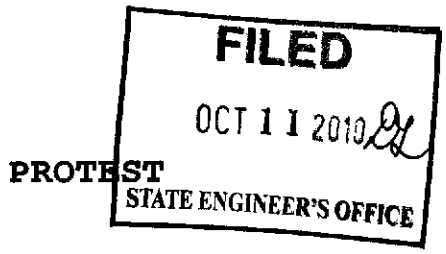
IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA



In the Matter of Application Number 80080 Filed By Jack White on August 6, 2010, for Permission to Change the Point of Diversion, and Place of Use of a Portion of Water Appropriated under Application No. 74434	**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 80080, filed on August 6, 2010 by Jack White, for permission to change the point of diversion, place of use, and a portion of water appropriated under Application No. 74434 for the following reasons and on the following grounds, to wit:

1. Application No. 80080 should be denied because it seeks to transfer water rights associated with prior Application No. 74434. Application No. 74434 was protested by the Pyramid Lake Paiute Tribe and was ruled on by the State Engineer in Ruling #5823. Ruling #5823 is currently under appeal.

2. The water rights originally sought for transfer under protested Application 74434 have changed ownership. Application No. 80080 should be denied on the grounds that it would be detrimental to the public interest to grant the transfer of water rights that are known to be protested and subject to a prior ruling that is pending appeal in court.

3. Section 15 of Application 80080 states: "This application is being filed to change the point of diversion to a location better suited for Lyon County Utility's long-term plan." The existing and proposed places of use under Application No. 80080 are service areas for the Lyon County Utilities Department. The application should be denied on the grounds that the applicant does not own or control either the existing or proposed places of use.

4. 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.

5. The proposed transfer of decreed and/or permitted agricultural water rights (as pertaining to the rights previously-protested under Application No. 74434) to quasi-municipal or municipal use should be denied as such a transfer threatens to prove detrimental to the public interest by extending water deliveries outside of the irrigation season.

6. The application requests to transfer the full duty for irrigation (as pertaining to previously-protested Application No. 74434) rather than the consumptive use amount; if the application is granted in any respect, the duty should be limited to the consumptive use, otherwise the application amounts to a request for a new and additional appropriation of groundwater in a designated, over-appropriated basin.

7. Granting the application, and the subsequent development of groundwater for municipal purposes under 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.

8. 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.

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

10. 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 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.

Wolf, Rifkin, Shapiro, Schulman and Rabkin, LLP

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Agents for the Tribe

Subscribed and sworn to before me this 7 day of October, 2010.

C. REHFELD
Notary Public State of Nevada
No. 99-41339-1
My appt. exp. June 10, 2013

Notary Public

State of Nevada

County of Clark

My Commission Expires: June 10, 2013

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