

Pyramid Lake Paiute Tribal Council

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PYRAMID LAKE PAIUTE TRIBAL COUNCIL WATER TEAM MEETING MINUTES Tribal Chambers July 15, 2020

Members Present

Anthony Sampson Sr., Tribal Chairman	Sherry Ely-Mendes, Vice Chairwoman
Janet Davis, Councilmember	William Miller, Councilmember
Judith Davis, Councilmember	Irwin Mix, Councilmember
Cassandra Darrough, Councilmember	Michele Smith, Councilmember
Carolyn Harry, Councilmember	Georgina Wadsworth, Councilmember

Note: Due to COVID-19 Tribal Council meetings are closed to the public to ensure the health and safety of attendees. Councilmembers attended in person, keeping to 6-foot distancing, and via audio conferencing.

Chairman Sampson Sr., called the July 15, 2020 Water Team meeting of the Pyramid Lake Paiute Tribal Council to order at 6:02 p.m.

ROLL CALL

Roll call was taken by Brenda A. Henry, Tribal Secretary. All Tribal Councilmembers were present at roll call and a quorum was established for this meeting.

APPROVAL OF AGENDA

No changes to agenda.

Councilmember Judith Davis made a motion to *approve the agenda*. Councilmember Wadsworth seconded the motion. Votes were **nine (9)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.**

CONSENT AGENDA

Following items were approved on the consent agenda:

1. Approval of Stetson may 2020 Invoice #1336-2005 & 13365-01-2005

Councilmember Harry made a motion to *approve the consent agenda*. Councilmember Janet Davis seconded the motion. Votes were **nine (9)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.**

NATURAL RESOURCES DEPARTMENT. *Donna Noel, Director, Natural Resources (NR)*

1. Update on Algae Bloom. Kameron Morgan, Water Quality Manager

Mr. Morgan explained the Water Quality Program has been monitoring the recent algal bloom occurring in Pyramid Lake over the last couple of weeks. Throughout the summer months, the program conducts visual monitoring at 3 beaches at Pyramid Lake: Block House, Marina and Pelican Point. During the June 26 visual algal survey, staff noted that a bloom had begun to occur in the southern region of Pyramid Lake. On June 29, staff conducted water quality and algal sampling at the three monitoring locations for nutrients, cyanobacteria, as well as collected field measurements including temperature, dissolved oxygen, salinity, total dissolved solids, turbidity, and pH. Once returning to the lab, staff tested for cyanotoxins using qualitative test strips, but the results were negative for toxins.

After the June 29th sampling event, the algal bloom appeared to subside until July 10, when staff noted the algal bloom had returned but was significantly more apparent. The Water Quality Standards Specialist, Aaron Bill, collected another water sample of the bloom and tested it again for cyanotoxins using a test strip. The sample was positive for cyanotoxins and is currently being sent to Bend Genetics in Sacramento for further quantification of cyanotoxins.

Councilmember Miller asked for a confirmation that the conditions are harmful to humans at the lake now. Mr. Morgan said that is something they don't know but they will post an advisory to the members who are using the lake. There are different protocols they will follow once they get the results back from testing to determine their next steps.

Councilmember Judith Davis had a question for Ms. Noel regarding her report on paragraph that stated "we received notification for the FEMA river restoration project that we were awarded most of the funding and received the funding documents". Ms. Noel said they put in a grant about 8 months ago and they received the funding but only partially, the funding was for engineers for design for erosion areas on the river. There are several projects currently going on in the river and they will be putting out an RFP, and have them look at the critical areas and the flood plan to make sure erosion won't affect the areas they design along and down the river. Mervin Wright is currently working on the RFP.

Councilmember Wadsworth wanted to know how many acres of water was purchased by TRIC from the UNR water from the mainstem Truckee River. Ms. Noel said there was a couple hundred-acre feet. They outbid the Tribe because we're only allowed to offer fair market value and they paid over. Councilmember Wadsworth had a question on the Brownfield Program, saying the EPA approved assessment for the two parcels of land in Wadsworth so when are they going to do the testing. Ms. Noel said she spoke to Mr. Avina already and he was working on the scope of work and she figures they will be starting work the next week. Councilmember Wadsworth asked if the owner handed over the transfer yet. Ms. Noel said he signed the waiver for access to the property, they not asking for commitment for transfer over to the Tribe until they know what the assessment is done because the Bureau of Indian Affairs won't accept if there's contamination there and there will be the trust process to go through.

WATER TEAM REPORT

Chris Mixson, Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP. Report submitted

Mr. Mixson is requesting an Executive Session at the end of Stetson's report.

1. Endangered Species Act Sec. 7 Consultation. Mr. Mixson said since the formal ESA Sec. 7 consultation process got back on track in June, the US Fish & Wildlife Service (USFWS), Bureau of Reclamation (BOR), and the Tribe have met to discuss the schedule for USFWS to complete the Biological Opinion. USFWS has tentatively chosen April 2021 as the target date.

2. Truckee Canal XM Environmental Impact Statement. Mr. Mixson said there is no new developments regarding the Truckee Canal XM Environmental Impact Statement.

3. CEMEX Water Operations. Mr. Mixson said as the Tribal Council is aware, on June 18th the Chairman sent a letter to CEMEX demanding that they immediately stop all dewatering activities in the Paiute Pit because 1) it was threatening to dry the Tribe's municipal groundwater resources and 2) it was resulting in unpermitted discharges of water to the Truckee River. CEMEX provided a written response the next day, agreeing to turn off its dewatering pumps. Those letters are attached to this memo. The next week, CEMEX claimed that it would not be able to move its mining operation to another location within the leased area on the Reservation, and if it could not dewater the Paiute Pit it would not be able to mine at all. The Water Team reiterated that CEMEX could not dewater the active pit unless 1) it could guarantee it would not impact the Tribe's groundwater resources and 2) it obtained a discharge permit for the Truckee River. We were informed on June 26th that CEMEX would move its active mining to another location within the lease area.

4. Recoupment Case. Mr. Mixson said the district court judge has not acted on the Federal Watermaster's February 2018 status report in which the Watermaster explained that he is unable to determine whether TCID should receive repayment credits toward the 335,000 acre-feet of water owed to Pyramid Lake for various times when water was not diverted into the Truckee Canal (through 2016). TCID claims it has paid over 650,000 acre-feet, even nearly twice what it owes. The Tribe and United States say TCID has only repaid 20,000 acre-feet. They are working with the new Department of Justice environmental attorney, Eve McDonald, assigned to this case to prepare and file a joint request that the judge hold a status conference to get this matter back on track. A draft was provided to opposing counsel on January 7th.

5. NUMU Inc. / Pyramid Commerce Center. Mr. Mixson said the Water Team attended a meeting with representatives of Numu Inc. and PCC on June 30th. The entities are requesting the Water Team provide detailed information regarding the Tribe's water resources that may be available for use at PCC for economic development. We are working with Numu Inc. to prepare a non-disclosure and confidentiality agreement for PCC and its principles because information regarding the Tribe's water resources, and specifically its groundwater resources, is very sensitive and strictly confidential.

6. Clean Water Act Sec. 401 Litigation. Mr. Mixson said he has been asked to seek the Tribal Council's approval for the Tribe to join a nationwide lawsuit against proposed Clean Water Act Sec. 401 (water quality certification) rule changes. A confidential memo from the Earthjustice law firm regarding the proposed lawsuit is attached. He will update Council in Executive Session.

Allan Richards, Stetson Engineers Inc. Report submitted.

1. CEMEX 2020 Mining Plan and Pit Dewatering. Mr. Richards said Stetson evaluated recent data from the Tribe regarding the declining water levels in Wadsworth wells, including the critical conditions associated with the Tribe's declining Municipal Well No. 4 water level. Stetson prepared a Technical Memorandum (June 10, 2020), as requested by the Tribe and its attorney, summarizing the mining pit dewatering situation at the CEMEX Paiute Pit and the effects on the regional groundwater aquifer. Stetson also provided review comments on CEMEX's Mining Operations Plan and contributed comments on the Chairman's June 18, 2020 letter to CEMEX requesting the cessation of its mining pit dewatering operations. Conference calls were held with the Tribal Council and CEMEX on June 24, 2020 regarding the Chairman's request that CEMEX cease dewatering.

2. Reclamation's OCAP BA/BO Project. Mr. Richards said the Water Team had conference calls with the U.S. Fish and Wildlife Service (USFWS) and Reclamation (BOR) on June 4th, June 18th, and June 30, 2020 to discuss BOR's Biological Assessment and the status of the USFWS Biological Opinion ("BO") for the on-going OCAP. The current discussions have been focused on the schedule for USFWS to complete the BO (tentative target date is April 2021).

3. Ormat's Proposed Geothermal Project in San Emidio Basin. Mr. Richards said the U.S. Bureau of Land Management (BLM) released an Environmental Assessment (EA) for Ormat's proposed 40-megawatt geothermal power plant to be constructed in the San Emidio Desert Basin. The Water Team had a conference call with BLM on June 24, 2020 to discuss concerns regarding the potential impacts of the proposed Project on the Tribe's resources, and to provide preliminary comments on deficiencies with the EA.

Councilmember Harry asked if they could get a copy of the comments. Donna Noel said she will forward to Council.

4. Numu Inc./ Pyramid Commerce Center. Mr. Richards said the Water Team attended a videoconference with representatives of NUMU Inc. and the Pyramid Commerce Center consultants on June 30th to discuss general matters regarding the Tribe's water resources potentially available for economic development and use at the proposed development.

5. TROA Meetings and Scheduling. Mr. Richards said Stetson hosted and prepared discussion materials for the TROA-MOA conference calls on June 9th. The group coordinated operations and received updates on the flows, storage and lake levels, weather outlook, and fish facilities' operations. Stetson worked with the Tribe on reviewing Truckee River flows and forecasts, and reservoir operations, and participated in the monthly TROA scheduling meeting with the Federal Water Master and other TROA parties on June 25th. The Tribe's monthly TROA Scheduling Request Form required by the Federal Water Master was prepared and submitted in June.

Stetson also participated in a conference call on June 18th to coordinate with California on plans to use Joint Program Fish Credit Water.

6. Lower Truckee River and Pyramid Lake. Mr. Richards said the flows in the Truckee River averaged about 580 cubic feet per second (cfs) during the month of June 2020. The Pyramid Lake elevation at the end of June was about 3807.6 feet.

7. Other Work (Numana Dam Fish Passage Project). Mr. Richards said under a separate project (contract) Stetson is working with the Tribe's Natural Resources Director and the Lahontan National Fish Hatchery Complex (Tim Loux) on the Numana Dam Fish Passage Project. Stetson continues to refine a roughened ramp design, construction plans/specifications, and cost estimate for a plan that would allow fish passage over the Numana Dam.

EXECUTIVE SESSION

Councilmember Judith Davis made a motion to *move into Executive Session*. Councilmember Miller seconded the motion. Votes were **nine (9)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.** *Tribal Council moved into Executive Session at 7:08 p.m.*

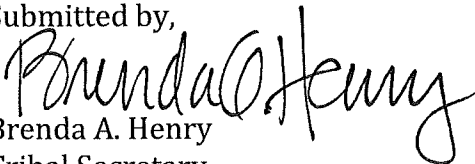
Vice Chairwoman Ely-Mendes made a motion to *move out of Executive Session*. Councilmember Smith seconded the motion. Votes were **nine (9)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.** *Tribal Council moved out of Executive Session at 7:42 p.m.*

ADJOURNMENT

With no further business before the Tribal Council, Councilmember Judith Davis made a motion to adjourn the meeting. The motion was seconded by Vice Chairwoman Ely-Mendes. Votes taken were all in favor, **motion carried.**

The meeting adjourned at 7:43 p.m.


Submitted by,


Brenda A. Henry
Tribal Secretary

CERTIFICATION

The foregoing minutes were adopted by the Pyramid Lake Tribal Council, governing body of the Pyramid Lake Paiute Tribe, at a meeting duly held on the 21st day of October 2020, having **nine (9)** members present, constituting a quorum, by the vote of **eight (8)** FOR and **zero (0)** OPPOSED with **zero (0)** ABSTENTION.

Minutes attested and concurred by:


Anthony Sampson Sr., Tribal Chairman
Pyramid Lake Paiute Tribal Council

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