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STATE ENGINEER'S OFFICE

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

In the Matter of Application Number 73419 Filed By the United States of America, Fish and Wildlife Service on November 1, 2005 to Change the Point of Diversion, Manner and Place of Use of a portion of the Waters of the Carson River	**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 73419, filed on November 1, 2005 by United States of America, Fish and Wildlife Service, to change the point of diversion, manner and place of use of a portion of the water appropriated under Claim No. 788 of the Carson River Decree, for the following reasons and on the following grounds, to wit:

1. On information and belief, the proposed transfer application involves water rights that have been abandoned.

2. As proposed, the transfer application involves conveying water from a point of diversion located outside of the Newlands Project (Project), through the Carson River, Lahontan Reservoir, and Project canals to Stillwater Point Reservoir, while seeking to maintain decreed priority dates of 1861 and 1874. A transfer of non-Project water rights utilizing the irrigation Project facilities for storage and conveyance is not contemplated under the existing Operating Criteria and Procedures (OCAP) for the Project and will adversely affect Project operations and efficiency.

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

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4. As proposed, the application seeks to transfer the consumptive use portion of decreed water rights appurtenant to lands above Lahontan Reservoir and the applicant alleges that the non-consumptive use portion of the water rights will increase flows to Lahontan Reservoir. The applicant has failed to provide evidence supporting its claim. The applicant has failed to provide evidence on the effect of this transfer on the OCAP efficiency.

5. Prior to setting of any hearing, the applicant should be required to provide detailed plans and analyses for:

   A. How the water proposed to be wheeled through the Newlands Project facilities (consumptive use portion of water rights) will be measured, accounted for, and monitored under the OCAP and,

   B. How the water proposed to remain in the stream (non-consumptive use portion of water rights) will be measured, accounted for, and monitored under the OCAP.

   That information is needed for several reasons including, but not limited to, ascertaining whether the proposed transfer and conveyance would require modifications to the OCAP, or would affect the ability of the U.S. Bureau of Reclamation to properly administer the OCAP.

6. Granting or approving the application would threaten to prove detrimental to the public welfare and would be inequitable in that it would: (i) be likely to jeopardize the continued existence of Pyramid Lake's two principal fish; (ii) prevent or interfere with the conservation of those endangered and threatened species; (iii) take or harm those threatened and endangered species; (iv) adversely affect the recreational value of Pyramid Lake; and (v) interfere with the purposes for which the Pyramid lake Indian Reservation was established.

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. For the reasons stated above, granting the application would adversely affect the interests of the public and the Newlands Project.

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 3rd day of February, 2006.

Bonnie A Smith
Notary Public

State of Nevada

County of Washoe

My Commission Expires:
March 8, 2009

BONNIE A. SMITH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 97-1988-2 - Expires March 8, 2009

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