IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

FILED
OCT 02 1989
STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER 53408 FILED BY Washoe County ON July 11, 1989 TO CHANGE THE PLACE OF USE AND MANNER OF USE OF UNDERGROUND WATER IN WASHOE COUNTY	)	PROTEST

Comes now The Pyramid Lake Paiute Tribe of Indians whose post office address is P.O. Box 256, Nixon, Nevada 89424 whose occupation is a federally recognized Tribe of Indians, the governing body of the Pyramid Lake Indian Reservation, organized pursuant to the Indian Reorganization Act of 1934, with a Constitution and By-laws approved by the Secretary of the Interior, and protests the granting of Application Number 53408 filed on July 11, 1989 by Washoe County to change the place of use and manner of use of underground water situated in Washoe County, State of Nevada, for the following reasons and on the following grounds, to wit:

1. Application Number 53408 is deficient and should be denied. On information and belief the alleged water right has not been exercised, utilized or perfected in accordance with state law and therefore cannot be changed to a different place of use or manner of use. The proper course and procedure is to seek to amend the application or the permit for the alleged existing right.

2. Granting or approving Application Number 53408 would be detrimental to the public welfare in that it would: (i) be likely to jeopardize the continued existence of Pyramid Lake's two principal fish, the endangered cui-ui and the threatened Lahontan cutthroat trout; (ii) prevent or interfere with the conservation of those endangered and threatened species in violation of both federal and state law; (iii) take or harm those threatened and endangered species; (iv) adversely affect the recreational value of Pyramid Lake; (v) interfere with the purposes for which the Pyramid Lake Indian Reservation was established; and (vi) further degrade the water quality of the Truckee River.

3. Granting or approving Application Number 53408 would threaten to prove detrimental to the public interest if the implementation of the Honey Lake Water Importation Project is not coordinated and integrated with the outcome of the Truckee River Settlement negotiations and the implementation of the May 23, 1989 Preliminary Settlement Agreement between the Pyramid Lake Paiute Tribe and the Sierra Pacific Power Company.

4. Granting or approving Application Number 53408 along with other pending applications involving the utilization of groundwater from the Honey Lake Basin in Nevada would exceed the safe yield of the Basin and result in the permanent depletion or mining of groundwater resources in violation of Nevada law.

5. There is not sufficient unappropriated groundwater in the Honey Lake Basin in Nevada to provide the water sought in Application Number 53408 and all other pending applications involving the utilization of surface and groundwater from that Basin.

6. Granting or approving Application Number 53408 would conflict with the prior and paramount reserved water rights of the Pyramid Lake Paiute Tribe to the groundwater underlying the Smoke Creek Desert portion of the Pyramid Lake Indian Reservation.

7. The Pyramid Lake Paiute Tribe of Indians will be adversely affected if Application Number 53408 is granted because: (i) the endangered and threatened species inhabiting Pyramid Lake and the recreational value of Pyramid Lake would be adversely affected; (ii) the Tribe's prior and paramount reserved water rights would be impaired or violated.

THEREFORE the protestant requests that the above referenced application be <u>denied</u> and that an order be entered for such relief as the State Engineer deems just and proper.

Signed Robert S. Pelcyger
(agent)
Robert S. Pelcyger

Address Canyon Center, Suite 216

1881 9th Street

Boulder, Colorado 80302

Phone (303) 443-1683

E. Pierre Gezelin
436 Court Street
P.O. Box 858
Reno, Nevada 89504
(702) 323-1894

Subscribed and sworn to before me this 29 day of September, 1989.

My commission expires: 10/14/91

Carolyn A. Weber
Notary Public
State of Colorado
County of Boulder
Canyon Center, Suite 216
1881 9th Street
Boulder, Colorado 80302

$10 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE. ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.