

*Corals P00 only
See 533.370, 3*

IN THE OFFICE OF THE STATE ENGINEER OF THE

In the Matter of Application Number 75475)
Filed By Art Wilson on March 22, 2007, for)
Permission to Change the Point of Diversion)
and Place of Use of Water Appropriated under)
Permit No. 47102)

PROTEST
JUL 09 2007 OX
STATE ENGINEER'S OFFICE
JUL 09 2:05

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 75475, filed on March 22, 2007 by Art Wilson, for permission to change the point of diversion and place of use of water appropriated under Permit No. 47102, for the following reasons and on the following grounds, to wit:

1. Granting the application would threaten to prove detrimental to the public interest in light of the over-appropriation of the groundwater available in the basin, and the resulting inability of the perennial yield to serve existing permits and commitments with groundwater, and in light of the obligations of the State Engineer pursuant to NRS Chapters 533, 534, and 278 to require that there be adequate plans to protect existing rights, uses and commitments of groundwater, and to exercise all appropriate authority and discretion to control over-demand on the source and to protect both the public and other right holders of both surface and groundwater rights.
2. The base water rights sought for change by Application No. 75475 have their origin in Application No. 47102 which was filed in 1983 to appropriate groundwater. It appears that the Proof of Beneficial Use associated with the water rights currently sought for change by Application No. 75475, which proof was originally required to be filed on or before July 26, 1989, according to the permit terms under Application No. 47102, has not been made, and the appropriation has not been pursued with reasonable diligence and should be cancelled because the water has not been put to beneficial use within a reasonable time. Therefore, the base water rights sought for change by Application No. 75475 have been forfeited and/or abandoned, the application should be denied, and Permit No. 47102 should be cancelled.

OX

3. Granting 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 depleting flows in the Carson River and reducing inflows to Lahontan Reservoir, for the reasons stated above and because of the connection, both legal and physical, between groundwater and surface water in the basin, to the detriment of senior surface water right holders in the Newlands Project, which senior right holders are entitled to divert Truckee River water through the Truckee Canal to make up for insufficient Carson River flows which are the primary source to satisfy their rights, and which greater diversions of Truckee River water away from Pyramid Lake would operate to the detriment of the threatened and endangered species inhabiting Pyramid Lake and the lower Truckee River, and impair instream flows.

4. Granting the application may 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.

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

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

Bruce E. Cyra #8042

Den Springmeyer, Esq.
Bruce E. Cyra, Esq.
3811 W. Charleston Blvd., Suite 110
Las Vegas, NV 89102
Tel: (702) 366-1900
Agents for the Tribe

Subscribed and sworn to before me this 9th day of July, 2007.

Bette H. Heath

Notary Public

State of NEVADA

County of WASHOE

My Commission Expires:

12-29-09

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

