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

IN THE MATTER OF APPLICATION NUMBER 84356
FILED BY Pyramid Lake Paiute Tribe
ON September 16 , 20 14

PROTEST

FILED
NOV 18 2014
STATE ENGINEER'S OFFICE

Comes now the Pyramid Lake Paiute Tribal Membership
Printed or typed name of protestant

whose post office address is P. O. Box 448, Wadsworth, NV 89442
Street No. or PO Box, City, State and ZIP Code

whose occupation is Various and protests the granting

of Application Number 84356 , filed on September 16 , 20 14

by Pyramid Lake Paiute Tribe for the

waters of Truckee River and it's Tributaries situated in Washoe
an underground source or name of stream, lake, spring or other source

County, State of Nevada, for the following reasons and on the following grounds, to wit:

1.) The application, if approved, will be detrimental to the Pyramid Lake Paiute Tribe and not in the public's best interest. 2.) If stored, unappropriated water is virtually unquantifiable as to an exact amount available to the Tribe from a storage facility. 3.) The Tribe will inevitably lose control of their permitted waters. 4.) The application was improperly filed without properly following constitutional requirements of the Pyramid Lake Paiute Tribe. 5.) The Protestants will file a perponderance of evidence pursuant to NRS 533.365 6.) A hearing in this matter is justified and required under our civil and due process rights under the U.S. Constitution.

THEREFORE the Protestant requests that the application be Denied
Denied, issued subject to prior rights, etc., as the case may be

and that an order be entered for such relief as the State Engineer deems just and proper.

Signed Michelle Ruize (Michelle Ruize)
Agent or protestant

Pyramid Lake Paiute Tribal Membership, See Attached Signatures
Printed or typed name, if agent

Address P. O. Box 448
Street No. or PO Box

Wadsworth, NV 89442
City, State and ZIP Code

(775) 980-6596
Phone Number

pyramidlake@yahoo.com
E-mail

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State of Nevada
County of Washoe

Subscribed and sworn to before me on November 18, 2014

by Michelle Ruize

ALICIA QUERTA
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 08-10489-2 - Expires July 15, 2017

Alicia Querta
Signature of Notary Public Required

Notary Stamp or Seal Required

+ $30 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE. ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.

Signature of Protestant	Date
Michelle Ruize Tribal Member #PL01242	11/8/14
Ray Lowery PL#00478	11/8/14
Mitchell Tobey Sr	11-8-14
Gordon Frazier	4/8/14
Dellard Henry	4/8/14
[illegible] PL#00885	11.8.14
Rochelle Killsback	11-8-14
Raymond Begay	11/8/14
Elmira Copeland	11/8/14
Duane Warson	11-8-14
[illegible]	11-8-14
Alvin R. James #PL02754	11-08-14
Glenda Davis #PL00749	11-8-14
Monica Serawoy PL00862	11-8-14
[illegible] PL00293	11-8-14
Clarence Sada P.L. #01343	11.8.14
Edna Benson PL #00872	11-9-14

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Signature of Protestant	Date
Miranda Sayeg P.L ~~033~~ 0441	11-9-14
Karen M Nugent 00377	11-9-14
Micheal E Davis 02988	11-10-14
Boyd J Jackson IV #314	11-11-14
Raquel Arthur PL 2786	11/11/14
Troy D Arthur	11/11/14
[illegible]	11/11/14
Reynolds James	11/11/14
Robert L James	11-11-14
Sheri Hunter	11-11-14
Joseph Leyva	11/12/14
[illegible]	11-13-14
Shelan Teton	11-13-14
Ted James	11/13/14
Ronald Guerrero	11/13/2014
Norman Henry	11/17/14
Jenifer Smith	11-17-14

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Tribal Membership
P. O. Box 27
Wadsworth, NV 89442

February 10, 2014

Honorable Judge, Eugene L. Balonon
California Superior Court, Sacramento
Downtown Courthouse
720 Ninth Street
Sacramento, CA 95814

Subject: **CASE NO. 34-2013-80001/ CA STATE WATER BD. DECISION 1651**

Dear Honorable Judge Balonon:

On behalf of the members of the Pyramid Lake Paiute Tribe, the Tribal Membership, hereby disclose the following factual and pertinent information regarding subject Case.

The written testimony of Ali Shahroody, Pyramid Lake Tribal Water Consultant, submitted to the California Water Resources Control Board on June 28, 2010 is false and misleading. Direct testimony states: (Page 9, Footnote 2, "Tribe gives its consent to store water from the Little Truckee River in Stampede Reservoir that would otherwise flow to Pyramid Lake." The Tribe never gave its consent to Mr. Sharoody. His testimony concludes (Page 47) asserting: "...by providing sufficient water to meet eligible decreed rights on the Newlands Project by insuring that water in the Truckee River not needed for those rights flows to Pyramid Lake." Our Tribe's permitted unappropriated water, Nos. 48061 and 48494 runs as instream flows to Pyramid Lake, after all water not needed for all rights on the Truckee River.

We believe the Truckee River is fully appropriated, therefore, closed to new appropriation with our unappropriated water. Furthermore, pursuant to the TROA document, it specifically states that the unappropriated water permitted to the Tribe can not be stored. These waters are permitted solely for instream flows to Pyramid Lake.

Mr. Shahroody at the Sacramento CA Water Board hearing on January 10, 2014, verbally told the Chairman and another councilman that, Mervin Wright, past Chairman of the PLPT, gave his consent to store the unappropriated water upstream. This one man's verbal approval without documentation is against our Tribe's Constitution and By-Laws. Our Council's procedure, under our democratic system concerning any major decision, is expressed by resolution, which is then sent to the Bureau of Indian Affairs for comment and final approval. When asked, Mr. Sharhoody refused to present any documentation on Tribal consent. Our unappropriated water is not under TROA, nor do we want it to be under TROA.

Upon performing due-diligence, there is no documented evidence to which the Tribe gave any consent to store its unappropriated water. Furthermore, there is no evidence of any kind to which the Tribe authorized Mr. Shahroody to submit any such testimony as he has in this Case in connection with representing the Tribe's interest.

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Attachment A

The physical solutions doctrine is not applicable nor relevant in regards to our unappropriated water as a NV legal permit for instream flow to Pyramid Lake. Every drop of these waters is of beneficial use to the Lower Truckee River as it flows through our reservation and on into Pyramid Lake. None of these waters are wasted and available for new appropriation. As a sovereign entity, we demand that our water remain as instream flows as legally permitted and binding under Nevada State Permits 48061 and 48494. In addition, the public record shows our unappropriated water has, and is, being inappropriately stored upstream. The August 13, 2010 testimony by Mr. Sharoody before the CA State Water Resources Control Board confirms this improper storage of our permitted waters.

Testimony under cross examination by Mr. Mackedon, Fallon attorney, he asks Shahroody: "You have made reference to the existing permit. You say this unappropriated water is stored pursuant to the present permit conditions, if I understand you." Mr. Shahroody: "Yes, that is correct."

With the reality that our unappropriated water has been illegally transferred from its beneficial use for Pyramid Lake over to upstream storage, the tribe is exploring its option to recoup all the years of improper storage of our unappropriated waters. The Tribe has not received its proper amount and full use of the unappropriated waters that are legally permitted for Pyramid Lake's sole use. During the time of August, 2010 or from 2008 to the present, the lake surface elevation has declined approximately one foot, according to preliminary measurement.

With Kind Regards,

TRIBAL MEMBERS, AS BELOW, Pyramid Lake Paiute Tribe

Attachments:
2-Pgs. Signatures
Factual Testimony on 06-28-2010 Before the CA State Water Board, Primarily By
Ali Shahroody, Rogue PLPT Expert Witness and Bureau of Reclamation (BOR).

DISTRIBUTION: NV Governor Brian Sandoval, Carson City, NV
NV State Water Engineer, Carson City, NV
CA Governor, Jerry Brown
CA State Water Resources Board, Sacramento, CA
Asst. Secretary for Indian Affairs, Washington DC
NV Senator Mark Amodei, Washington DC
NV Senator Chic Hect, Washington DC
NV Senator Harry Reid, Washington DC
Senate Select committee On Indian Affairs, Washington DC
Bureau of Reclamation, Washington DC
US Dept. Of Justice, Washington DC
Special Litigation, Fred Disheroon, Washington DC
Native American Right Fund, Washington DC
Fallon City Attorney, M. Mackedon, Fallon, NV
TUMWA Attorney, Gordon Depaoli, Reno, NV

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SIGNATURES:

Edna Benner - Edna Benner
Douglas M. Smith, Douglas Smith
Cecelia L. Smith / [illegible]
Jeffrey R Lowery / JEffrey R LOWERY
[illegible] / CARMAN Tobey Jr
Adrian Arthur Adrian Arthur
Alberta Catha - Alberta Catha
Raynell Hooper - Raynell Hooper
Zedora Gamboa - Zedora Gamboa
Vernita Fielder - VERNITA FIELDER
Monica Serawop - Monica Serawop
Miranda Gonzalez Miranda Gonzalez
Eldon O'Daye, ~~[illegible]~~ Eldon O'DAYE
Estella Pancho - ESTELLA PANCHO
Delvin Henry DELVIN Henry
Verna Plympton VERNA Plympton
Karen Nugent KAREN Nugent
Delores Shaw Delores Shaw
Jenell Fellows Jenell Fellows
Sylvia Davis SYLVIA DAVIS
Rosalie Dunn Rosalie Dunn
Judy Harris Thomas Judy Thomas
Amelia Scott Amelia Scott
Denise DeSarmo Denise DeGuermo
Althea Blossom Althea Blossom
[illegible] Robert Eridames
Norman Duncan, NORMAN DUNCAN
Mike Phoenix, MIKE PHOENIX
Boyd Phoenix, BOYD PHOENIX
Leroy Phoenix Leroy Phoenix #00702
Michelle Ruize 4 Michelle Ruize #01242

PL# 00934

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SIGNATURES:

Violet Lowery Violet Lowery
Leanna Williams Leanna Williams
Charlene Williams Charlene Williams
LORETTA & LEN BORTA Loretta + Len Borta
Dorothy LaRios, Arlene McMasters
Gordon Frazier & [redacted]
Beverly BRAZZANOVICH Beverly Brazzanovich
Barbara Ramos Barbara Ramos
Alyssa N. Garcia Alyssa N. Garcia
Jaxon Kochamp
Joshua Davis
Harold Parry Harold Parry
Dellard Henry Dellard Henry
Donald James Donald James
Ted James Ted James
Lyle Kochamp Lyle Kochamp
Donna Joe Donna Joe
ALVIN JAMES Alvin James
Shirley Kaneshige Shirley Kaneshige
Mike O'Daye Mike O'Daye
LAWRENCE MANDELL Lawrence Mandell
Donna Teton Donna Teton
Gordon Tobey Gordon Tobey
Gordon Frazier Gordon Frazier
Sharon Williams Sharon Williams

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Testimony leading to CA State Water Bd. Decision 1654

1. The Pyramid Lake Paiute of Indians is a federally recognized Indian Tribe operating under the provisions of a federal charter as adopted by the Indian Reorganization Act of June 18, 1934, under regulations of its fiduciary, the Bureau of Indian Affairs, US Department of the Interior.

2. Our Tribal elected 10 member council refuses to carry our affairs under authority of our constitution and bylaws, primarily due to false and misleading testimony at CA hearings by our rogue attorney and expert witness. We, as tribal members, will protect our fish, lake, and our very culture by NOT allowing the cities of Reno, Sparks, and Washoe County (collectively under Truckee Meadows Water Authority-TMWA) to store upstream our State permitted unappropriated water that has been beneficially used before TMWA started its illegal storage of this water upstream, primarily for the benefit of TMWA, which the tribal membership is overwhelmingly and adamantly against such storage, thereby forcing the membership to deal with this matter to stop this "water grab."

3. CALIFORNIA DECISION #1654 of the California State Water Board is based on Petitioners , Ali Sharoody, BOR, & TUMWA to store upstream ,Pyramid Lake Paiute Tribal unappropriated water, without Tribal consent and falsely asserting our tribal water has been under TROA, which it never has, except to recognize in the future that it is NV state permitted as beneficial instream flows to Pyramid Lake.

4. In Decision 1654 the CA State Board erred by allowing Pyramid Lake Paiute Tribe's NV Permits (31487 for Marble Bluff & 31488 for Lake Recreation) to be counted as unappropriated water that is not beneficially used and available for storage under direct testimony in the CA Supreme Court. In years past, such tribal unappropriated permitted water has been used as instream flows to benefit fish and Pyramid Lake fishing recreation, the source of Tribal income, and in this regard:

   a. The Tribe cannot legally give its "consent" to store water already permitted in order to quickly make this "water grab" a "done deal" by TUMWA, BOR, and the tribe's rogue water experts. To attempt such illegal storage is against NV State law that issued Pyramid Lake Tribal permits, and also is not factual as the water has beneficially been used in prior years for fish and recreation directly all year-long, as instream flows. Stored upstream this water is of no benefit to fish/lake.

   b. Tribal "consent" was never given. (SEE COVER LETTER).

5. Petitioners neglect to mention that, to allow storage in CA with water already permitted for instream use in NV, the appropriate NV change or transfer procedure must be followed. This was not done by "the Tribe & BOR" as BOR is quick to say in CA hearings (without any Tribe):

   a. The physical solution doctrine does not support storage of the Tribe's

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unappropriated water in that all of the Tribe's unappropriated water does have a proven beneficial use, and cannot be considered a new appropriation, the basis of BOR's applications 31487 and 31488.

b. The Tribe has perfected its unappropriated water under NV Permits 48061 and 48494. Even if the Tribe had given its "consent" to store Tribal water, such action does not allow the Tribe's unappropriated water to be stored or create new water for appropriation or constitute a valid transfer or exchange.

c. The operation of NV petition for change and application under TROA circumvents the NV change and transfer process to allow multiple uses of water to upstream city users is also in violation of CA water law.

6. The storage of another sovereign's water (Tribe), under BOR applications 31487 and 31488 does not constitute a change in the current permitted point of diversion, place of use, and purpose of use.

7. The CA State Board's finding of no injury is not supported by the record: The tribe's main livelihood is its fishery and fishing recreation activities, and

   a. The endangered and threatened fish need pre-aggregate flows at various times of the year to ensure spawning, as studies suggest by USF&W, PL101-618 Cui-ui Recovery Team during crafting of PL101-618, with Desert Research Institute input.

   b. For anyone or group, as we face a drought scenario at this time, to change any threatened or endangered de-listing of the cui-ui or cutthroat trout, for political purposes is unspeakable.

   c. Injuries to the Tribe are: (i) fish that do not spawn due to no water or less than enough water for pre-aggregate fish activities prior to a spawning run, or (ii) we have a lake that dries up as the cities and county receive first use of the tribes unappropriated water, with TUMWA later telling the tribe: "there is no tribal unappropriated water" due to .....need for S. Reno development..... need at new treatment plant(s)...., drought.....M & I and Domestic Use" or for whatever need of the cities. The Tribe no longer has trust in motives of the upstream water users.

The Pyramid Lake Tribal people demand NV Tribal Permit No.(s) 31487 and 31488 remain as prior to 2008 or before TUMWA & "tribal sellouts" initiated this "water grab".

ATTACHMENT TO TRIBAL MEMBERS LETTER.

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