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15 Attorneys for Plaintiff Upper South East  
16 Communities Coalition

17 **UNITED STATES DISTRICT COURT**  
18 **DISTRICT OF NEVADA, NORTHERN DIVISION**

19 UPPER SOUTHEAST COMMUNITIES  
20 COALITION,

21 Plaintiff,

22 v.

23 U.S. ARMY CORPS OF ENGINEERS;  
24 LT. GEN. THOMAS P. BOSTICK, in his  
25 official capacity, Chief of Engineers and  
26 Commanding General, U.S. Army Corps of  
27 Engineers; COL. MICHAEL J. FARRELL,  
28 in his official capacity, District  
Commander, Sacramento District, U.S.  
Army Corps of Engineers; KRISTINE S.  
HANSEN, in her official capacity, Senior  
Project Manager, Reno Field Office,  
Sacramento District, U.S. Army Corps of  
Engineers; and REGIONAL  
TRANSPORTATION COMMISSION OF  
WASHOE COUNTY,

Defendants.

Case No. 3:13-cv-00403

**DECLARATION OF JOSEPH D.  
PETTA IN SUPPORT OF  
PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION**

1 DECLARATION OF JOSEPH D. PETTA

2 I, Joseph Petta, declare as follows:

3 1. I am an attorney licensed to practice in the State of California and an associate at  
4 Shute, Mihaly & Weinberger LLP, attorneys for Upper South East Communities Coalition  
5 (“Coalition”). I have personal knowledge of the facts set forth herein, except as to those stated  
6 on information and belief, and as to those, I am informed and believe them to be true. If called  
7 as a witness, I could and would competently testify to the matters stated herein.

8 2. I submit this declaration in support of the Coalition’s motion for a preliminary  
9 injunction. By this application the Coalition seeks to preserve the status quo until this Court can  
10 decide the merits of the Coalition’s complaint.

11 3. Attached as Exhibit 1 to this declaration is a true and correct copy of an excerpt  
12 from the Truckee Meadows Flood Control Project, Nevada, Draft General Reevaluation Report,  
13 May 2013, which I downloaded from the U.S. Army Corps of Engineers, Sacramento District  
14 website,  
15 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe)  
16 [adows\\_Nevada\\_DraftGRR\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe).

17 4. Attached as Exhibit 2 to this declaration is a true and correct copy of an excerpt  
18 from the Regional Transportation Commission’s (“RTC’s”) Plan Line Study for the SouthEast  
19 Connector, which I downloaded from RTC’s website for the SouthEast Connector (“SEC”),  
20 [http://www.southeastconnector.com/wp-content/uploads/2013/02/Executive\\_Summary.pdf](http://www.southeastconnector.com/wp-content/uploads/2013/02/Executive_Summary.pdf).

21 5. Attached as Exhibit 3 to this declaration is a true and correct copy of an excerpt  
22 from the Truckee Meadows Flood Control Project, Nevada, Draft General Reevaluation Report,  
23 May 2013, which I downloaded from the U.S. Army Corps of Engineers, Sacramento District  
24 website,  
25 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe)  
26 [adows\\_Nevada\\_DraftGRR\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe).

27 6. Attached as Exhibit 4 to this declaration is a true and correct copy of an excerpt  
28 from the U.S. Geological Survey’s Flood-Control Effects of Truckee River Basin Reservoirs,

1 Dec. 31 1996 through Jan. 4 1997, which I downloaded from the U.S. Geological Survey's  
2 website, <http://pubs.usgs.gov/fs/1997/0037/report.pdf>.

3 7. Attached as Exhibit 5 to this declaration is a true and correct copy of an excerpt  
4 from the Draft Environmental Impact Statement ("DEIS") for the Truckee Meadows Flood  
5 Control Project, Nevada, Draft General Reevaluation Report, May 2013, which I downloaded  
6 from the U.S. Army Corps of Engineers, Sacramento District website,  
7 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe)  
8 [adows\\_DraftEIS\\_Vol-II\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe).

9 8. Attached as Exhibit 6 to this declaration is a true and correct copy of an excerpt  
10 from the Truckee Meadows Flood Control Project, Nevada, Draft General Reevaluation Report,  
11 May 2013, which I downloaded from the U.S. Army Corps of Engineers, Sacramento District  
12 website,  
13 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe)  
14 [adows\\_Nevada\\_DraftGRR\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe).

15 9. Attached as Exhibit 7 to this declaration is a true and correct copy of an excerpt  
16 from the DEIS for the Truckee Meadows Flood Control Project, Nevada, Draft General  
17 Reevaluation Report, May 2013, which I downloaded from the U.S. Army Corps of Engineers,  
18 Sacramento District website,  
19 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe)  
20 [adows\\_DraftEIS\\_Vol-I\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe).

21 10. Attached as Exhibit 8 to this declaration is a true and correct copy of an excerpt  
22 from the DEIS for the Truckee Meadows Flood Control Project, Nevada, Draft General  
23 Reevaluation Report, May 2013, which I downloaded from the U.S. Army Corps of Engineers,  
24 Sacramento District website,  
25 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe)  
26 [adows\\_DraftEIS\\_Vol-I\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe).

27 11. Attached as Exhibit 9 to this declaration is a true and correct copy of an excerpt  
28 from the DEIS for the Truckee Meadows Flood Control Project, Nevada, Draft General

1 Reevaluation Report, May 2013, which I downloaded from the U.S. Army Corps of Engineers,  
2 Sacramento District website,

3 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe  
adows\\_DraftEIS\\_Vol-I\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe<br/>4 adows_DraftEIS_Vol-I_May2013.pdf).

5 12. Attached as Exhibit 10 to this declaration is a true and correct copy of RTC's Fact  
6 Sheet for the SEC, March 2013, which I downloaded from RTC's website for the SEC,

7 [http://www.southeastconnector.com/wp-content/uploads/2013/03/03053-SEC-  
FactSheet\\_0327131.pdf](http://www.southeastconnector.com/wp-content/uploads/2013/03/03053-SEC-<br/>8 FactSheet_0327131.pdf).

9 13. Attached as Exhibit 11 to this declaration is a true and correct copy of RTC's  
10 Response to the Coalition's May 29, 2013 Notice of Intent to Sue Letter, without attachments,  
11 which I received by email on July 24, 2013.

12 14. Attached as Exhibit 12 to this declaration is a true and correct copy of an excerpt  
13 from RTC's May 31, 2011 Application for Department of the Army Permit SouthEast  
14 Connector, Washoe County, Nevada, which I obtained from Kimberly Rhodemyre by e-mail on  
15 or around April 24, 2013. I am informed and on that basis believe that Ms. Rhodemyre obtained  
16 this document through a Freedom of Information Act ("FOIA") request to the U.S. Army Corps  
17 of Engineers.

18 15. Attached as Exhibit 13 to this declaration is a true and correct copy of an excerpt  
19 of the public comments received by the U.S. Army Corps of Engineers, Sacramento District in  
20 response to RTC's May 31, 2011 permit application, which I obtained from Kimberly  
21 Rhodemyre by e-mail on or around April 24, 2013. I am informed and on that basis believe that  
22 Ms. Rhodemyre obtained this document through a FOIA request to the U.S. Army Corps of  
23 Engineers.

24 16. Attached as Exhibit 14 to this declaration is a true and correct copy of an excerpt  
25 of the comments of Plaintiff Upper South East Communities Coalition ("Coalition") responding  
26 to RTC's May 31, 2011 permit application, which I obtained from Kimberly Rhodemyre by e-  
27 mail on or around April 24, 2013. I am informed and on that basis believe that Ms. Rhodemyre  
28 obtained this document through a FOIA request to the U.S. Army Corps of Engineers.

1 17. Attached as Exhibit 15 to this declaration is a true and correct copy of RTC's Sept.  
2 26, 2012 letter to the U.S. Army Corps of Engineers, Sacramento District, which I obtained  
3 from the Nevada Department of Environmental Protection by means of a public records request  
4 on July 1, 2013.

5 18. Attached as Exhibit 16 to this declaration is a true and correct copy of an excerpt  
6 of RTC's June 1, 2012 Southeast Connector Preliminary 401 Water Quality Certification  
7 Application, which I obtained from Kimberly Rhodemyre by e-mail on or around April 24,  
8 2013. I am informed and on that basis believe that Ms. Rhodemyre obtained this document  
9 through a FOIA request to the U.S. Army Corps of Engineers.

10 19. Attached as Exhibit 17 to this declaration is a true and correct copy of the U.S.  
11 Army Corps of Engineers, Sacramento District's November 16, 2012 letter to RTC, which I  
12 obtained from the Nevada Department of Environmental Protection by means of a public  
13 records request on July 1, 2013.

14 20. Attached as Exhibit 18 to this declaration is a true and correct copy of the  
15 Coalition's June 17, 2013 public records request letter to the Nevada Department of  
16 Environmental Protection.

17 21. Attached as Exhibit 19 to this declaration is a true and correct copy of a November  
18 16, 2012 article from the Daily Sparks Tribune, which I downloaded from the Daily Sparks  
19 Tribune website, [http://dailysparkstribune.com/view/full\\_story/20863860/article-RTC-approves-](http://dailysparkstribune.com/view/full_story/20863860/article-RTC-approves-SouthEast-Connector-project?instance=search_results)  
20 [SouthEast-Connector-project?instance=search\\_results](http://dailysparkstribune.com/view/full_story/20863860/article-RTC-approves-SouthEast-Connector-project?instance=search_results).

21 22. Attached as Exhibit 20 to this declaration is a true and correct copy of RTC's  
22 Phase I Board from the March 23, 2013 community meeting, which I downloaded from RTC's  
23 website for the SEC, [http://www.southeastconnector.com/wp-](http://www.southeastconnector.com/wp-content/uploads/2013/04/RTC_SE_Connector_Phase1_board_FINAL.pdf)  
24 [content/uploads/2013/04/RTC\\_SE\\_Connector\\_Phase1\\_board\\_FINAL.pdf](http://www.southeastconnector.com/wp-content/uploads/2013/04/RTC_SE_Connector_Phase1_board_FINAL.pdf).

25 23. Attached as Exhibit 21 to this declaration is a true and correct copy of minutes  
26 from the May 23, 2013 neighborhood meeting led by an RTC contractor, which I obtained from  
27 RTC by means of a public records request on July 18, 2013.

1 24. Attached as Exhibit 22 to this declaration is a true and correct copy of an update  
2 from RTC on the status of construction of Phase I of the SEC, which I received via e-mail on  
3 July 16, 2013.

4 25. Attached as Exhibit 23 to this declaration is a true and correct copy of an excerpt  
5 from the minutes of a March 28, 2013 "SEC Community Open House" before RTC, which I  
6 downloaded from RTC's website for the SEC, [http://www.southeastconnector.com/wp-](http://www.southeastconnector.com/wp-content/uploads/2013/05/Public_Meeting_Transcript-FINAL.pdf)  
7 [content/uploads/2013/05/Public\\_Meeting\\_Transcript-FINAL.pdf](http://www.southeastconnector.com/wp-content/uploads/2013/05/Public_Meeting_Transcript-FINAL.pdf).

8 26. Attached as Exhibit 24 to this declaration is a true and correct copy of RTC's  
9 board from the March 28, 2013 "SEC Community Open House," which I downloaded from  
10 RTC's website for the SEC, [http://www.southeastconnector.com/wp-](http://www.southeastconnector.com/wp-content/uploads/2013/04/RTC_SE_Connector_BOARDS_FINAL.pdf)  
11 [content/uploads/2013/04/RTC\\_SE\\_Connector\\_BOARDS\\_FINAL.pdf](http://www.southeastconnector.com/wp-content/uploads/2013/04/RTC_SE_Connector_BOARDS_FINAL.pdf).

12 27. Attached as Exhibit 25 to this declaration is a true and correct copy of the U.S.  
13 Army Corps of Engineers, Sacramento District's April 16, 2012 letter to the U.S. Fish &  
14 Wildlife Service, which I obtained from RTC by means of a public records request on July 18,  
15 2013.

16 28. Attached as Exhibit 26 to this declaration is a true and correct copy of the U.S.  
17 Army Corps of Engineers, Sacramento District's Public Notice of Permit Application for RTC's  
18 May 31, 2011 permit application, which I obtained from the Nevada Department of  
19 Environmental Protection by means of a public records request on July 1, 2013.

20 29. Attached as Exhibit 27 to this declaration is a true and correct copy of the minutes  
21 from a July 14, 2011 RTC meeting, which I obtained from RTC by means of a public records  
22 request on July 18, 2013.

23 30. Attached as Exhibit 28 to this declaration is a true and correct copy of RTC's  
24 December 2012 Application for Temporary Right-of-Way Permit to the Nevada Department of  
25 Transportation, which I obtained from RTC by means of a public records request on July 18,  
26 2013.

1 31. Attached as Exhibit 29 to this declaration is a true and correct copy of an excerpt  
2 from an RTC contractor's Phase I "Request for Variance to Title 15" Report, January 2013,  
3 which I obtained from the City of Sparks by means of a public records request on June 28, 2013.

4 32. Attached as Exhibit 30 to this declaration is a true and correct copy of an excerpt  
5 from an RTC contractor's Phase I "Contract Baseline Schedule Narrative Report," February  
6 2013, which I obtained from RTC by means of a public records request on July 18, 2013.

7 33. Attached as Exhibit 31 to this declaration is a true and correct copy of an excerpt  
8 from an RTC contractor's "100% Drainage Report for SEC Phase I," March 2013, which I  
9 obtained from the City of Sparks by means of a public records request on June 28, 2013.

10 34. Attached as Exhibit 32 to this declaration is a true and correct copy of minutes  
11 from an RTC Resource Agency Committee Meeting, April 11, 2013, which I obtained from the  
12 Nevada Department of Environmental Protection by means of a public records request on July 1,  
13 2013.

14 35. Attached as Exhibit 33 to this declaration is a true and correct copy of minutes  
15 from an RTC Community Working Group Meeting, April 18, 2013, which I downloaded from  
16 RTC's website for the SEC, [http://www.southeastconnector.com/wp-](http://www.southeastconnector.com/wp-content/uploads/2013/05/SEC_P2_CWG_MtgSummary_130418_FINAL.pdf)  
17 [content/uploads/2013/05/SEC\\_P2\\_CWG\\_MtgSummary\\_130418\\_FINAL.pdf](http://www.southeastconnector.com/wp-content/uploads/2013/05/SEC_P2_CWG_MtgSummary_130418_FINAL.pdf).

18 36. Attached as Exhibit 34 to this declaration is a true and correct copy of an excerpt  
19 from the DEIS for the Truckee Meadows Flood Control Project, Nevada, Draft General  
20 Reevaluation Report, May 2013, which I downloaded from the U.S. Army Corps of Engineers,  
21 Sacramento District's website,  
22 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe)  
23 [adows\\_DraftEIS\\_Vol-I\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe).

24 37. Attached as Exhibit 35 to this declaration is a true and correct copy of the January  
25 24, 2013 letter from the Nevada Department of Conservation and Natural Resources, Division of  
26 Water Resources to RTC, which I obtained from RTC by mean of a public records request on  
27 July 18, 2013.

28

1 38. Attached as Exhibit 36 to this declaration is a true and correct copy of an excerpt  
2 from the DEIS for the Truckee Meadows Flood Control Project, Nevada, Draft General  
3 Reevaluation Report, May 2013, which I downloaded from the U.S. Army Corps of Engineers,  
4 Sacramento District's website,  
5 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe  
7 adows\\_DraftEIS\\_Vol-I\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe<br/>6 adows_DraftEIS_Vol-I_May2013.pdf).

8 39. Attached as Exhibit 37 to this declaration is a true and correct copy of an excerpt  
9 from the Truckee Meadows Flood Control Project, Nevada, Draft General Reevaluation Report,  
10 May 2013, which I downloaded from the U.S. Army Corps of Engineers, Sacramento District  
11 website,  
12 [http://www.spk.usace.army.mil/Portals/12/documents/usace\\_project\\_public\\_notices/TruckeeMe  
14 adows\\_Nevada\\_DraftGRR\\_May2013.pdf](http://www.spk.usace.army.mil/Portals/12/documents/usace_project_public_notices/TruckeeMe<br/>13 adows_Nevada_DraftGRR_May2013.pdf)

15 40. Attached as Exhibit 38 to this declaration is a true and correct copy of the May 17,  
16 2013 letter from the Nevada Department of Environmental Protection to the Truckee Meadows  
17 Water Reclamation Facility, which I obtained from the City of Sparks by means of a public  
18 records request on June 28, 2013.

19 41. Attached as Exhibit 39 to this declaration is a true and correct copy of an excerpt  
20 from the Release Information and Work Plan for Environmental Site Assessment Activities,  
21 prepared on May 30, 2013 on behalf of the City of Sparks, which I obtained from the City of  
22 Sparks by means of a public records request on June 28, 2013.

23 42. Attached as Exhibit 40 to this declaration is a true and correct copy of RTC's  
24 Project Delivery Timeline for the SEC, which I downloaded from RTC's website for the SEC,  
25 [http://www.southeastconnector.com/wp-  
27 content/uploads/2013/05/ProjDev\\_ScheduleGraphic\\_130520.pdf](http://www.southeastconnector.com/wp-<br/>26 content/uploads/2013/05/ProjDev_ScheduleGraphic_130520.pdf).

28 43. Attached as Exhibit 41 to this declaration is a true and correct copy of an excerpt  
from a May 9, 2013 RTC meeting summary, which I obtained from RTC by means of a public  
records request on July 18, 2013.



1 44. Attached as Exhibit 42 to this declaration is a true and correct copy of a May 22,  
2 2013 article from the Daily Sparks Tribune, which I downloaded from the Daily Sparks Tribune  
3 website, [http://dailysparkstribune.com/view/full\\_story/22675826/article-SouthEast-Connector-  
5 progresses](http://dailysparkstribune.com/view/full_story/22675826/article-SouthEast-Connector-<br/>4 progresses).

6 45. Attached as Exhibit 43 to this declaration is a true and correct copy of a July 19,  
7 2013 Monthly Progress Update on Phase I of the SEC, which I downloaded from RTC's  
8 website,  
9 [http://www.rtcwashoe.com/BRDstaffreports/documents/Item%204.3%20SEC%20Monthly%20  
11 Update%20-%20July%202013.pdf](http://www.rtcwashoe.com/BRDstaffreports/documents/Item%204.3%20SEC%20Monthly%20<br/>10 Update%20-%20July%202013.pdf).

12 46. I declare under penalty of perjury under the laws of the United States of America  
13 that the foregoing is true and correct.

14 Executed July 31, 2013, at San Francisco, California.



15 Joseph D. Petta

16 496542.2

**PROOF OF SERVICE**

*Upper Southeast Communities Coalition v. U.S. Army Corps of Engineers, et al.*  
*Case No. 3:13-cv-00403*

*United States District Court, District of Nevada*

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the City and County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, CA 94102.

On July 31, 2013, I served true copies of the following document(s) described as:

**DECLARATION OF JOSEPH D. PETTA IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

on the parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY CERTIFIED MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing via Certified Mail, Return Receipt Requested, following our ordinary business practices. I am readily familiar with 's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. (FRCP 4(i)(2)).

**BY FEDEX:** I enclosed said document(s) in an envelope or package provided by FedEx and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of FedEx or delivered such document(s) to a courier or driver authorized by FedEx to receive documents.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on July 31, 2013, at San Francisco, California.

  
Sean P. Mulligan

**SERVICE LIST**

**Upper Southeast Communities Coalition v. U.S. Army Corps of Engineers, et al.**  
**Case No. 3:13-cv-00403**  
**United States District Court, District of Nevada**

U.S. Army Corps of Engineers, Headquarters  
441 G Street N.W.  
Washington, DC 20314-1000

Lt. Gen. Thomas P. Bostick  
Chief of Engineers & Commanding General  
U.S. Army Corps of Engineers  
441 G Street N.W.  
Washington, DC 20314-1000

**Via Certified Mail**

**Via Certified Mail**

Col. Michael J. Farrell, District Commander  
Sacramento District  
U.S. Army Corps of Engineers  
1325 J Street  
Sacramento, CA 95814-2922

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Reno Regulatory Field Office  
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300 Booth Street, Room 3060  
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**Via Certified Mail**

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Dale Ferguson  
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**Via Federal Express**

*Attorney for Defendant Regional  
Transportation Commission Of Washoe  
County*