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FILED
OCT 13 1995
STATE ENGINEER'S OFFICE

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APPLICATION NO. 61420 ✓

APPLICATION FOR PERMISSION TO CHANGE
POINT OF DIVERSION
(Applicant: Pete L. and Karan E. Mori) ✓

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STATE ENGINEERS OFFICE

**PROTEST OF THE SHOSHONE-PAIUTE TRIBES
OF THE DUCK VALLEY INDIAN RESERVATION**

Pursuant to NRS 533.365, the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation ("Tribe") file this protest to the above Application for Permission to Change Point of Diversion filed on July 24, 1995. This protest is filed within thirty days from the date of last publication of the notice of application, which was September 13, 1995.

The Tribe protests the Application on the following grounds:

1. The applicant must affirmatively show that existing water rights holders will not be injured by the proposed change in point of diversion. The Tribe has prior upstream water rights that are not yet quantified. Until the Tribe's rights are quantified, it is impossible to determine whether the proposed change will affect the Tribe's prior water rights.

2. The applicant must affirmatively show that no additional lands beyond those identified in the applicant's initial Proof of Appropriation are being irrigated as a result of the proposed change in point of diversion. Such showing has not been made.

3. The Tribe and the upstream water users, including the applicant, have been involved in settlement discussions concerning water rights for almost two years. The specific lands that the applicant seeks to develop are included in the settlement discussions. The parties have been discussing, among other things,

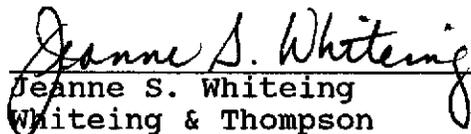
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the extent to which "historical lands", that is lands that are not currently in production for various reasons, will be recognized as being entitled to a water right. The granting of the above application will impede the ability of the parties to reach agreement on this issue because it will prematurely decide an issue under discussion among the parties.

4. The application lacks sufficient information to allow the Tribe to determine all the potential grounds for protest. The Tribe reserves the right to supplement the grounds upon which this protest is based as they become known.

For these reasons, the Tribe requests the State Engineer to deny the above application or to stay consideration of the application until the parties have reached a settlement agreement or have informed the State Engineer that no agreement can be reached.

Dated this 12th day of October, 1995.



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Attorneys for the
Shoshone-Paiute Tribes of the
Duck Valley Indian Reservation

VERIFICATION

The undersigned, being first duly sworn, deposes and says that the statements made herein are true and correct to the best of my knowledge and belief.

Jeanne S. Whiteing
Jeanne S. Whiteing

Attorney for the
Shoshone-Paiute Tribe of the
Duck Valley Indian Reservation

Subscribed and sworn to before me this 12th day of October,
1995.

Dwain Robner

Notary Public in and for the County of Boulder,
State of Colorado

My commission expires 8/3/96