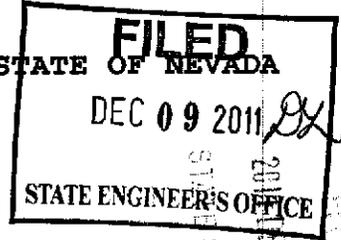


IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA



In the Matter of Application Number 80943)
Filed By the TRI General Improvement District)
on June 29, 2011 for Permission to Change)
the Point of Diversion, Place of Use, and)
Manner of Use of a portion of Water)
Appropriated Under the Truckee River Decree)
Claim No. 3, Permit 48460, and Permit 60970)

PROTEST

Comes now The Pyramid Lake Paiute Tribe, 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 80943, filed on June 29, 2011 by the TRI General Improvement District, for permission to change the point of diversion, place of use, and manner of use of a portion of water appropriated under the Truckee River Decree, Claim No. 3, Permit 48460, and Permit 60970 for the following reasons and on the following grounds, to wit:

1. Application No. 80943 should be denied because it incorrectly specifies Lahontan Reservoir Dam as the existing point of diversion for the Truckee River Decree Claim No. 3 water rights that are sought for transfer. The existing point of diversion for Claim 3 of the Orr Ditch Decree is located at Derby Dam. Application No. 80943 should be denied because it does not provide for the change from Derby Dam to the proposed point of diversion.

2. The application describes a scheme to divide the water appurtenant to the existing place of use between Application Nos. 80941, 80942, 80943, and 80944 based on the following statement made in the attachment to Application No. 80943: "Data from the US Bureau of Reclamation defines the average annual Truckee River contributions as 25% and the average annual Carson River contribution as 75% to the water stored by the Lahontan Reservoir." The specific source of data and information for this statement, and other details to support the proposed scheme, are insufficient to allow the public, interested parties, protestants, or the State Engineer to make a proper evaluation of the potential impacts of approving the application. Therefore, the application should be denied.

3. Application No. 80943 should be denied on the basis that it is necessarily dependant on the approval of its companion Application

Nos. 80941, 80942, and 80944 and is therefore subject to the deficiencies and contradictions in those applications. For example, all four applications seek to transfer a portion of the same water right, yet two applications state that the basis of the right to be transferred is the Truckee River Decree (App. Nos. 80941 and 80943) and the other two applications state that the basis of the right to be transferred is the Carson River Decree (App. Nos. 80942 and 80944).

4. The proposed application to divert water from the Truckee River derives its right from Claim No. 3 in of the Orr Ditch Decree. That water right is appropriated by the United States and cannot be diverted for consumptive uses outside of the Newlands Project.

5. The application is seeking a new diversion from the Truckee River which river is fully appropriated.

6. The application purposes to use stored water from Lahontan Reservoir which will affect the rights of other water users in the Carson Division.

7. The application proposes to use the Newlands Project irrigation water for municipal and industrial purposes using the full diversion amount. Under the Alpine Decree, only the consumptive use component of the diversion right can be converted for uses other than irrigation.

8. The application proposes to use Newlands Project water for municipal and industrial purposes in Storey County, Nevada. Based on Public Law 101-618, Newlands Project water is allowed for municipal and industrial uses only in Lyon and Churchill Counties.

9. The manner of use specified for Application No. 80943 is municipal. The application should be rejected pursuant to NRS 533.340 for the lack of information regarding the number of persons to be served, and the approximate future requirement.

10. The applicant's answer to "Question 15" does not provide sufficient details for the proposed project or proposed water usage. Based on the perceived scope and magnitude of the water exportation scheme contemplated by Application Nos. 80941, 80942, 80943, and 80944, the applicant should be required to conduct Hydrologic and Environmental Studies specified by NRS 533.368 before the State Engineer makes a final determination on any of the applications involved with the applicant's water exportation scheme.

11. 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).

12. Under the Operating Criteria and Procedures (OCAP) for the Newlands Irrigation Project, Claim 3 water from the Truckee River is not diverted to Lahontan Reservoir in certain months and years. Application 80943 should be denied because it will not be subject to OCAP and will divert Truckee River water from January through December of each year.

13. The applicant uses Carson Division water rights, which are satisfied by releases from Lahontan Reservoir on the Carson River, to create rights on the Truckee River. As indicated in the protest ground above, there are months and years that Truckee River water is not diverted to Lahontan Reservoir under the OCAP. The proposed diversions for the Truckee River would reduce flows to Pyramid Lake. Therefore, the application should be denied.

14. Application 80943 should be denied because it will affect the efficiency calculation under the OCAP.

15. Application 80943 should be denied because it will increase the diversion of Truckee River water.

16. As described, the application involves an interbasin transfer and should be rejected pursuant to NRS 533.370(6) for, among other reasons, the applicant's failure to:

- A. justify the need to import water to the other basin(s);
- B. demonstrate that a conservation plan(s) has been adopted and effectively carried out for the other basin(s);
- C. demonstrate that the proposed export of water from the basin is environmentally sound;
- D. demonstrate that the proposed action is an appropriate long-term use which will not limit growth and development in the basin; and,
- E. identify the specifics of the proposed project, including the basin(s) into which water will be imported.

17. The application for interbasin transfer should also be rejected pursuant to NRS 533.370 for the lack of information regarding:

- A. access to the use of public/private lands necessary for the construction of the works of diversion and the means of conveyance;

- B. financial ability to construct the works and apply the water to the intended use with reasonable diligence;
- C. technical feasibility to construct the works and apply the water to the intended use with reasonable diligence; and,
- D. justification for the quantity of water required for the proposed project.

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

19. 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, 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.

20. 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, and/or any other Protest filed by any other Protestant regarding any other application related to the water exportation scheme contemplated in Application 80943.

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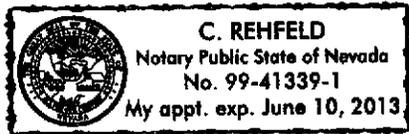
THEREFORE the Protestant requests that the above-referenced application be denied and that an order be entered for such relief as the State Engineer deems just and proper.

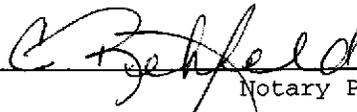
Wolf, Rifkin, Shapiro, Schulman and Rabkin, LLP



Don Springmeyer, Esq.
Christopher W. Mixson, Esq.
3556 East Russell Rd.
Las Vegas, NV 89120
Tel: (702) 341-5200
Agents for the Tribe

Subscribed and sworn to before me this 7th day of December, 2011.





Notary Public

State of Nevada

County of Clark

My Commission Expires: 6/10/2013

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