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

In the Matter of Amended Application Number 76299 Filed By Bently Family Limited Partnership on November 1, 2007 for Permission to Change the Point of Diversion and Place of Use of a Portion of Water Appropriated under Permit Number 49435	PROTESTED JAN 07 2008 STATE ENGINEER'S OFFICE

2008 JAN -7 PM 4:19

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 76299, filed on November 1, 2007 by Bently Family Limited Partnership, for permission to change the point of diversion and place of use of a portion of water appropriated under Permit Number 49435, 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 current application seeks to change permitted groundwater rights that have their origin in Application No. 49435. The terms and conditions of Permit No. 49435 required a filing of Proof of Beneficial Use on or before January 15, 1995. Beneficial Use of the water rights sought for change under the current application has not been made for nearly 13 years, far exceeding the 5-year period for a forfeiture of a water right pursuant to NRS 534.090(1). The application should be denied on the basis of forfeiture and the failure of the water right holder to utilize the water rights for a period exceeding 5 years, or, at a minimum, the State Engineer should implement his authority under NRS 534.090(1), notify the water right holder that the water rights are subject to forfeiture, and require the owner to file proof of beneficial use prior to granting any further applications to change the base water rights.

3. On information and belief, the water rights sought for transfer have been forfeited and/or abandoned and the application should therefore be denied.

4. 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.

5. 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 the City of 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.

7. 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.

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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.

Robert C. Maddox & Associates

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

State of NEVADA

County of WASHOE

Subscribed and sworn to before me this 7th day of January, 2008.

Notary Public

My Commission Expires: 10/12/08

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

DEBRA LOCKWOOD
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 00-65951-2 - Expires October 12, 2008