

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

In the Matter of Application Number 74407
Filed By Aqua Trac, LLC on June 26, 2006
To Appropriate Underground Water

2006 SEP 18 FILED
STATE ENGINEERS OFFICE
PROTEST
SEP 18 2006
STATE ENGINEER'S OFFICE

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 74407, filed on June 26, 2006 by Aqua Trac, LLC, for permission to appropriate underground waters of the State of Nevada, for the following reasons and on the following grounds, to wit:

1. The combined amount of water production by this application and the other pending applications filed by Aqua Trac, for new groundwater appropriations from the Winnemucca Lake Basin, exceeds the perennial yield of the basin.

2. Granting the application would threaten to prove detrimental to the Tribe and the public interest because it has its proposed point of diversion in a basin area being considered for wetland development.

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

4. Granting the application would threaten to prove detrimental to the Tribe and the public interest for the reasons stated above, and because among other things, it would:

A. deplete water from the Pyramid Lake by inducing additional underflow from the Pyramid Lake Basin to the Winnemucca Lake Basin;

B. degrade or impair water quality in the Pyramid Lake Basin by decreasing flows in the lower Truckee River;

C. adversely affect basinwide 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

20

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. deplete the groundwater supply within the Pyramid Lake Indian Reservation portion of the Winnemucca Lake Basin;

I. deplete the surface water supply within the Pyramid Lake Indian Reservation portion of the Winnemucca Lake Basin;

J. adversely affect springs and flowing wells within the Pyramid Lake Indian Reservation portion of the Winnemucca Lake Basin;

K. adversely affect regional groundwater levels to the detriment of the Pyramid Lake Indian Reservation portion of Mud Lake Slough; and

L. otherwise adversely affect the interests of the Tribe.

5. 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.

6. 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.

///

///

///

///

///

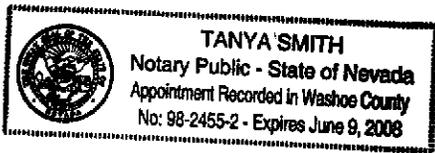
///

THEREFORE 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: Alexander L. Mason
Don Springmeyer, Esq.
Alexandria L. Mason, Esq.
3811 West Charleston Blvd., Suite 110
Las Vegas, Nevada 89102
Tel: (702) 366-1900
(agents for Pyramid Lake Paiute Tribe)

Subscribed and sworn to before me this 18th day of September, 2006.



Tanya Smith
Notary Public

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.