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

FILED
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STATE ENGINEER'S OFFICE

In the matter of application number 73208 Filed By Nevada Land and Resource Company, LLC and the City of Fernley on September 1, 2005 to change the point of diversion, place of use, and manner of use of a portion of water appropriated under application number 66557	**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 73208, filed on September 1, 2005 by the Nevada Land and Resource Company, LLC and the City of Fernley, for permission to change the point of diversion, place of use, and manner of use of a portion of water appropriated under application number 66557, for the following reasons and on the following grounds, to wit:

1. The water rights sought to be transferred are the subject of pending appeals from the ruling of the State Engineer. The State Engineer should not act on Application No. 73208 or schedule hearings on that application until the issues raised in those appeals have been finally resolved.

2. The water rights sought for transfer have not been put to beneficial use within the periods prescribed by the State Engineer and beneficial use of those water rights has not been prosecuted with reasonable due diligence. Pursuant to NRS 534.090, the water rights sought for transfer have been forfeited and/or abandoned.

3. Pursuant to NRS 533.045, the right to the use of the water sought for transfer ceased when it became apparent that it was not needed and would not be used for mining and milling purposes and subsequently when it became apparent that it was not needed and would not be used for industrial power generation.

4. The proposed appropriation would conflict with existing senior groundwater and/or surface water rights of the Pyramid Lake Paiute Tribe.

5. The applicant is not able to construct the works necessary to apply the water to the intended beneficial use.

6. Prior to setting of any hearing, the applicant should be required to provide detailed plans and specifications for the works that the applicant intends to construct for the conveyance of water from the proposed point of diversion to the proposed place of use. That information is needed for several reasons including, but not limited to, ascertaining whether the conveyance system would satisfy the requirement for reasonable and economical use of water or would require the use of land within the boundaries of the Pyramid Lake Indian Reservation.

7. The proposed point of diversion is in close proximity to each of the boundaries of the Dodge Flat Basin (82), the Fernley Area Basin (76), and the Tracy Segment Basin (83). Granting the application and the subsequent development of groundwater under the application would conflict with existing rights and threaten to prove detrimental to the public welfare by lowering regional groundwater levels and detrimentally affecting the already over-appropriated groundwater resources in basin numbers 76 and 83.

8. Changing the point of diversion as proposed in Application No. 73208 would more directly, substantially and immediately deplete surface flows in the Truckee River and impair and interfere with the Pyramid Lake Paiute Tribe's senior surface and groundwater rights than would pumping groundwater from the existing points of diversion.

9. The application has its proposed point of diversion within the boundary of the Pyramid Lake Indian Reservation, in close proximity to the Tribe's existing municipal and domestic wells, and in an area needed for development of the Tribe's potable water supply expansion. That expansion is intended to replace existing contaminated wells and provide for future growth within the Reservation. The impacts of granting the transfer 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 and the public interest as set forth below.

10. Granting the application, and the subsequent development of groundwater under the application would threaten to prove detrimental to the Tribe, to the purposes for which the Pyramid Lake Indian Reservation was created, and to the public interest by:

A. depleting flows in the lower Truckee River and impairing instream flows;

B. degrading or impairing water quality in the lower Truckee River;

C. adversely affecting regional groundwater levels and the productivity of the Tribe's existing and planned wells in the Wadsworth area;

D. adversely affecting groundwater quality in the Wadsworth Area;

E. preventing or interfering 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 set., and (ii) Nevada law protecting the cui-ui; and

F. adversely affecting the recreational value of Pyramid Lake.

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.

Signed: John Jackson

John Jackson
Director of Department of Water Resources
Pyramid Lake Paiute Tribe
P.O. Box 256
Nixon, Nevada 89424
Tel: (775) 574-1050

Subscribed and sworn to before me this 22nd day of November, 2005.

NATHAN D. DUNN
Notary Public - State of Nevada
Appointment Recorded in Lyon County
No: 03-80413-2 - Expires January 31, 2007

Notary Public

State of Nevada

County of Washoe

My Commission Expires: January 31, 2007

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