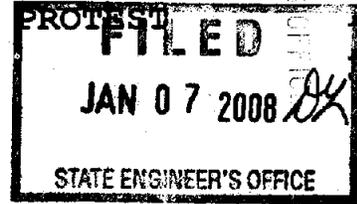


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

STATE ENGINEER'S OFFICE
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In the Matter of Application Number 76448)
Filed By Wolfgang O. and Ursula Eisenhut)
1989 Revocable Trust on October 30, 2007 for)
Permission to Change the Point of Diversion)
and Place of Use of Water Appropriated under)
Permit Number 71255)



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 76448, filed on October 30, 2007 by Wolfgang O. and Ursula Eisenhut 1989 Revocable Trust, for permission to change the point of diversion and place of use of a portion of water appropriated under Permit Number 71255, 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 application seeks to change permitted groundwater rights previously approved under Application No. 71255. Application No. 71255 changed permitted groundwater rights approved under Application No. 59403. Application No. 59403 changed permitted groundwater rights approved under Application No. 52018. According to the terms and conditions of the permit, the Proof of Beneficial Use for Application No. 52018 was to have been filed on or before September 26, 1993. Beneficial Use of the water rights sought for change under the current application was not made under any of the base water right applications, 71255, 59403, or 52018, and has not been made for over 15 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 for the failure of the previous water right holders to utilize the water rights for a period exceeding 5 years, or, at a minimum, the State Engineer should implement his authority

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under NRS 534.090(1), notify the water right holder that the water rights are subject to forfeiture, and require the owner of the base water rights to file proof of beneficial use prior to granting any further applications to change.

3. The application seeks to change permitted groundwater rights previously approved under Application No. 71255. Application No. 71255 changed permitted groundwater rights approved under Application No. 59403. Application No. 59403 changed permitted groundwater rights approved under Application No. 52018. According to the terms and conditions of the permit, the Proof of Beneficial Use for Application No. 52018 was to have been filed on or before September 26, 1993. Beneficial Use of the water rights sought for change under the current application was not made under any of the base water right applications, 71255, 59403, or 52018, and has not been made for over 15 years, therefore the base permits should be cancelled for non-use or non-perfection or failure to comply with the terms and conditions of the permits.

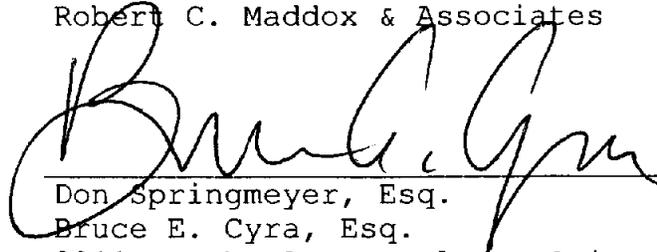
4. The terms and conditions of all base water right permits approved by the State Engineer, including those sought for change under the current application, state that the amount of water to be changed shall be limited to the amount of water which can be applied to beneficial use. Because beneficial use of water is the preeminent public policy concern in Nevada regarding water rights, the base water rights sought for change by Application 76448 should be limited to the amount of water historically applied to beneficial use under the base water right permit. The State Engineer should implement his authority under NRS 534.090(1), which requires an evaluation of pumping records to determine nonuse of all or any part of a water right, to limit the amount of water granted for change under the current application.

5. The application should be denied, or at least returned for correction, because the proposed place of use is not identified with specificity. The area to be irrigated at the proposed place of use should be clearly identified on the map accompanying the application and should not exceed the acreage of the area irrigated at the existing place of use. These requirements cannot be confirmed based upon on the map provided with Application 76448.

6. 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

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



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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.

