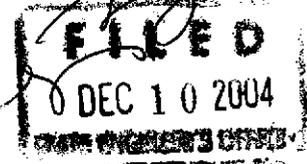


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

In the Matter of Application Number 71382)
)
Filed by the City of Fernley on)
)
June 30, 2004, for a Permit to Appropriate)
)
the Public Waters of the State of Nevada)
)

PROTEST



Comes now the United States Department of the Interior (Interior), by and through the Bureau of Indian Affairs, whose address is 400 N. 5th Street, P.O. Box 10, Phoenix, Arizona, 85001. Interior is a federal agency with responsibility for the protection of natural resources within the Truckee River basin, including without limitation Indian water rights and resources, fishery resources (including fish species listed under the Endangered Species Act), and waters used within the Newlands Reclamation Project. Interior hereby files this protest and joins in the protest filed by the Pyramid Lake Paiute Tribe (Tribe) regarding Application No. 71382, filed on June 30, 2004, by the City of Fernley, for a permit to appropriate the public waters of the State of Nevada, for the following reasons and on the following grounds, to wit:

1. There is no unappropriated water in the source of supply, or, if the application is granted, water would be depleted from a fully appropriated groundwater basin or other fully appropriated source of supply.
2. The proposed appropriation would conflict with existing groundwater and/or surface water rights of the United States, including water rights held in trust for the Tribe.
3. The applicant is not able to construct the works necessary to apply the water to the intended beneficial use.
4. Approving the application would be contrary to NRS 533.030(1) and 533.325.
5. The application has its proposed point of diversion within the boundary of the Pyramid Lake Indian Reservation and in an area considered for development of the Tribe's potable water supply expansion. That expansion is intended to replace existing contaminated wells and provide for future growth. The expected impacts will be lowered regional groundwater levels in the Wadsworth area and reduced surface flows in the lower Truckee River. These impacts threaten to prove detrimental to the Tribe, the United States, and the public interest as set forth below.
6. Granting the application would:
 - A. Deplete flows in the lower Truckee River and impair instream flows;
 - B. Degrade or impair water quality in the lower Truckee River;

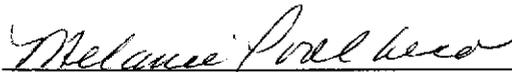
- C. Adversely affect regional groundwater levels and productivity of the Tribe's existing and planned wells in the Wadsworth area;
- D. Have a detrimental effect on groundwater quality in the Wadsworth area;
- E. Prevent or interfere with the conservation or recovery of the two principal fish in the lower Truckee River and Pyramid Lake, the endangered cui-ui and the threatened Lahontan cutthroat trout, in violation of (i) the Endangered Species Act, 16 U.S.C. 1531 et seq., and (ii) Nevada law protecting the cui-ui;
- F. Adversely affect the recreational value of Pyramid Lake;
- G. Interfere with the purposes for which the Pyramid Lake Indian Reservation was established;
- H. Interfere with the operation of the Newlands Reclamation Project.
- I. Adversely affect the interests of the United States and the Tribe.

Therefore, the protestant requests that the above-referenced application be denied and that an order be entered for such relief as the State Engineer deems just and proper. Interior will be represented by its counsel in the Office of the Solicitor, Alf W. Brandt, whose address is 2800 Cottage Way, Suite E-1712, Sacramento, California 95825 and whose phone number is (916) 978-6133.



Acting Regional Director, Western Region
 Bureau of Indian Affairs
 P.O. Box 10
 Phoenix, AZ 85001
 (602) 379-6789 (t)

Subscribed and sworn to before me this 8th day of December 2004.



 Notary Public

State of Arizona
 County of Maricopa

My commission expires: 03-31-2007


MELANIE POOLHECO
 Notary Public - Arizona
 Maricopa County
 Expires 03/31/07