequent applications). Each of these subsequent filings are identical in quantity (in cfs and acre-feet per year) and point of diversion to the water right applications which are the subject of the Stipulation (application nos. 72218, 72219, 72220, and 72221). LCWD & VWD filing of the subsequent applications was precautionary in nature, and was made to protect Lincoln County Water District and Vidler Water Company's standing in the Kane Springs Hydrographic Basin in the event that applications 72218, 72219, 72220, or 72221 are denied by the State Engineer on a technical or administrative ground. The filing of the subsequent applications raises the same concerns by the FWS as stated in Recital E above. In lieu of filing protests to the subsequent applications, the parties agree that the subsequent applications shall be subject to the terms and conditions of this Amended Stipulation and do not in any way supplement applications 72218, 72219, 72220, and 72221, which are currently under consideration by the State Engineer.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties do agree as follows:

1. The FWS hereby expressly agrees to withdraw its protests to the Applications and agrees that the Nevada State Engineer may rule on the Applications based upon the terms and conditions set forth herein. The FWS agrees not to file protests to the subsequent applications based on the inclusion of the subsequent applications in this Amended Stipulation (hereinafter referred to as "Stipulation") and that the terms and condition of this Stipulation apply equally to the subsequent applications. Hereinafter in this Stipulation, the term "Applications" shall also refer to the subsequent applications. It is expressly understood that this Stipulation is binding only upon the Parties hereto and their successors, transferees and assigns, and shall not bind or seek to bind or prejudice

any other Parties or protestants, including the United States as trustee on behalf of the any Indian tribe. The execution and filing of this Stipulation with the State Engineer shall have the effect of withdrawing the FWS protests as provided for in Nevada Administrative Code § 533.150.

2. The Parties agree to implement the Monitoring, Management and Mitigation plan, attached hereto "Exhibit A", which is expressly incorporated into this Stipulation as if set forth in full herein upon the State Engineer's granting of the Applications, in total or in part, and upon the terms and conditions contained in Exhibit A.
3. This Stipulation does not waive any authorities of the FWS or the United States, including any other agency or bureau not specified in this Stipulation, nor relieves LCWD&VWC, or any party acting in conjunction with or through LCWD&VWC from complying with any federal laws, including, but not limited to, the National Environmental Policy Act, the Endangered Species Act, the Federal Land Policy and Management Act, and any and all rules and regulations thereunder. It is the expressed intention of the Parties that by entering into this Stipulation, the FWS and the United States are waiving no legal rights of any kind, except for the withdrawal of its protests as provided in Paragraph 1 of this Stipulation. Likewise, LCWD&VWC, or any party acting in conjunction with or through LCWD&VWC, by entering into this Stipulation, are not waiving any legal rights of any kind, except as expressly provided in this Stipulation and its Exhibit A.
4. Further, except as expressly stated in this Stipulation or its Exhibit A, this Stipulation does not affect any legal or administrative process or proceeding concerning rights-of-way or any action that may be necessary to further the development and/or use of the water sought under the Applications.
5. The Parties expressly acknowledge that the Nevada State Engineer has, pursuant to both statutory and case law, broad authority to administer groundwater resources in the State of Nevada and, furthermore, that nothing contained in this Stipulation shall be construed as waiving or in any manner diminishing such authority.
6. The Parties agree that a copy of this Stipulation shall be submitted to the Nevada State Engineer prior to the commencement of the administrative proceedings scheduled to begin on April 4, 2006. The Parties shall request on the record at the beginning of the scheduled proceeding, that the State Engineer include Exhibit A of the Stipulation as part of the permit terms and conditions, in the event that he grants Applications 72278, 72219, 72220, and 72221, in total or in part. The FWS, at its option, may attend the hearing, but will present no issues or statements unless necessary to explain or defend this Stipulation or Exhibit A.
7. Notices. If notice is required to be sent by the Parties, the addresses are as follows:

If to FWS:

Supervisor
Nevada Field Office
Fish and Wildlife Service
1340 Financial Blvd., #234
Reno, NV 89502

If to LCWD&VWC:
Chairman
Lincoln County Water District
P.O. Box 685
Pioche, NV 89043

And:
Dorothy Timian-Palmer
Vidler Water Company, Inc.
704 W. Nye Lane, Suite 201
Carson City, NV 89703

8. LCWD&VWC may transfer or assign its interest in the water rights here involved. Any and all transferees and assignees shall be bound by the terms and conditions of this Stipulation. As a condition to any such transfer or assignment, the transferee and/or assignee shall execute a stipulation expressly stating it is bound to all of the terms and conditions of this Stipulation.
9. This Stipulation shall be governed in accordance with the laws of the State of Nevada to the extent not inconsistent with federal law.
10. Copies of all correspondence between and data gathered by the Parties pertinent to the terms of Exhibit A shall be submitted to the Nevada State Engineer. It is the intentions of the Parties hereto that the Nevada State Engineer shall be kept informed of all activities in the same fashion as are the Parties hereto.
11. By entering into this Stipulation, the FWS does not become a party to any proceeding other than the protest proceeding referenced above or waive its immunity from suit or consent to or acknowledge the jurisdiction of any court or tribunal. Nothing in the Stipulation shall affect any federal reserved water rights of the FWS or the United States on behalf of any Indian Tribe and the FWS by entering into this Stipulation do not waive or prejudice any such rights. The FWS reserves all legal rights, of any kind, it possesses pursuant to or derived from Executive Orders, acts of Congress, judicial decisions, or regulations promulgated pursuant thereto. Neither party waives its rights to seek relief in any appropriate forum of its choice not expressly prohibited by this Stipulation.
12. Any commitment of funding by the FWS or Lincoln County Water District in this Stipulation or otherwise is subject to appropriations by Congress or the governing body of the Lincoln County Water District as appropriate.

13. This Stipulation may be amended by mutual agreement of the Parties.
14. This Stipulation sets forth the entire agreement of the Parties and supercedes all prior discussions, negotiations, understandings or agreements. No alteration or variation of this Stipulation shall be valid or binding unless contained in an amendment in accordance with paragraph 13.
15. This Stipulation is entered into for the purpose of resolving a disputed claim. The Parties agree that the Stipulation shall not be offered as evidence or treated as an admission regarding any matter herein and may not be used in proceedings on any other application or protest whatsoever, except that the Stipulation may be used in any future proceeding to interpret and/or enforce the terms of this Stipulation. Further, the Parties agree that neither the Stipulation nor any of its terms shall be used to establish precedent with respect to any other application or protest in any water rights adjudication or water rights permitting proceeding before the Nevada State Engineer or any other proceeding.
16. The terms and conditions of this Stipulation shall be binding upon and inure to the benefit of the Parties hereto and their respective, successors, transferees and assigns.
17. This Stipulation will become effective as between the Parties upon all Parties signing this Stipulation. The Parties may execute this Stipulation in two or more counterparts, which shall, in the aggregate, be signed by all Parties; each counterpart shall be deemed an original as against any Party who has signed it.
18. Other entities may become Parties to this Stipulation by mutual assent of the Parties.
19. Nothing contained herein shall limit the right of LCWD & VWC, or their successors, transferees, or assigns to assign, pledge, or encumber as security the Applications that are the subject of this Stipulation.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates written below.

UNITED STATES DEPARTMENT OF THE INTERIOR

Date: 8/1/2006

Fish and Wildlife Service

By Steve Thompson

Title: CNO MANAGER

Date: 7-17-06
Jude Hembach

LINCOLN COUNTY WATER DISTRICT

By RANDA HOENBECK

Title: Chairwoman

Date: 7-19-06

VIDLER WATER COMPANY, INC.

By Debra A. Jurek

Title: Chief Operating Officer

ATTEST:

Debra A. Jurek
New Legal Counsel

EXHIBIT A
for
Amended Stipulation between LCWD&VWC and the United States Fish and Wildlife Service

**MONITORING, MANAGEMENT AND MITIGATION PLAN GROUNDWATER
DEVELOPMENT IN KANE SPRINGS VALLEY**

The purpose of this plan is to describe the agreements of Lincoln County Water District and Vidler Water Company, Inc. (LCWD&VWC) and the United States Fish and Wildlife Service (FWS) regarding the monitoring, management, and mitigation of potential impacts due to development of ground-water resources in the Kane Springs Valley area. This plan applies to proposed ground-water development in Kane Springs Valley that consists of the use of water under State of Nevada water-rights applications numbered 72218, 72219, 72220 and 72221 and the subsequent applications 74147, 74148, 74149, and 74150, filed by LCWD&VWC.

The Plan describes the LCWD&VWC and FWS (hereinafter referred to as "the parties") obligations regarding the development, monitoring, management, and mitigation related to the above numbered applications in Kane Springs Valley Hydrographic Basin for use that water in Coyote Spring Valley Hydrographic Basin.

This plan consists of four principle components, as follows:

1. *Monitoring Requirements*, related to production wells, monitoring wells, elevation control, and springflow, water quality, quality of data, and reporting;
2. *Management Requirements*, related to the creation and role of a Technical Review Team (hereinafter referred to as "the TRT"), the development and use of a numerical ground-water flow model, the establishment of action criteria, and the details of the decision-making process;
3. *Mitigation Requirements*; and
4. *Modification of the Plan*.

The common goal of the parties is to manage the development of the LCWD&VWC Water Rights in their entirety from Kane Springs Valley Hydrographic Basin, without resulting in any losses to senior federal water rights or unreasonable adverse impacts to federal water resources. The parties will collaborate on technical data collection and analysis and will rely on the best scientific information available in making decisions required by the Plan.

1. Monitoring Requirements

A. Production Wells

- LCWD&VWC will record discharge and water levels in their production wells in Kane Springs Valley on a continuous basis as is feasible.

B. Monitoring Wells

LCWD&VWC, as determined by the parties to this agreement, in consultation with the Nevada State

Engineer, shall locate and construct two monitoring wells down gradient from the Kane Springs Valley ground-water production well (KMW-1). The location of the first proposed monitoring well (CSIMW-1) is to be an equal distance between the existing Southern Nevada Water Authority Monitoring Well Four (CSVW-4) and the Coyote Spring Investment monitoring well CE-VF-2. Further, CSIMW-1 will be located on the north (hydraulically upgradient) side of the interpreted southwestern extension of the Kane Springs Wash fault zone on Coyote Springs Investment property along the existing abandoned Highway 93. The second proposed monitoring well (CSIMW-2) is to be located on the south (hydraulically downgradient) side of the interpreted southwestern extension of the Kane Springs Wash fault zone on Coyote Springs Investment property along the existing abandoned Highway 93. Specifically, the second well would be sited such that the distance between the monitoring well CSIMW-1 and the aforementioned fault zone is approximately equal to the distance between the fault zone and CSIMW-2. See Attachments "A-1", "A-2", "A-3" and "A-4" to this Exhibit A. FWS shall work with LCWD&VWC in good faith to ensure that the well is located and constructed in a cost-effective manner, to enable the monitoring of the potential southward progression of groundwater level declines resulting from proposed ground-water production in Kane Springs Valley.

- All monitoring wells used as part of this plan shall be installed and water levels recorded on a continuous basis as is feasible, beginning as soon as possible after the State Engineer decision relative to the Kane Springs Valley Applications.
- The initial groundwater level would be established at the time that the pumping wells in Kane Spring Valley were ready to go on-line.
- The term "as is feasible" shall relate to mechanical failures and the issues associated with the remoteness of the locations, or other events outside the control of the parties that do not permit data collection.
- The locations and monitoring frequency of the monitoring-well network will be reviewed by the TRT on an annual basis beginning in 2007, and may be reduced or expanded in scope upon its recommendation.

C. Elevation Control

- LCWD&VWC will conduct a detailed elevation survey of all their wells used for monitoring as part of this plan. LCWD&VWC will cooperate in any regional plan organized by the Nevada State Engineer to determine elevation above sea level of all major spring orifices and monitoring and production wells in the Lower Colorado Flow System region. LCWD/VWC will match the Southern Nevada Water Authority's current datum relating to monitoring and production well elevations.

D. Water Quality

- LCWD&VWC will collect water quality samples and have them analyzed for major ions, trace elements, and isotopes at all production and monitor wells used as part of this plan (as specified in Sections 1.A and 1.B.) commencing July 1, 2007.
- Thereafter, LCWD&VWC will collect and analyze water-quality samples for major ions, trace

elements, and isotopes at all production and monitoring wells used as part of this plan every five years thereafter.

- Samples will be collected, analyzed and reported according to standard methods.
- Frequency, sampling location, and water quality parameters will be reviewed by the TRT on an annual basis beginning in 2007, and may be reduced or expanded in scope upon its recommendation.

E. *Reporting*

- All data collected under or as described in this plan, shall be fully and cooperatively shared among the parties.
- Water level and production data shall be provided to the FWS within 60 days of its collection by LCWD&VWC. LCWD&VWC will use its best efforts to provide data to the FWS within 30 days of its submission to LCWD&VWC, or in the case of water quality data, within 90 days of receipt of laboratory results.
- LCWD&VWC will report the results of all monitoring and sampling under this plan in an annual monitoring report

2. Management Requirements

A. **Action Criteria**

The Parties recognize that maintenance of minimum in-stream flows in the Warm Springs area is essential for the protection and recovery of the Moapa dace. Further, the parties recognize that existing data is insufficient to determine if the groundwater development in Kane Springs Valley Hydrographic Basin, that is the subject of the Plan, affects the in-stream flows in the Muddy River Springs/Warm Springs Area, and if so, to what extent. Thus, the parties agree as follows:

1. For purposes of this paragraph A., all "Average Flow Levels" specified herein shall be determined by flow measurements at the Warm Springs West flume. Average Flow Levels will be determined to have reached a particular level within a range specified in paragraphs B(2) through (7) ("Trigger Range"): (1) if the daily average flow for each of 45 consecutive days decreases to an amount within the Trigger Range, or if the 90 day average flow over any 90 consecutive day period decreases to an amount within the Trigger Range; or (2) if the daily average flow for each of 90 consecutive days increases to an amount within the Trigger Range, or if the 135-day average flow over any 135 consecutive day period increases to an amount within the Trigger Range. Any adjustment in the rating curve for the Warm Springs West flume shall result in a pro-rata adjustment of the Trigger Ranges.

2. If the Average Flow Level decreases to an amount within the Trigger Range of 3.2 cfs or less, the Parties agree to meet as soon as practicably possible to discuss and interpret all available data and plan for mitigation measures in the event flows continue to decline; and

3. If the Average Flow Level is within the Trigger Range of 3.15 cfs or less but greater than 3.0 cfs, LCWD&VWC agree to reduce pumping from all wells in Kane Springs Valley by 50% or to a pumping level no greater than 2,500 afy, whichever results in the lesser amount of pumping, until the Average Flow Level exceeds 3.15 cfs.

4. If the Average Flow Level is within the Trigger Range of 3.0 cfs or less, LCWD&VWC agree to cease pumping from all wells in Kane Springs Valley until the Average Flow Level exceeds 3.0 cfs. However, if LCWD&VWC, together with Coyote Springs Investment, LLC ("CSI"), effectuate a reduction in the quantity of water CSI would have otherwise been entitled to pump in a given year from wells within the Coyote Spring Valley, then LCWD&VWC shall have the right to pump a like quantity of water from wells within Kane Springs Valley in that year.

B. Technical Review Team

1. Upon execution of this Stipulation, the Parties shall establish a Technical Review Team ("TRT") whose members shall include two representatives ("TRT Representatives") each from LCWD&VWC and the FWS, including at least one with substantial formal training and experience in hydrogeology ("Technical Representative"). Except as otherwise provided herein, the two TRT Representatives shall together have one vote on TRT matters. By consensus, the TRT Representatives may offer voting or non-voting TRT membership to others who provide regional monitoring records and analyses to the TRT.

2. The objectives of the TRT shall be to review existing data, make recommendations concerning the monitoring efforts required by this Plan, and determine whether other criteria, such as water levels in monitoring wells, are a better indicator of potential effects of the pumping wells on the springs in the Muddy River Springs/Warm Springs Area. Either party may advance any recommendation for consideration by the other party to modify the action criteria. However, no change in the action criteria shall occur within the first five (5) years following the effective date of the Plan. After this five year period, and if the TRT reaches a consensus on changes to the action criteria, such criteria may be changed.

3. If the TRT Representatives are unable to reach consensus on the action criteria, the Parties shall refer the matter to a qualified panel of third party reviewers ("Panel") consisting of three scientists unaffiliated with any Party and having substantial formal training and experience in hydrogeology. If the Parties cannot agree by consensus on the make-up of the Panel, one member of the Panel shall be designated by each of the following from its own ranks: U.S. Geologic Survey, Nevada State Engineer (if the Nevada State Engineer declines to participate, then the Desert Research Institute shall be substituted), and a private firm with the requisite expertise designated by a majority of the Parties ("Appointing Entities"), provided that the Parties by consensus may designate different similarly qualified Appointing Entities. If any Appointing Entity for any reason is unable or refuses to designate a member of the Panel, the Parties by majority vote shall designate a qualified replacement Appointing Entity. The purpose of the referral to the Panel will be to obtain peer review of the then-current action criteria, the data upon which it is based, all previously submitted data and reports, and any other relevant and available data and analytical materials. The Panel will be asked to make its recommendation

based on the foregoing information concerning the appropriate content of the action criteria. All Parties shall have a fair and reasonable opportunity to present factual and analytical submissions in person and/or in writing to the Panel. The Parties contemplate that a determination of the Panel on the action criteria will constitute the best available scientific information concerning the impacts on Muddy River Springs/Warm Springs Area and Muddy River flows resulting from regional groundwater pumping, and the appropriateness of any proposed pumping restriction adjustments. The cost of the Panel shall be borne equally by the Parties.

3. Mitigation Requirements

- LCWD&VWC will mitigate unreasonable adverse impacts either as agreed upon by the parties or after the Nevada State Engineer determines whether there are unreasonable adverse impacts due to LCWD&VWC pumping. LCWD&VWC will take the necessary steps to ensure that mitigation actions are feasible.
- As part of their commitment to the recovery of the Moapa dace, LCWD&VWC shall commit \$50,000, annually for a period of five (5) years following the granting of the Applications, in total or in part, for the restoration of Moapa dace habitat outside the boundaries of the Moapa National Wildlife Refuge. Such restoration shall be conducted as agreed to by the FWS. In the event that the Applications as granted by the State Engineer total less than 2,500 afy, the parties agree to meet and renegotiate the annual funding amount to be consistent with the lesser quantity of water granted and the commitment by LCWD&VWC to participate in restoration activities of the Moapa dace. FWS acknowledges that Coyote Springs Investment LLC, a Nevada limited liability company (CSI), has dedicated certain quantities of water pursuant to a Memorandum of Agreement by and between the Southern Nevada Water Authority, the United States Fish and Wildlife Service, CSI, the Moapa Band of Paiutes, and the Moapa Valley Water District. FWS further acknowledges that CSI is the intended beneficiary of the water to be developed pursuant to the Applications. Thus, in the event that pumping of groundwater pursuant to the Applications is restricted pursuant to Section 2. A. of this Exhibit A to the Stipulation, FWS agrees to use any quantities of water dedicated by CSI pursuant to the MOA for the survival and recovery of the Moapa dace as directed in the MOA.

4. Modification of the Plan

- LCWD&VWC and the FWS may modify this plan by mutual agreement. The parties also acknowledge that the State Engineer has the authority to modify this plan. In addition, LCWD&VWC and the FWS may individually or jointly petition the State Engineer to modify this plan in the event that mutual agreement cannot be reached. Any such petition shall only be filed after 90 days written notice to the remaining party. Either LCWD&VWC or the FWS may submit written comments to the State Engineer regarding the merits of any such petition for modification.