

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

FILED
MAR 28 2012
STATE ENGINEER'S OFFICE

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MAR 28 11:07

In the Matter of Application Number)
81529 Filed By TRI GID on January 27, 2012)
for Permission to appropriate the Public)
Waters of the State of Nevada)

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 81529, filed on January 27, 2012 by TRI GID for permission to appropriate the public waters of the State of Nevada, for the following reasons and on the following grounds, to wit:

1. Application No. 81529 requests to appropriate groundwater from the Tracy Segment Hydrographic Basin which is a fully-appropriated basin. Granting the application would result in the withdrawal of groundwater in excess of the perennial yield of the Tracy Segment Hydrographic Basin and therefore would adversely affect existing rights and would threaten to prove detrimental to the public interest.

2. Application No. 81529 should be denied pursuant to the State Engineer's Ruling Nos. 5747 and 5749 which have denied other applications attempting to appropriate groundwater in the Tracy Segment Hydrographic Basin on the basis that there is no additional groundwater available for appropriation.

3. Application No. 81529 (and its eight companion applications, Nos. 81524-81528 and 81530-81532) are attempting to appropriate additional groundwater from the same points of diversion (wells) associated with prior applications that also sought to appropriate groundwater from the over-appropriated basin, and which were also denied by the State Engineer. The application should be denied and the State Engineer should notify the applicant that he will not accept subsequent applications that are essentially identical to those previously rejected.

4. The manner of use specified for Application 81529 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.

5. 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.

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 Truckee River and reducing inflows to Pyramid Lake, for the reasons stated above and because of the connection, both legal and physical, between groundwater and surface water in the basin, and which depleted Truckee River flows would operate to the detriment of the threatened and endangered species inhabiting Pyramid Lake and the lower Truckee River, and impair instream flows.

7. 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.

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

9. 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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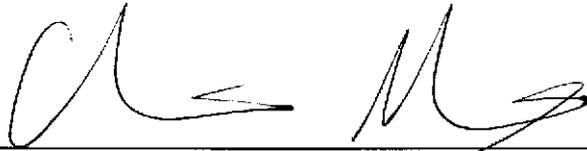
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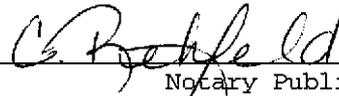
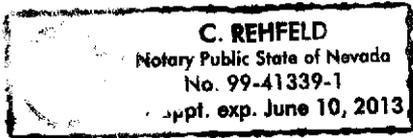
THEREFORE this Protestant requests that the above-referenced application be denied and that an order be entered for such relief as the State Engineer deems just and proper.

Wolf, Rifkin, Shapiro, Schulman and Rabkin, LLP



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 27th day of March, 2012.



Notary Public

State of Nevada

County of Clark

My Commission Expires: 6/10/13

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

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