FILED
MAR 06 2006
STATE ENGINEER'S OFFICE

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

In the Matter of Application Number 73164 Filed By the City of Fernley on August 19, 2005 for Permission to Change the Place of Use and Manner of Use of a Portion of Water Appropriated Under the Truckee River Decree Claim #3	**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 Interior, and protests the granting of Application Number 73164, filed on August 19, 2005 by the City of Fernley, for permission to change the place of use and manner of use of a portion of water appropriated under the Truckee River Decree Claim #3; *United States vs. Orr Water Ditch Co. et al. in Equity No. A3*, Claim No. 3; TCID Serial No. 840, for the following reasons and on the following grounds, to wit:

1. The proposed use of Newlands Project water rights for municipal and domestic purposes is subject to the regulatory authority and approval of the Secretary of the Interior, which has not been obtained.

2. The proposed transfer is not in the best interests of the United States or the Newlands Reclamation Project.

3. The proposed transfer of decreed agricultural water rights for municipal use, using irrigation facilities for the conveyance of the municipal water, and extending water deliveries outside of the irrigation season, is not contemplated and is not allowed under the existing Operating Criteria and Procedures (OCAP) for the Newlands Project.

4. The applicant has not obtained permission to use federal facilities for the transportation of the water it is seeking to transfer.

5. The proposed period of use is from January 1 to December 31 whereas the prior use was limited to the irrigation season. The new use will be less efficient and will adversely affect other water users including the Protestant.

6. The application should not be approved because it involves the proposed transfer of alleged water rights which were under challenge in a legal proceeding that was pending on or before April 1, 1999, and which have been forfeited and/or abandoned.

7. The Pyramid Lake Paiute Tribe of Indians would be adversely affected if the above referenced application were granted because it would result in greater diversions of Truckee River water away from Pyramid Lake to the detriment of the threatened and endangered species inhabiting Pyramid Lake.

8. Granting the application would threaten to prove detrimental to the public interest.

9. Granting the application would threaten to prove detrimental to the public interest in light of the declining quantity and quality of the groundwater available in the Fernley hydrographic basin to serve existing permits and commitments, and in light of the obligations of the State Engineer pursuant to NRS Chapters 534 and 278 to require that there be adequate plans to protect existing uses and commitments of ground water and to require that the subject rights, or an appropriate portion of them, be devoted to ground water recharge to protect existing users and customers before any additional rights are allocated to new development.

10. Granting the application would threaten to prove detrimental to the public interest in ways that are not yet known to this Protestant, but which may arise or first become known to this Protestant in the period between the date of filing of the Application and the hearing on the protested Application - by way of example Fernley's Application #57555 was filed on May 1, 1992, and the hearing was not held until February 6, 2006 - and in light of the position of the State Engineer that a specifically stated protest ground may not be amended regardless of the extensive passage of time between the date the protest is required to be filed, and the date of the hearing on a protested application.

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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.

ROBERT C. MADDOX & ASSOCIATES

By: _____
(agent for Pyramid Lake Paiute Tribe)

NANCY A. GILBERT, ESQ.
Robert C. Maddox and Associates
3811 West Charleston Blvd., Suite 110
Las Vegas, Nevada 89102
Tel: (702) 366-1900

Subscribed and sworn to before me this 6th day of MARCH, 2006.

LINDA M. HALBERT
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 06-102083-2 - Expires December 29, 2009

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Notary Public

State of NEVADA

County of WASHOE

My Commission Expires: December 2009

$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE - ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.