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VIA ELECTRONIC MAIL: wrhearing@waterboards.gov

California State Water Resources Control Board
Attn: Chairman Charles Hoppin and Member Tam Doduc
Division of Water Rights
1001 I Street, 14th Floor
Sacramento, CA 95812

Subject: Truckee River Hearing: Coordination of Presentation of Certain Parties' Policy Statements

Dear Chairman Hoppin and Member Doduc:

This letter is submitted on behalf of the Pyramid Lake Paiute Tribe, the State of Nevada and the State of California, each of which filed a Notice of Intent to appear as a party in the upcoming Truckee River Hearing before the Board. These Parties each intend to present a separate Policy Statement to the Board at the hearing, and have previously informed the Board of that intention.

The Tribe's Policy Statement will be presented by Pyramid Lake Paiute Tribal Chairman Mervin Wright. The State of Nevada's Policy Statement will be presented by Mr. John W. Hoffman, Esq., Special Counsel. The State of California's Policy Statement will be presented by Mr. Carroll Hamon, California Department of Water Resources, Director's Special Representative for the Truckee River Operating Agreement.

Regarding the presentation of Policy Statements, we request that these three Parties be allowed to present their Policy Statements as a panel before the Board. As signatory parties to the Truckee River Operating Agreement (TROA), the Tribe, Nevada and California each have a strong interest in the subject of the Truckee River Hearing, and we believe that having our Policy Statements presented to the Board as a panel at the same time would be of great benefit to the Board and to all parties involved.

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Finally, attached to this letter for the Board's review and records is the written Policy Statement of Chairman Mervin Wright for the Pyramid Lake Paiute Tribe. Mr. Carroll Hamon, California DWR Director's Special Representative for TROA, and Mr. John W. Hoffman, Special Counsel for the State of Nevada, are expected to submit their respective written policy statements to the Board on July 20, 2010.

Sincerely,

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

/s/ Chris Mixson

Don Springmeyer, Esq.

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Attorneys for Pyramid Lake Paiute Tribe

Enclosure

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**Policy Statement of Mervin Wright,
Tribal Chairman of the Pyramid Lake Paiute Tribe of Nevada
for
California State Water Resources Control Board
Truckee River Hearing
Sacramento, California
July 21, 2010**

Introduction:

Good Morning, my name is Mervin Wright and I am the Tribal Chairman for the Pyramid Lake Paiute Tribe. I am here today to present, on behalf of the Tribe, our support for the Truckee River Operating Agreement (TROA) and all that it presents to all of the water right owners and water users of the Truckee River water basin.

For generations and since time immemorial Native indigenous Peoples occupied the area that has come to be known the Truckee-Carson River Basins. Today these People are known as the Paiute, the Washo, and the Shoshone. The balance and harmony from the human interaction and nature left the evidence of a holistic lifestyle that was supportive for all natural life. The respectful inclusion was never forced because all that was taken from nature was only that which was needed; needed to sustain life.

The Paiute are made up of 23 separate bands throughout Nevada, Northeastern California, Southeastern Oregon, and Southwestern Idaho who are primarily named for the food that they consumed from their respective geographic location. The band of Paiute located at Pyramid Lake is known as the Cui-ui Ticutta (pronounced Koo yoo ee Tik ah) or "Cui-ui Eaters." These same Paiute, Bannock (Snake), and Shoshone generations enjoyed the bountiful spring Cui-ui (*Chasmistes cujus*) and Lahontan Cutthroat Trout (*Oncorhynchus clarkii henshawi*) harvest every year. Oral history tells of the waters of the Truckee River and Mud Slough blackened because of the immense number of fish spawning from Pyramid and Winnemucca lakes.

All of this has changed and now, indigenous cultures are conducting their livelihood restricted and limited by written man-made rules and laws. However, as society changes along with the rules and laws, the ancestral traditions continue in continuity because the teachings have never left the native community from which the Pyramid Lake Paiute Tribe has become.

History:

Pyramid Lake was “discovered” in 1844 by Charles Fremont who first noted the magnitude and size of the Lahontan Cutthroat Trout. In the late 1880’s, non-native fish species were introduced to the Truckee River. The 1902 reclamation Act authorized the first reclamation project in the United States: the Newlands Reclamation Project. Derby Dam and the Truckee Canal were completed in 1905 which delivered Truckee River water to the Lahontan Reservoir. For 60 years the diversion of Truckee River went unregulated resulting in serious ecosystem and fishery habitat degradation and damage. In fact, Pyramid Lake’s surface elevation declined more than 80 feet, Winnemucca Lake completely dried up, and the creation of an impassable delta prevented any spawning of Pyramid Lake fishes into the Truckee River. The Tribe secured only an agricultural water right under the 1944 Orr Ditch Decree which is to provide approximately 30,000 acre-feet of water annually for irrigation. Both fish species become listed as threatened (LCT) and endangered (Cui-ui).

Not until 1967, when the Operating Criteria and Procedures (OCAP) was put in place as the principle regulation governing the diversions of the Newlands Project, was there any control over unfettered diversion from the natural river. In 1969 the Endangered Species Act was passed, which is the principle federal legislation that has provided the necessary means to restore and recover the listed fish species of Pyramid Lake. So it is necessary for the Tribe to use the federal Indian trust doctrine to ensure that the federal government applies its trust and fiduciary responsibility under the circumstances of water right management.

Pyramid Lake is 110,000 acres in size and has an evaporation rate of three to four feet per year. To sustain the lake’s elevation, it would require 300,000 to 400,000 acre-feet of water. The history of basin development tells of the inadequate flows to meet this requirement. The Orr Ditch Decree adjudicated the entire water supply of the Truckee River.

Contention:

The Tribe has been engaged in decades of contention over recovering and restoring its fishery resource and the inter-related habitat, and pursuing the effort to secure adequate water supplies to achieve this objective. Litigation has been a common occurrence for at least for 50 years. The Tribe recognizes that litigation does not always produce the results needed to succeed. Even with favorable court rulings the appellate option results in keeping issues from resolution for many, many more years.

In the early 1980’s the federal government began advocating negotiated settlements as a viable option to resolving water right conflicts. The Tribe also saw it as a viable option, as years and years had gone by with no end in sight for finding resolution to the legal complexities of the OCAP, the Interstate Allocation, the Pyramid Lake fishery recovery, Truckee Meadows domestic water supplies and drought reserves, and certain recreation in California lakes and reservoirs.

Cooperation:

The congressional enactment of Public Law 101-618 set forth the appropriate framework for achieving final resolution to many of the conflicts over Truckee River, Carson River, and Pyramid Lake water. One of the most significant provisions of the legislation is the Interstate Allocation between the State of Nevada and the State of California. The TROA proposes to modify the Truckee River operation that provides greater opportunity to increase the flexibility in managing the multiple categories and uses of water rights and water supplies in Truckee River reservoirs, lakes, and streams.

Another principle provision is the Truckee River Operating Agreement (TROA) which is tied to other provisions in PL 101-618, but is considered the heart of PL 101-618. The center piece in the interstate allocation is the TROA as it is directed by the Settlement Act and it is why we are in front of you (the Board) today. The amount of water that California will be able to use from Lake Tahoe and the California portions of the Truckee and Carson River Basins is defined, as is the amount of water that Nevada can use from Lake Tahoe and the Nevada portions of the Truckee and Carson River Basins.

The TROA is validation of the negotiation process that was directed by Congressional enactment of PL 101-618 and the commitment of the signatory parties to negotiate the TROA. Although it was a lengthy negotiation process, it demonstrates a level of cooperation that is now known to all of the parties in how they will cope with each others' demands as it would be applied to possible limited water supplies. TROA is a commitment to cooperate and share the responsibility for management obligations that are aimed to provide a mutual benefit under a new system of operation that involves multiple parties.

Management:

The vested water rights and ownership responsibility for managing water rights are not intended to be impacted by the proposed applications and change petitions that incorporate the TROA,. The coordinated operation of the reservoirs is a founding principle that increases the flexibility of managing the waters of the Truckee River. The exchange provisions and re-storage of water supplies through scheduling and monitoring mechanisms provide multiple benefits and it would be adding responsibility to the parties in managing their own water supplies.

The TROA significantly expands the Tribe's opportunities and ability to store more water in Truckee River Reservoirs (primarily in Stampede, Boca and Prosser Creek Reservoirs and Lake Tahoe) and for enhanced management of that water to improve the amount and timing of Truckee River inflows to Pyramid Lake. TROA allows the Tribe: (i) to store some of the water that would flow to Pyramid Lake at times that would not do the most good for the Pyramid Lake fishery, and to release that water at times and in amounts that provide greater environmental and fishery benefits; (ii) to store and use some of TMWA Credit Water that is converted to Fish Credit Water; (iii) to obtain significantly more

benefit from the water stored in Prosser Creek Reservoir; and (iv) to store and manage the Tribe's and the Local Government's Water Quality Credit Water.

The Tribe's ability to manage this water under TROA and Truckee River Water Management Agreement will enable the Tribe to implement the flow regimes described in the Tribe's Conservation and Management Plan so as to improve the recruitment of cui-ui and LCT, increase the frequency of successful spawning runs, and provide increased flows in the lower Truckee River during dry periods to enhance water quality and the riparian habitat of the lower Truckee River.

Conclusion:

The proposed applications and change petitions are to facilitate possible changes and exchanges permitted under the TROA. The Tribe views the TROA as an equitable management opportunity. Truckee River water users could achieve so much more by managing Truckee River water supplies under the TROA. Most if not all of the aspects of the tribal fishery program will gain benefits from the flexibility of TROA and by having the opportunity to working with other TROA parties when critical water supplies are in demand. Everything that the Tribe stands to gain from TROA would be the same level of benefit that others stand to gain, including the State of California. It is our hope that California State Water Resources Control Board sees it appropriate to favorably consider and approve the proposed applications and change petitions.