

ORIGINAL

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

In the Matter of Application Number 81247
Filed By the South Meadows Properties Limited
Partnership on October 14, 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 Nos. 294 and 295)

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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 81247, filed on October 14, 2011 by the South Meadows Properties Limited Partnership, 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 Nos. 294 and 295 for the following reasons and on the following grounds, to wit:

1. The application should be denied on the basis that it is necessarily dependent on the approval of its companion applications 81246, 81248, 80941, 80942, 80943, and 80944 and is therefore subject to the deficiencies and contradictions in those applications.

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

3. The manner of use specified for Application 81247 is quasi-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.

4. 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. 81246, 81247, and 81248, 80941, 80942, 80943, and 80944, the applicant should be required to conduct the 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.

5. 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).

6. Application No. 81247 should be denied because it will increase the diversion of Truckee River water. The proposed change in point of diversion would result in increased diversions because the water rights at existing points of diversion are subject to shortages in Truckee River supply under the regime of Floriston Rates. Whereas, the proposed change in point of diversion would benefit from the perennial supply of water from the Truckee Meadows Water Reclamation Facility.

7. 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.

8. 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,

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D. justification for the quantity of water required for the proposed project.

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

10. 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 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.

11. 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 81247.

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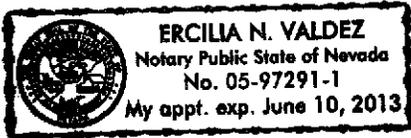
THEREFORE the Protestant requests that the above-referenced application be denied and that an order be entered for such relief as the State Engineer deems just and proper.

Wolf, Rifkin, Shapiro, Schulman and Rabkin, LLP

[Handwritten signatures]

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 23rd day of December, 2011.



[Handwritten signature: Ecilia N. Valdez]

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.

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