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

2007 AUG 16 PM 3:34

STATE ENGINEER'S OFFICE

In the Matter of Application Number 75724 Filed By Sonterra Development Company, LLC on May 15, 2007 For a Permit to Change the Point of Diversion of the Public Waters of the State of Nevada	)	**PROTEST**

FILED AUG 16 2007 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 75724, filed on May 15, 2007 by Sonterra Development Company, LLC, for a permit to change the point of diversion the public waters of the State of Nevada, for the following reasons and on the following grounds, to wit:

1. Granting the application, which is one of twenty (20) similar applications filed by the same applicant totaling approximately 5,910 acre-feet per year of groundwater withdrawals from the San Emidio Desert Basin, would effectively allow the applicant to mine groundwater, which threatens 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 of 2,500 acre-feet per year to serve existing permits and commitments with groundwater in the San Emidio Desert Basin.

2. Granting the application threatens to prove detrimental to the public interest 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 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.

3. 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 Pyramid Lake by depleting the underflow from the San Emidio 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 San Emidio 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 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 supply of groundwater within the Pyramid Lake Indian Reservation portion of the San Emidio Desert Basin;

I. affect the suitability of irrigation water within the Pyramid Lake Indian Reservation portion of the San Emidio Desert Basin;

J. increase the cost of supplying irrigation water within the Pyramid Lake Indian Reservation portion of the San Emidio Desert Basin;

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

L. decrease recharge to the San Emidio Desert Basin, to the detriment of existing senior water rights, including those of the Pyramid Lake Paiute Tribe;

M. lower the groundwater table within the Pyramid Lake portion of the San Emidio Desert Basin which would increase the pumping lift and cost of producing groundwater from that area; and

N. otherwise adversely affect the interests of the Tribe.

4. As of August 2007, the records of the State Engineer's office report the perennial yield of the San Emidio Desert Hydrographic Basin #22 at 2,500 acre-feet, with committed groundwater rights at 8,744 acre-feet, and pending groundwater rights of 3,000 acre-feet. The application should not be considered, and certainly not granted, until all pending rights in the Hydrographic Basin #22

are properly addressed. To the extent that granting any pending rights results in a fully or over-appropriated basin, the application should be denied such that the perennial yield of the basin is not exceeded.

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

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.

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Agents for the Tribe

Subscribed and sworn to before me this 16 th day of August, 2007.

BETTE H. HEATH
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 06-106054-2 - Expires December 29, 2009

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.