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

FILED
AUG 29 2006
STATE ENGINEER'S OFFICE

In the Matter of Amended Application Number 74340 Filed By Jackrabbit Properties, LLC on June 22, 2006 to Appropriate the Public Waters of the State of Nevada	**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 Amended Application Number 74340, filed on June 22, 2006 by Jackrabbit Properties, LLC 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. The application appears to request water for irrigation as the primary use and domestic as a secondary use. The application is defective and should be denied or returned for correction because the number of persons to be served, and the future requirement of the domestic use is not provided in the application as required by NRS 533.340.

2. The amount of water requested in the application for the stated purpose of use is excessive and, if granted, the application should be restricted to the amount of water necessary for beneficial use.

3. The application requests a year-round period of use which is improper for the stated purpose of use. If granted, the application should be restricted to a period of use consistent with irrigation.

4. On information and belief, a Petition for Adjudication of the water rights in the Smoke Creek Desert Hydrographic Basin #21 was filed with the State Engineer's office in 2005. The application should not be considered, and certainly not granted, until the issues involving the Petition for Adjudication have been properly addressed and resolved.

5. As of August 2006, the records of the State Engineer's office report the perennial yield of Smoke Creek Desert Hydrographic Basin #21 at 16,000 acre-feet, committed groundwater rights at 12,200 acre-feet, and pending groundwater rights in excess of 15,700 acre-feet. The application should not be considered, and certainly not granted, until all pending rights in the Hydrographic Basin #21 are properly addressed. To the extent that granting any pending rights

results in a fully appropriated basin, the application should be denied such that the perennial yield of the basin is not exceeded.

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

7. 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.

8. Granting the application would threaten to prove detrimental to the public interest and the interests and existing water rights of the Pyramid Lake Paiute Tribe for the reasons stated above, and because among other things, it would:

A. deplete water from the Pyramid Lake by depleting the underflow from the Smoke Creek Desert Basin to the Pyramid Lake Basin;

B. degrade or impair water quality in the Pyramid Lake Basin as a result of increasing groundwater withdrawals from the Smoke Creek Desert Basin;

C. adversely affect regional groundwater levels to the detriment of Pyramid Lake and the groundwater resources of the Pyramid Lake Paiute Tribe;

D. have a detrimental effect on the quality of the Pyramid Lake Paiute Tribe's groundwater resources;

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 set., 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. deplete the supply of water within the Pyramid Lake Indian Reservation portion of the Smoke Creek Basin;

I. affect the suitability of irrigation water within the Pyramid Lake Indian Reservation portion of the Smoke Creek Basin;

J. increase the cost of supplying irrigation water within the Pyramid Lake Indian Reservation portion of the Smoke Creek Basin;

K. adversely affect springs and flowing wells within the Pyramid Lake Indian Reservation portion of the Smoke Creek Basin; and

L. otherwise adversely affect the interests of the Tribe.

9. This Protestant incorporates in this Protest by reference, as if fully set forth herein, every relevant protest ground set forth in any other Protest filed by any other Protestant regarding this application.

THEREFORE this 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.

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Agents for the Tribe

Subscribed and sworn to before me this 28th day of August, 2006.

Tanya Smith
Notary Public

TANYA SMITH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 98-2455-2 - Expires June 9, 2008

State of NEVADA

County of WASHOE

My Commission Expires: June 9, 2008

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