

Pyramid Lake Paiute Tribal Council

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WATER TEAM MEETING MINUTES

Tribal Chambers

February 16, 2021

Members Present

Janet Davis, Chairwoman
Harriet Brady, Councilmember
Nathan Dunn, Councilmember
Natalia Gonzales, Councilmember
Della John, Councilmember

Steven Wadsworth, Vice Chairman
Judith Davis, Councilmember
Edward Ely III, Councilmember
John Guerrero, Councilmember
James Phoenix, Councilmember

Note: Due to COVID-19 Tribal Council meetings are closed to the public to ensure the health and safety of attendees. Councilmembers attended via zoom video conferencing.

Chairwoman Davis called the February 16, 2022, Water Team meeting of the Pyramid Lake Paiute Tribal Council to order at 6:00 p.m.

ROLL CALL

Roll call was taken by Brenda A. Henry, Tribal Secretary. Councilmember Dunn connected at 6:09 p.m. All other Tribal Councilmembers were present at roll call and a quorum was established for this meeting.

APPROVAL OF AGENDA

Councilmember John asked why the Water Team was at the end of the agenda, if they are paying them by the hour maybe they should be at the beginning of the agenda. Chairwoman Davis said they are scheduled for the end in case there are questions that come up with any of the items presented during the meeting. Councilmember John would like for them to be prudent and place them at the beginning of the meeting.

Councilmember Davis said the reason they were put at the end was because most items were presented at the Inter-Disciplinary Team (IDT) meetings and typically the Water Team would ask for an Executive Session after their reports.

Councilmember John asked why the Natural Resources grant applications are not on the second meeting (Special) with the other tribal departments. Chairwoman Davis said it's always been that way and Natural Resources pays the stipends.

Councilmember Davis made a motion to *approve the February 16, 2022, agenda*. Councilmember Ely seconded the motion. Votes were seven (7) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

CONSENT AGENDA

Councilmember Brady emailed changes to the January 19, 2022, WTM minutes to the Councilmembers, there were no objections to the changes.

Councilmember Dunn connected at 6:09 p.m.

Councilmember Brady made a motion to *approve the Consent Agenda with revisions to the minutes as submitted by Councilmember Brady*. Councilmember Davis seconded the motion. Votes were seven (7) **for** and zero (0) **opposed** with one (1) **abstention** (Dunn). **Motion carried.**

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

1. Request for Approval Camp4Collective Film Request. Cynthia Martinez and Autumn Harry

Ms. Martinez is requesting a one-day fly fishing event with Autumn Harry on March 19th or 20th. They are doing a blog series with Brown Folks Fishing which is an outdoors group focusing on African American communities, indigenous communities, and anglers of color. They are sponsored by North Face Supply and Clothing. They are not featuring the clothing but only sponsoring it. There will be 6 personnel on their production team including Ms. Harry. North Face is not verbally mentioned but Ms. Harry will be clothed in North Face clothing.

Councilmember Brady said it sounds like a commercial. What happens if Ms. Harry does not wear the clothing? Ms. Martinez said she does need to wear the clothing; it is a part of the contract. Councilmember Brady stated it is an advertisement then. Ms. Martinez said it's a sponsorship, North Face is backing the Brown Folks Fishing.

Councilmember Davis said the motion made at the IDT meeting was to approve the request under the condition they pay the film fee. Autumn Harry said at the IDT meeting it was recommended they pay the film fee and they were told by Ms. Noel that once approved they will contact the Tribal Secretary to pay the fee. It is included in the application, and they agreed to pay the fee.

Councilmember Ely asked if there is a specific site since all the bays on the west side are highlighted. Ms. Harry said she listed most of the popular locations, but they won't be at all of them. They most likely will be at either Warrior Point, Pelican Beach, the area where you first view the lake on SR445, Popcorn and the area above Block House. They want to highlight indigenous woman fly fishing and would like to include more tribal members within the film, there are strict COVID guidelines, and she would also like to highlight the other tribal guides on the lake.

Councilmember John said she made comments at the last meeting regarding advertising and commercializing and what happened to the Tribe with Apple. North Face is an international group, and they need to be especially careful and follow the Tribe's policy.

Councilmember Brady asked Ms. Harry if within her contract does North Face have carte blanche with the video. Ms. Martinez said her focus is on Ms. Harry, they will be filming her fishing and casting and with whatever she is comfortable with. If the Tribe wants to add any parameters, they are fine with it. Councilmember Brady was concerned North Face would take the video and use it in some other advertisement. Ms. Martinez said this is a specific video only focusing on Ms. Harry and the Brown Folks Fishing.

Nick Cortez was concern about having the raw video turned over to the Tribe. Chairwoman Davis said with Ms. Harry willing to pay the fee and with Ms. Noel adding stipulations they should consider. Ms. Martinez said with the contract they can't turn over the raw video, but they can put a stipulation in the contract that the video won't ever be reused.

Councilmember Dunn said this is a great opportunity but was concerned why a tribal member could enter into a contract agreement because the Chairwoman should be signing business contracts on behalf of the Tribe. Ms. Noel described the process for film permits. Ms. Harry said she is not doing this on behalf of the Tribe, she does have a business license and guiding permit, and this is a good opportunity for her business. Ms. Noel said if it is required to go back to IDT for review for their recommendation to Council, they can do that.

Vice-Chairman Wadsworth noted there was confusion on the application, there was mention of an updated application but he only has the original one. Ms. Noel stated she may have sent Council the wrong application. Ms. Harry said they would be filming on Saturday, March 19th and there is also additional information on the filming.

Councilmember John preferred to have the updated application for review. Ms. Harry said the main change was the fees, everything else on the application is the same. The fees were \$,1000.00 a day.

Betty Aleck, THPO, said she voted against the request because it is a commercial and it should be identified as a commercial.

Councilmember Guerrero made a motion to *approve the Camp4Collective Film Request with required fees*. Councilmember Davis recommended approval with the change on the application to commercial, pay required fees and approved footage comes back to Council for review. Councilmember Guerrero agreed with the recommended motion. Councilmember Davis seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

2. Request for Approval US Fish & Wildlife Service (USFWS) to Continue Lower Truckee River Management Activities for Lahontan Cutthroat Trout (LCT) Recovery. Erik Horgen, Fish Biologist, USFWS

Mr. Horgen said this request occurs every year for the LCT monitoring on the Truckee River within the tribal boundary. The request has gone through the Pyramid Lake (PL) Fisheries Board and the IDT. This

request is for the 2022 spawning season which is closely approaching. They will be working with the PL Fisheries to coordinate all the activities; they will share any data that is requested from the Tribe and will follow all COVID restrictions in place by the Tribe.

They conduct delta surveys every spring which shows them the potential fish passage over the delta and how it can change from year to year. While doing their delta surveys they track with GPS receiver to follow the new channel, they are collecting depths and widths of the channel which at the end of the survey they compile the data to compare between the years 2014 to 2018 to see how the channel changes. Before the fish start spawning in the river they like to conduct a non-native removal, which started in 2013 and the project area begins from the tribal boundary at Pearson Diversion and continues to Pyramid Lake. They try to float on a raft as many times as they can prior to the LCT and Cui-cui coming into the system. This is necessary to reduce the risk the Hibernization of non-native species, specifically rainbow trout. There are a few non-native species that they sample as well but their focus is rainbow trout. They have done a pretty good job of preventing Hibernization prior to spawning. The longest standing activities they have done in the Truckee River is temperature monitoring which started in 2008. They have 26 transect from Lake Tahoe to Pyramid Lake which has temperature loggers in each one. They are programmed to take temperature readings every hour which they download every month or whenever they can. There are four transects on the reservation they have been sampling since 2008. The first things they try to do once the LCT come into the river is the tracking and tagging which started in 2015, they have targeted 30 LCT each year to tract. The tags transmit a unique ID number which the receivers monitor as the LCT swim by. The tags have to be surgically implanted and they do it while they are anesthetized, the tags are expensive so they have to pick and choose which LCT and spread it along the run. Because of the size of the tags they have to use LCT that are 660 mm or bigger. They collect the fish for the tags at Marble Bluff. They only have four antennas so they will be at Marble Bluff, Numana Dam, Derby Dam and the last one attached to a raft which they will float down the river. They follow the fish up to Derby Dam and possibly further in the future. Once the LCT has spawned, they do red surveys. Reds are an excavated depression in the riverbed that is done by the female. She swims in and lays her eggs, then the male comes in and fertilizes. Once the fry hatches, they get their rotary screw traps going, which there are two, once located below the Marble Bluff which is the base trap, the upper trap is above Marble Bluff just down-stream of the Nixon bridge, this trap is meant to move as needed. They are seeing hatch out and survival of naturally spawning LCT in the Truckee River.

IDT recommended approval of the request.

Councilmember Davis made a motion to *approve the USFWS's request to continue the Lower Truckee River Management Activities for Lahontan Cutthroat Trout (LCT) Recovery*. Councilmember Dunn seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried**.

3. Request for Approval Utah State Request to Conduct a Study on TDS Effects on Tui Chub Larvae. Sarah Barnes

Phaedra Budy, a Professor in Watershed Sciences at Utah State University and she is Unit Leader for the USGS Utah Cooperative US Fish and Wildlife Research Unit. She has done research on and off on Pyramid Lake for 10 years. Sarah Barnes is her graduate student.

Ms. Barnes explained the request is for the Pyramid Lake Hatchery Operations Facilities for a MS graduate study on the effects of total dissolved solid (TDS) concentrations on Tui chub in Pyramid Lake. They will capture spawning Tui chub in late spring/early summer and transport them to tanks of increasing TDS concentrations which they will create with Pyramid Lake water that they will allow to evaporate ahead of time. The TDS treatments will span from Pyramid Lake's lowest recorded TDS concentration to a level that has been determined as lethal to Tui chub eggs from observations in Walker Lake. Once acclimated to the TDS treatments they will attempt to produce viable eggs from the parent fish and disperse them into tanks of the same TDS concentrations that the parents are acclimated to. They will use the information from the experiment to compare Tui chub egg hatch out time and larvae survival and growth as a function of increasing TDS concentrations. It will benefit the PL Fisheries program because the Tui chub has been identified as the main forage fish for the LCT in Pyramid Lake. They would like to begin experiments beginning in May 2022 and finish by the end of September 2022. They would like to potentially, depending on results, repeat the experiments in 2023. Along with a technician, they will be staying in a trailer by PL Fisheries for the duration of the experiment.

IDT recommended approval of this request.

Councilmember Phoenix made a motion to *approve the request from Utah State to conduct a study on the TDS Effects on Tui Chub Larvae*. Councilmember Davis seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

4. Request for Approval to use Research in Future Presentations. Edward Schuyler Chew, Ph.D., UNAZ

Mr. Chew is requesting to present remotely to the Teaching Native Waters series on March 30, 2022, and to use the slides in the future for other presentations. Teaching Native waters hosted by DRI is a daughter program of the Native Waters collection of initiatives. It is a professional development program in which educators serving indigenous students, scientists and other professionals share knowledge, skills and support. The content focuses on middle and high school level. He would also like permission to use the slides at a virtual professional development series focused in "our interconnected climate".

IDT recommended approval of this request.

Councilmember Dunn made a motion to *approve the request to use Research in future presentations*. Vice Chairman Wadsworth seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstention**. **Motion carried.**

5. Request for Approval Stetson Engineering Numana Dam Contract Extension. Donna Noel, Natural Resources Director

Ms. Noel said the original contract was for the design for the fish passage at Numana Dam which included a ramp design on the downstream side of the dam. Once they did the cost analysis it was \$8 billion, they only had \$1.5 million to begin with. They had to change the focus, the USFWS recommended to put in a fish screen

and they have funds to do that. This extension is to work with a contractor to integrate a design, complete a site survey, engineering evaluation with the increase flows that are predicted from the Vista Narrows Project, and the permitting. The extension will go through 2023 because they are still on the front end of the fish screen design. There is \$20,000 left on the original contract. Allan Richards said the original contract was for \$140,000.

Councilmember Phoenix made a motion to *approve extension of the Stetson Engineering Numana Dam Contract*. Councilmember Davis seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

6. Request for Approval Beasley Property Demolition. Donna Noel, Natural Resources Director

Ms. Noels said this is one of the in-trust applications that are pending at the Bureau of Indian Affairs (BIA). When they put in for the trust application there is a thorough Environmental Phase I on the property. Since it takes so long to approve these applications and move to the next step, they often make the Tribe do another environmental. The property has really deteriorated, there are 3 buildings, a house, shed and well pump house. There is illegal dumping on the property, homeless living there, and the property is becoming a safety hazard. They are hoping to put out a contract to a tribal member, who has business license for this type of business. The funds are coming from the S Bar S restoration and funds were left over from that.

Councilmember Brady asked how much it is estimated to cost. Ms. Noel said maybe about \$40,000 but won't know for sure until she puts out an RFP.

Councilmember Davis said she had the same question but also the property will move quicker into trust if they remove the buildings.

Councilmember Davis made a motion to *approve the request for the Beasley Property Demolition*. Councilmember Brady seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

WATER TEAM

1. Kemp Jones LLP Monthly Report. Chris Mixson, Kemp Jones LLP

Mr. Mixson provided a summary of items they are monitoring for the Tribe.

Truckee Canal Extraordinary Maintenance EIS – Fernley Lawsuit. In mid-December 2021, the federal district court dismissed Fernley's lawsuit on the basis that Fernley's claim that the elimination of seepage from the Truckee Canal is an economic harm and not an environmental harm, and Fernley's lawsuit doesn't not fall under the national Environmental Policy Act (NEPA). On January 10, Fernley filed a motion to alter the final judgment to give them an opportunity to amend their complaint to claim environmental harm. On February 7th, the US filed an opposition, and the Tribe filed a joinder to the US opposition on behalf of the

Tribe. They are now waiting for Fernley to file a reply to their motion.

Bureau of Reclamation (BOR), Endangered Species Act Section 7 Consultation. On January 20th and February 3rd, the Water Team met with the BOR and various Department of Interior (DOI) solicitors to discuss the broad outlines of what the potential Memorandum of Agreement might contain. The Water Team also asked the DOI solicitors to prepare a “rationale document” that would summarize the reason why a MOA is preferable to a final Biological Opinion (BO). They hope to have the document within a few weeks and be able to discuss with Council at the March meeting.

Recoupment. The Water Team continues to work with the Department of Justice and BOR to finalize the computer modeling the Federal Watermaster has requested in order to quantify the Recoupment repayment credit TCID may be entitled to for the 2008-2016 period. The Tribe’s hydrologists have worked with the Federal Watermaster to develop the repayment model and the Water Team still has some concerns about the modeling approach which may need to be put in writing to the Federal Watermaster and might ultimately end up in Court.

CEMEX Paiute Pit Gravel Mine. On January 31st, CEMEX’s legal counsel sent the Tribe a letter and a draft proposed updated mining plan of operations. The letter is attached for Council and the draft updated mining plan is over 100 pages and can be provided to Council if they want a copy, it also includes a reclamation plan. The Water Team is looking at it and will be preparing comments back to CEMEX. Plans for the pit walls is also included and they are looking for technical help from BIA to review. CEMEX’s Natural Resources contractor provided their “Annual Production Report” for 2021 which is provided to Council for review.

Truckee Meadows Effluent Pipeline/Tahoe-Reno Industrial Center. In late December 2021, TMWA provided the Water Team with a draft proposed instream flow change application for the replacement water required by their agreement to manage the project on behalf of the Local Governments (Reno, Sparks, Washoe Co.). The replacement water is intended to replace the effluent removed from the Truckee River and piped to the Tahoe-Reno Industrial Center. The Water Team met with TMWA on January 24th to discuss the proposed instream flow applications. TMWA agreed to further discussion among technical representatives regarding the actual management of the replacement water to offset the loss of effluent on a daily basis. There are pros and cons to this approach. The Tribe expressed concerns with the applications and thought they were going to have a follow-up meeting but then learned they went ahead and filed the applications. They will be working up protests explaining the Tribe’s concerns with the applications. Will be providing an update at the March meeting.

Truckee Meadows Flood Management Authority – Proposed Mitigation Fund. The Water Team met with TRFMA on January 25 to discuss TRFMA’s draft “rationale document” which sets the justification for entering a mitigation funding agreement with the Tribe. The Water Team reviewed the rationale document and provided comments to TRFMA. TRFMA proposed a mitigation fund which they presented to Council last year where they will set aside funds where the Tribe can do mitigations projects of their choosing on the reservation. They are now waiting for them to incorporate their comments and send them an updated

version of the rationale document. In the document is a dollar amount, which the Water Team said was not enough.

Councilmember Brady said with the funding, maybe they can do the natural trail by Numana. Mr. Mixson said one of the major components is Truckee Riverbanks stability and it could be used for grant matching.

Councilmember Davis said her concern was the trees they are losing to the beavers and wondering if they can use it for a tree program. Mr. Mixson said they envision the Tribe using the funds to mitigate any identified potential flooding problems. The funding will be in TRFMA's name, but the Tribe will have priority is using the funds.

Councilmember John said they need to consider the farmland along the river losing acreage due to the unstable banks.

Mr. Mixson said in regard to Council's concerns about him and Allan Richards sitting through the meetings, he understands some meetings can be late, but a lot of the items presented especially from the USFWS and the one's doing studies is of interest to him. There is a benefit to having non-tribal members who present to leave the meeting prior to them presenting.

2. STETSON ENGINEERS LLP. Allan Richards.

Mr. Allan said his report covers work performed by Stetson Engineers for the month of December.

In January, Stetson worked with Great Basin Land and Water and the Tribe's attorneys to file four more instream water right transfers applications for water rights that were acquired on behalf of the Tribe. The four new instream transfer applications only totaled 32-acre feet, but they all add up. To date all the water quality settlement agreement water right acquisitions now total about 11,000-acre feet.

CEMEX. The Water Team met with CEMEX on January 18th to discuss CEMEX's various reports and studies including pit wall study report and reclamation plan. They also received updated hydrology report prepared by CEMEX's hydrologists dated January 6th. The pertinent information about the report is they finally admitted the pit B dewatering did and can impact the water levels in the Tribes municipal wells. Up until they received the report, they were adamant their pit dewatering operations had no impact on the water levels in the municipal wells the Tribe experienced in 2020.

RECLAMATIONS. They met with Reclamations on January 20th, on the MOA BOR is working on for the Endangered Species Act Section 7 Consultation.

TMWA Effluent. They met with them on January 24th. He no additional information to report.

TRFMA. Met with them on January 25th. He has no additional information to report.

TROA Meetings and Scheduling. They hosted and prepared materials for the TROA MOA conference call on January 11th. Helped prepare the TROA schedule and participated in the TROA conference call on January 13th. They also participated in biweekly calls organized by BOR for Prosser Creek Reservoir flood control operations.

The Truckee River flows at the Nixon gauge from January 2021 to early February 2022 average about 260 cfs. High flows in January because the Truckee Canal was turned off for three weeks, the Canal is back on, TCID is diverting water again into Truckee Canal to meet Lahontan Storage target objectives. The river is down to about 150 cfs. The Pyramid Lake elevation at the end of December was about 3803.1 feet.

Councilmember Davis commented it was awesome CEMEX finally admitted their dewatering was the cause of the lowering of the Tribe's municipal 4 wells.

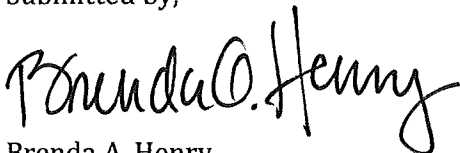
Councilmember Brady brought up the issue of weeding out items that don't belong on the Water Team agenda because there is too much time spent on them. Chairwoman Davis suggested the attorneys when they are ready for them, so they are not on-line waiting. Councilmember Brady said like the request from Autumn Harry. Chairwoman Davis said it did go through IDT and it is on the lake. Councilmember Ely agreed about moving some of the items from the Water Team agenda, like Autumn Harry's request to the regular agenda. At the last Water Team Meeting they spent a lot of time on a fly-over, maybe they need to approve or disapprove the agenda to take care of it and pull the items like they do in the consent agenda. Councilmember Gonzales said if it deals with water than it does belong on the agenda and if they move them to the Friday meetings and need the lawyers will they be paying them double? It is nice to have them on when they get some of the proposals from different projects and then they can help with the comments later in their brief. Councilmember Guerrero said with IDT that is where they get the recommendations, and he feels they didn't get that on this one. Ms. Noel said the IDT recommendations are always at the end of her report which includes the discussion and motions. Councilmember Guerrero said nobody said anything when he asked about the recommendations. Ms. Noels said their recommendation on the notes was to pay the fees.

ADJOURNMENT

With no further business before the Tribal Council, Councilmember Guerrero made a motion to adjourn the meeting. The motion was seconded by Councilmember Brady. Votes taken were all in favor, **motion carried.**

The meeting adjourned at 9:32 p.m.

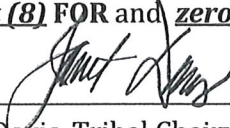
Submitted by,



Brenda A. Henry
Tribal Council 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 16th day of March 2022, having nine (9) members present, constituting a quorum, by the vote of eight (8) FOR and zero (0) OPPOSED, with zero (0) ABSTENTIONS.

Minutes attested and concurred by: 
Janet Davis, Tribal Chairwoman
Pyramid Lake Paiute Tribal Council

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