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

FILED
SEP 22 2008
2008 SEP 22 PM 2:25

In the Matter of Application Number 77006 Filed By the City of Fernley on May 2, 2008 for Permission to Change the Place of Use and Manner of Use of a Portion of Water Appropriated Under the Truckee River Decree Claim No. 3	**PROTEST**

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 77006, filed on May 2, 2008 by the City of Fernley, for permission to change the place of use and manner of use of a portion of water appropriated under the Truckee River Decree Claim No. 3; *United States vs. Orr Water Ditch Co., et al., In Equity No. A3*, for the following reasons and on the following grounds, to wit:

Conditional protest grounds 1-3 are asserted only in the event and if for any reason the State Engineer does not continue to require the Applicant to comply with all applicable laws and regulations of other jurisdictions, including, but not limited to, the Secretary of the Interior:

1. Conditional - The proposed use of Newlands Project water rights for municipal and domestic purposes is subject to the regulatory authority and approval of the Secretary of the Interior, which has not been obtained.

2. Conditional - The proposed transfer of decreed agricultural water rights for municipal use, using irrigation facilities for the conveyance of the municipal water, and extending water deliveries outside of the irrigation season, is not contemplated and is not allowed under the existing Operating Criteria and Procedures (OCAP) for the Newlands Project.

3. Conditional - The applicant has not obtained permission or contracts to use federal facilities for the transportation of the water it is seeking to transfer.

4. The proposed period of use is from January 1 to December 31 of each year whereas the prior use was limited to the irrigation season. The new period of use will be less efficient and will adversely affect other water users including the Protestant, and will violate NRS 533.370(1)(b).

5. The application should not be approved because it involves the proposed transfer of alleged water rights which were under challenge in a legal proceeding that was pending on or before April 1, 1999, and which have been abandoned. Specifically, abandonment is asserted against Parcel Nos. 1, 2, 3, 4, and 5 in the application. (Abandonment is not asserted against any other parcels in the application.)

6. Granting the application will threaten to prove detrimental to the public interest in light of the declining quantity and quality of the groundwater available in the Fernley hydrographic basin to serve existing permits and commitments, and in light of the obligations of the State Engineer pursuant to NRS Chapters 534 and 278 to require that there be adequate plans to protect existing uses and commitments of ground water and to require that the subject rights, or an appropriate portion of them, be devoted to ground water recharge to protect existing users and customers before any additional rights are allocated to new development.

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 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

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

Subscribed and sworn to before me this 19th day of September, 2008.

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

Notary Public

State of Nevada

County of Washoe

My Commission Expires: 10-12-08

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