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Prosecutors say NV water officials aware of fraud

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RENO, Nev.—A northern Nevada irrigation district official under indictment on federal fraud charges conceded he knew water deliveries to farmers were being falsified, a federal prosecutor and government agent said in court documents.

David Overvold, a project manager for the Truckee-Carson Irrigation District, acknowledged to investigators that the practice "has been going on for a while," and he did nothing to stop it, court records show.

But Overvold maintained he never directly ordered any employees to "write-off" water, according to Robert Eric May, a special agent for the U.S. Interior Department's Office of Inspector General.

Overvold, the district's lawyer, Lyman McConnell and two irrigation district employees—John Baker and Shelby Cecil—were named in a 10-count indictment handed up in December 2008 by a federal grand jury in Reno. Cecil since has died.

Federal prosecutors accuse them of carrying out a scheme from 2000-05 to alter water delivery data to earn special "efficiency credits" that would entitle the district to more water and reduce a court-ordered water debt owed to the Pyramid Lake Paiute tribe.

If convicted, they face up to 20 years in prison for each of three counts of falsification of records and five years in prison for each of seven counts of false claims, false statements, and for conspiracy to defraud the United States. The men have said they are not guilty of the charges.

An irrigation district supervisor, Diane Baley, told federal agents she became aware of the water write-offs in 2002, when she noticed Fallon-area farmers placing unusually large water orders at the end of the season that were "mathematically impossible" to deliver at once without causing flooding or wasting water, May said.

The district delivers water from the Truckee and Carson rivers in canals and ditches to farmers and ranchers around the high desert town of Fallon, 60 miles east of Reno.

Baley, a supervisory engineering technician, said she instructed employees to stop accepting orders that included write-offs, but she was later told by McConnell that the orders should be processed.

Baley, according to court documents, repeatedly expressed concerns to water district managers about the write-offs, and was once told by Overvold that it wasn't her problem and to mind her own business.

She said it was farmers who initially asked that their water deliveries be "written off" because they were led to believe by the irrigation district that the U.S. Bureau of Reclamation, which owns the century-old irrigation system, would reduce their water the next year if they didn't use their full allotment, the report said.

Baley added, however, that it was the district's responsibility not to allow it.

The interview reports were among a stack of documents filed by the government in response to allegations by Overvold's lawyer, Craig Denney, that

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the criminal case should be dismissed because of prosecution abuses.

Denney, a former federal prosecutor in Reno, has charged that May improperly coached and influenced witnesses, and altered witness statements, tainting grand jury proceedings and robbing Overvold of his right to due process.

He also has maintained the case hinges on the word of disgruntled "ditchriders"—irrigation district employees who ride along the canals to ensure the safety of the earthen berms and record water meter readings.

In responding documents filed June 10, Assistant U. S. Attorney James Keller countered that Denney's claim is "wholly undermined by his own slicing and dicing of isolated statements of detailed interviews," and that the criminal charges are backed by numerous witnesses and evidence.

"The evidence is not limited to ditchriders," Keller wrote. "It is not even limited to TCID employees. Mr. Overvold admitted to knowing about and condoning the practice of writing-off water, and recognized the benefit in doing so."

Trial is scheduled for February 2010.

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