

Pyramid Lake Paiute Tribal Council

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WATER TEAM MEETING MINUTES Tribal Chambers – Nixon, NV May 18, 2022

Members Present

Janet Davis, Chairwoman
Harriet Brady, Councilmember
Judith Davis, Councilmember
Nathan Dunn, Councilmember
Edward Ely III, Councilmember

Steven Wadsworth, Vice-Chairman
Natalia Gonzales, Councilmember
John Guerrero, Councilmember
Della John, 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 in person, keeping to 6-foot distancing, and via audio conferencing.

Chairwoman Davis called the May 18, 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 Gonzales connected at 6:06 p.m. All other Tribal Councilmembers were present at roll call and a quorum was established for this meeting.

APPROVAL OF AGENDA

Councilmember Ely requested items #2, 3, & 4 under New Business be moved to the May 19, 2022 Special meeting agenda because he feels they are not water related items.

Councilmember Davis didn't agree with moving the items because they are all under the Environmental Protection Agency (EPA) Grants and they fall within the Natural Resources Department. That is how it's always been done, anything dealt under their program usually came under the Water Team because she oversees the budgets.

Vice Chairman Wadsworth stepped out of the meeting.

Councilmember Ely made a motion to *approve the agenda with the removal of items #2, 3, & 4 under New Business*. Councilmember John seconded the motion. Votes were four (4) **for** and three (3) **opposed** (Davis, Gonzales, Phoenix) with one (1) **abstention** (Dunn). **Motion carried.**

Tanda Roberts, Air Quality Specialist said her grant is due May 20, 2022. Brenda Henry, Tribal Secretary, will ensure the resolutions are completed after the May 19th meeting so she can submit her grant on May 20th.

Councilmember Davis asked for clarification on whether they are setting a new precedence, are they going to ask this one director to attend two meetings, when they have other directors who don't come to any.

Councilmember Ely clarified he made the motion because they have two professionals that sit on these meetings and they stay for the duration of the meeting, sometimes, 2-3 hours, they are quite expensive and it's understandable.

Councilmember Guerrero asked what is the budget for the Water Team meeting? and he said the Fisheries Board items should be on the regular meetings also.

Councilmember Gonzales said if they are going to ask directors to attend two meetings and she reminded Council the issue with the attorney fees. If the attorneys are needed on any of these items, it's important to have them here and if there is an item that comes up regarding water at the other meetings are they going to require them there also?

Ms. Noel said because of the new process coming to Council, a lot of the grants didn't require resolutions and never came to Council. It would be unfair if she has to attend two Council meetings a month when most directors don't come to any and she feels it's unfair having her employees attend two meetings. She would have to be present to assist with questions and with losing personnel there will be new employees she would have to attend with.

Chairwoman Davis said she discussed with Ms. Noel the funding where they include everyone on one agenda and not have a Water Team meeting. Ms. Noel agreed they may have to do that to cut costs. Chairwoman Davis said rather than pay an extra stipend cost it can go to attorney fees. That is something for Council to think about, because of the extra time having two meetings together, they would possibly have the Water Team brief at the beginning.

Councilmember Gonzales asked if they budgeted for the meetings at the beginning of the year. Chairwoman Davis said the attorney fees are under Ms. Noels budget and were not approved under the TROA funding. Ms. Noel and Chris Mixson are following up on the funding. Ms. Noel said they submitted a letter to the Department of the Interior but they have not yet heard a response. They did submit another grant that would partially cover but they are still \$150,000 short from this year and last. Chairwoman Davis said they did inform Council prior regarding the attorney fees. Councilmember Gonzales said she may have missed that meeting because she didn't know there would be no more Water Team meetings. Chairwoman Davis said it wasn't that they weren't going to have anymore meetings but they would have to combine the meetings together.

Councilmember Brady said the first meeting of the month, the Regular meeting, is light usually they are only 1-1 ½ hours and that would be the place to add the Water Team meeting.

Chairwoman Davis said she discussed the limited funding with Ms. Noel and they were going to bring it to Council for discussion. Councilmember Davis said the discussion is on the table now they need to decide what their plan is going to be and set it up.

Ms. Noel said an option is if there is no business with the attorneys than they should not have a meeting for that month. She would prefer not to go to two meetings a month due to her busy schedule. If they have to add

to another meeting, the first meeting of the month is shorter and would work but she doesn't know the availability of Kemp Jones and Stetson because she hasn't discussed it with them yet.

Councilmember John said she agreed with the recommendation to move it to the first meeting but noted the contracts and grants items, they need to follow the process and she doesn't think they are following it. She didn't see the Executive Team or Inter-Disciplinary Team (IDT) reviews of the proposals which other departments follow. Ms. Noel stated grants don't go to IDT. Councilmember John said maybe they should because when they don't involve the tribal people and are using the resources they will get upset. They are supposed to be representing the beneficial uses of all the tribal members, protecting sovereignty and protecting encroachment by other agencies. With the agencies, the agreements concern her, there needs to be a process for these proposals to go through so Council is not the first step for approval. They need to go through the process to get clearances and correct spelling, timelines, dates, maps, etc.

Councilmember Dunn was concerned about meetings ending at midnight because he has a job on weekends. He would like to see them set a limit or deadline and get the most important topics on the agenda first.

Councilmember Ely said to move the Water Team meetings to the first of the month meeting if they are short on funding.

Councilmember Gonzales would like to continue with the Water Team meetings until they have a plan. She wished they would have a plan before they get to this point. When they are out of funding or close to it, they need to plan ahead and be proactive. She doesn't like to be put on the spot, she asked the Chairwoman to come up with a plan on where they are going to go with this moving forward.

Councilmember Davis said she would prefer to keep the Water Team meetings because of the Executive Sessions to discuss court cases being followed by the Water Team. In the past, if there was no action and the budget was getting low, they didn't have a meeting if there were no pressing issues. If they don't have anything pressing they can skip that month, but she prefers to keeping the Water Team meetings because of various issues and the Water Team is separate from the Tribe's regular attorneys.

Councilmember John said she only attended Water Team meetings for three months now but said it feels like they are laid back. The water attorneys used to be more aggressive and be proactive and get on things before they happen, now it feels like they are waiting for things to happen before they react. Not having meetings because nothing is happening, things will sneak up on you and then the water rights are gone.

Chairwoman Davis said they were not doing away with Water Team meetings, they were just going to add the content onto another meeting agenda so they wouldn't have to pay an extra stipend.

Ms. Noel stated they can still have the Water Team meetings for the next couple of months. She has removed her salary and other items off the grant. The only thing she is paying from the grant is the State Water Master, California Board, Water Board, TCID, consulting, and stipends. She is doing her best to manage the grant that funds the attorneys and is waiting to hear from the Department of Interior to see if they will return the funding they removed. She is utilizing other budgets for her salary and will have a plan for the next month or so if they do run out of funding.

CONSENT AGENDA

Following items were on the Consent Agenda:

1. Approval of Minutes: March 16, 2022 WTM
2. Approval Stetson Engineers Inc April 2022 Invoice #1336-2204 & #1336-01-2204
3. Approval Kemp Jones LLP Attorneys at Invoice

Councilmember Brady requested to pull #1 for discussion.

Vice Chairman Wadsworth returned to the meeting.

Councilmember Ely made a motion to *approve items #2 & 3 on the Consent Agenda*. Councilmember Guerrero seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

Councilmember Brady said her correction pertained to when she talking about Dr. Catherine Fowler, on page 7, 2nd little paragraph. Dr. Fowler's name is with a "C" instead of a "K" and capitalizing Great Basin because it is a region.

Councilmember Brady made a motion to *approve item #1. March 16, 2022 WTM minutes with corrections*. Councilmember Guerrero seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

NATURAL RESOURCES. Donna Noel, Natural Resources Director

1. Request for approval Utah State Sampling.

Ms. Noel said Utah State is asking to do their annual sampling for the Fisheries. They will be conducting gill netting, mid water trawling, hydro acoustic survey and collecting fish and quantifying the abundance of fish in the lake. It's an ongoing monitoring program the Fisheries Department has had for years. It's valuable data to find out how many fish are in the lake and it also has an impact on the amount of fish they spawn every year. They work with the Fisheries Department and they receive all the data and assist them when needed.

Councilmember John made a motion to *approve the request for sampling by Utah State*. Councilmember Phoenix seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.**

2. Request for approval Water Quality Grant with Resolution. Aaron Bill, Water Quality Manager

Mr. Bill is requesting approval for the Clean Water Act 106 budget. The budget is a continuance of the items they carry forth every year. They monitor, conduct sampling of the river and Pyramid Lake water bodies.

Councilmember Dunn made a motion to *approve the Water Quality Grant with Resolution*. Councilmember Ely seconded the motion.

Councilmember John asked if it was the 400F grant and it was confirmed by Mr. Bill that it was a continuance of the fund code.

Votes were eight (8) **for** and zero (0) **opposed** with one (1) **abstention** (John). **Motion carried.**
RESOLUTION NO.: PL 066-22 CLEAN WATER ACT PERFORMANCE PARTNERSHIP GRANT

3. Request for approval TROA Funding for Willow and Cottonwood Project to include approval of Bobcat Purchase with Resolution.

Ms. Noel said they are asking for approval for a drawdown from the TROA restoration funding to be used for the willow and cottonwood project to include the purchase of a bobcat. When TROA went into effect, part of the Water Master's budget is \$50,000 a year for river restoration projects. That funding is set aside each year and starting with California, the Tribe, State of Nevada, then back to California for 3 years. This year is the Tribe's 3rd year and it will have a total of \$150,000 in the fund in September. It has \$100,000 in the fund now and they would use \$50,000 to start growing willows and cottonwoods to use in their restoration project. The starters they use will be the items they clear around the irrigation system. When the Bureau of Reclamations (BOR) finishes their island removal project, they would like to sell those to them to keep the project going, then to use the one's they grow for their own restoration project. The first project is the O'Day property and some areas that have bad erosion.

Councilmember Brady asked if this would include the willows by the Wadsworth bridge. Ms. Noel said they would go to the irrigation areas to start thinning out the willows. They would also provide assistance to anyone that had dense willows in their yards. They would pull the older ones out and leave the younger ones so people can use them. Councilmember Brady said her concern is seeing people go into those willows and not knowing what they are doing there, maybe this is a law enforcement issue.

Councilmember Dunn made a motion to *approve the TROA Funding for the Willow and Cottonwood Project to include approval of a Bobcat Purchase with Resolution.*

Councilmember Davis asked if Ms. Noel had a plan for the cottonwoods that are already along the river that the beavers are getting to which would cause more erosion if they start to lose the cottonwoods that are already there. Ms. Noel said they have done some tree wrapping along the corridor and would like to start a new bounty on the beavers but there is no funding for it, so the best they can do now is to wrap the trees. They will have a couple of wrapping events this year and are working on find the worst ones to get wrapped. Councilmember Davis said she knew about the area by the Wadsworth bridge and the beavers are getting to those big trees which will cause erosion before the bridge.

Councilmember Davis seconded the motion.

Councilmember Guerrero said it's a good idea, when he was 16, he worked with Fisheries when they cut the trees into eight-foot log sections that would float down when it flooded or they would cut it up for the elders.

Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried.** **RESOLUTION NO.: PL 067-22 TROA HABITAT RESTORATION FUND COTTONWOOD & WILLOW PROJECT**

WATER TEAM

1. KEMP JONES LLP. Chris Mixson, Kemp Jones LLP. Report Submitted.

Mr. Mixson would be requesting an Executive Session to discuss a settlement proposal received.

Truckee Canal Extraordinary Maintenance Environmental Impact Statement (EIS) – Fernley Lawsuit. There are two parts to this item. Fernley sued the Bureau of Reclamations (BOR) when they issued the final EIS because it approved lining of the Truckee Canal. The Water Team intervened in the lawsuit on behalf of the Tribe to make sure the Tribe's interest were protected. Fernley's case was dismissed by the District Court, they filed an appeal which they talked to Council on April 25th. His co-Counsel, Don Springmeyer attended a mandatory mediation assessment conference with the Ninth Circuit where the Ninth Circuit was trying to determine whether or not to force the case into a mediation session to see if it can be settled. This information is what he would like to talk to Council on in Executive Session. The second part of the EIS is the BOR and Truckee-Carson Irrigation District (TCID), are proceeding with what they are calling phase one of the Truckee Canal Extraordinary Maintenance Project and it will be lining three and a half miles of the canal in the Fernley area, and replacing or upgrading to check structures on the canal that they use to close off the water flows so they could send water into the deliver ditches. Phase one will cost \$35 million and TCID has submitted a request with the BOR for a repayment contract for the \$35 million that the BOR will use. The recently passed federal infrastructure law funding to essentially loan TCID \$35 million. If the contract is approved, TCID will have to repay back the \$35 million to BOR. They heard that week that one of the sticking points in their contract negotiations is that TCID wanted a 50-year repayment contract and BOR, so far, is only agreeing to a 30-year repayment contract. Under a 50-year repayment TCID would have to repay about \$1.2 million a year. Not sure what they would have to pay under the 30-year contract but it's probably outside of what TCID is either capable or willing to pay. Under TCID rules, the board approves the contract but then the TCID water users have to vote to approve it by a 51% majority. Even if the board reaches a deal with BOR on their repayment contract, it still has to go to a vote of all the farmers and the irrigation district. That is where the contract is now, will keep Council posted. They have two more negotiation sessions and the way those repayment contracts work with BOR is they have to be negotiated in a public meeting. There are a lot more things going on behind the scenes that they don't know everything about but they have two more public meetings scheduled over the next few weeks. The Tribe is not allowed to negotiate, it's a negotiation between BOR, as the agency and their contractor, which is TCID. The Tribe can make public comment which they have done in the past and it's not made much difference. The sessions are virtual so anyone can view them, just contact him for the link.

Bureau of Reclamation (BOR), Endangered Species Act Sec, 7 Consultation. Nothing new to report. As reported in the past, they are in the process of discussing with BOR and US Fish & Wildlife Service (USFWS) and developing a memorandum of agreement (MOA) whose purpose is to create a roadmap for getting some conservation measures in place in the Newlands Project and in particular in the Carson Division of the Newlands Project on the Fallon side. In all the conservation measures they can get implemented in the Newlands Project, the purpose is to divert less Truckee River water through the canal. They are waiting for the Solicitor's office to put together the rationale document for why they should enter this MOA and why they should negotiate with them. It's been a month and a half since they asked for it and they haven't gotten back to them but he is still checking in on them but they say they say they are still working on it.

Recoupment Lawsuit. The Water Team has been working on the hydrologic modeling to figure out how much water TCID repaid Pyramid Lake from 2008 to 2016. BOR has been developing a complicated river and canal hydrologic model to try to answer that question. They attended a meeting that day where BOR presented the latest version of their model. It's technical and now they are asking the Tribe and TCID to

provide written comments on it. They are not sure they are going to do that due to funding issues, primarily they have been working on this for years and there is not much more the Water Team can add to it. What they are pushing for is the Water Master, to tell them a final number that he thinks, in his opinion, was repaid to Pyramid Lake, then that number goes to the Recoupment Court which is the Federal District Court. That is where they will get reengaged once they are back in court then they will let them know how the Tribe feels about the modeling exercise. The model presentation they saw today landed on about 35,000-acre feet of water that the model estimates was repaid to Pyramid Lake over the eight-year period. That number is a bit more than the Tribe was thinking but it's less than what TCID wanted, they originally wanted 600,000-acre feet as repayment credit for the eight-year period. Now through the modeling process, it's down to 35,000-acre feet. They don't know TCID or the Water Master will react to this number. They are pushing hard for the Water Master to create a process for the future for when TCID says they are going to repay water to Pyramid Lake, then they have to provide an advance notice, so the Tribe can know the water is coming down the river and manage its own river operations accordingly.

CEMEX Paiute Pit Gravel Mine. There are three items occurring. There is the proposal from CEMEX or the board that reports how they are going to repair the unstable pit wall in the Paiute Pit. There is the revamping of their mining plan which is required under the Bureau of Land Management (BLM) regulations for all mines. Then there is the application they made to the EPA for a Clean Water Act discharge permit. They are actively working all three of these and the Water Team is working on reviewing the proposal and providing comments. The main problem is on the west side of Paiute Pit they mined until they had a vertical wall which is not supposed to be done because it could cause a cave in, but that is what they are doing. The Tribe demanded they stop their dewatering because of the impacts the dewatering was having on the municipal wells in Wadsworth, and some of the domestic and irrigation wells. The pit filled back up with water and now their dilemma is they need to repair the wall but they can't because the pit is full of water and if they do dewater, the pit wall will have stability issues because the water is helping provide stability. They have their construction proposal and Stetson is reviewing it and will provide comments.

Councilmember Brady asked if anyone is monitoring them. Mr. Mixson said since they stopped mining in area A of Paiute Pit and stopped the dewatering but it filled back up, they moved over to what is area D and are actively mining there. They provide Ms. Noel with a weekly report on the dewatering. Ms. Noel said regarding monitoring, the BLM has now engaged and they used to inspect the mine up until 2012, when they stopped but now has reengaged and went to the site the week prior with the Bureau of Indian Affairs (BIA) and will be going again on June 21st to inspect again.

Councilmember Brady said her sister asked her if she heard anything about the water system because she drinks from the tap. Unlike her sister she has an infiltration system at her home and was told she noticed her water tasting different. She used to like it but not anymore. Wondering if anyone else has complained. Her sister's daughter said the same thing and she lives in the apartments. Ms. Noel said she is not sure what type of monitoring they are doing with the Public Utilities District (PUD) but they should be monitoring monthly per the Clean Water Act on Safe Drinking Water Act and once a year they are to test for minerals. She hasn't seen any of those reports so she is not sure if they are being done.

Councilmember Guerrero asked about the federal MSHA, are they present for the mining? They can look at the report and give recommendations. When he used to work in mining, they used to go through MSHA trainings and always had a mining plan.

Councilmember Gonzales said from the start she always voiced keeping the water pools is not a good thing. Other gravel pit managers that came by said that area needs to be filled in. Even if they do water, it is so close to the river that water will get back in there. She hopes they don't get stuck with the big lakes that aren't usable and it will be a huge safety issue for the Tribe. She understands dewatering to stabilize the pit walls but filling them is the best plan because that is how they do it at other plants.

Councilmember John said when they did the permit for the deep pit mining that started the problems of the big water hole. They are going to do the same thing on the east side and they will have the same situation. What can they do to make them stop the deep mining because it is environmentally damaging to all the people that live on a well there, they experience a drop in the water and it has to be monitored by the Environmental Department. The road is damaged, it's built for a residential road, it's not 12 inches for the big trucks and then you have to watch out for them. Environmentally, when they did the NEPA, they should have looked at all this and this probably wouldn't have happened, something must be wrong in the NEPA process for them to approve deep pit mining. Something happened in the process and the needs of the community weren't addressed. What if their wells go dry and the Tribe has no plans to put in a Community System for them (Hill Ranch Road). There is a flaw in the system to allow this to happen.

Mr. Mixson said the lease the Tribe renewed in 2014 was the first time the Tribe gave permission for CEMEX to mine down to 100 feet deep. Up until then they were only allowed 30-40 feet deep. They were told once they got that deep they had to dewater then there were the issues with the wells. The Tribe told them to stop dewatering and they did what they were doing on the east side. Because of that, they agreed they will not mine deeper than 30-40 feet which historically how deep they went. Under that depth of mining, as far as they can tell, there were no issues with the wells. Again, they agreed they would not go further than 30-40 feet on the east side. In the updated mining plan, which is still a draft, they said they will not mine deeper than 30-40 feet, and if they do they won't dewater, they will do wet mining, which is mining in a wet area. Wet mining is really not worth it for the money because of the equipment expense which is what they told them in the past. Before they weren't telling them how much water they were removing from the pit on the east side on a daily basis and they are not pumping 24/7 like they were in the Paiute Pit. Now that they know how much they are taking out, they are limited to 30-40 feet, and they are monitoring the wells. If people start to experience drops in their wells, they need to know about it. For now, it seems it was the deep dewatering when they got down to 100 feet that was causing the issues and they are not going to do that again.

The other issue with Cemex is the discharge permit. When they had all the issues back in 2018-2019, they told them to stop dewatering and they did, but they also alerted EPA that apparently, CEMEX had been discharging to the river without a permit. EPA issued an administrative order to CEMEX which required them to apply for a discharge permit which they did. But the application said they wanted it to go back over a year now and they want a discharge permit so they can resume dewatering in the Paiute Pit so they can start mining again. Since that time, CEMEX's has seen the effect of stopping dewatering and may have realized the Tribe would never let them dewater again, at least on a permanent basis for mining. So, they

have changed their plan and now they just want to demine the pit so they can fix the pit walls. Because they changed their plan, EPA said they now have to submit a new application that doesn't request a permanent dewatering permit so they can mine. Back in April they supplied the letter from EPA to CEMEX and they still have not responded. Essentially, they have to amend their Clean Water Act permit application which they haven't done yet. They are waiting on that and have an open formal consultation with EPA on the Clean Water Act permit application. Once EPA receives their application, they will contact the Water Team so they can comment on it and have a meeting with EPA to discuss.

Truckee Meadows Effluent Pipeline/Tahoe-Reno Industrial Center. They are now laying the pipeline along the Truckee River, this is where the effluent from the sewer treatment plant in Sparks will be piped to the Tahoe Reno Industrial Center (TRIC). They have discussed this topic a lot because they have seen this project coming and have had discussions with the Truckee Meadows Water Authority (TMWA) and the local governments. The position of the Water Team has always been if they want to remove the dirty water and not put it back in the Truckee River, they can support it, but they also have to keep the quantity of water in the river the same, there can't be less water coming down in the lower Truckee River and into Pyramid Lake because they are piping the effluent. TMWA knows that and they have filed applications with the State Engineer to change the water rights for both effluent to get permission to send the effluent to TRIC and they also filed instream inflow applications for Truckee River water rights to keep the river whole. The Water Team looked at the applications they filed with the State Engineer and were not convinced they are keeping the river whole because the applications didn't have enough specificity about how the water rights are going to be managed. The Water Team has filed protests with the State Engineer on behalf of the Tribe that said the purpose of these applications is to keep the river whole but they can't tell from the information provided that its actually going to happen. The protests are being filed and we are now in a holding pattern because the State Engineers Office is the one who will ultimately figure out what to do with these applications and the Tribe's protests. He did have a conversation with TMWA's Water Rights Manager and she said she received the protests and they don't agree with the reasons why these should not be approved, but they are working on a response and want to sit down with the Water Team. This is probably a dispute with TMWA which would best resolved by settlement because in order to get what they want, they can do better through a settlement than they can going through the State Engineer process where only a hearing is held to make the decision. TMWA may be motivated to sit down with the Water Team and work it out because it will drag out with the State Engineer and nobody knows what the State Engineer might do. But whoever doesn't win, there will be an appeal, then court which they are prepared to do but they think they can get what they want which is the removal of the dirty water and replacement of it with clean water and an equal amount. That is their goal and they will update Council when they get a response to their protest. To be clear, they can build a pipe all they want but they can't put any water in it until the permits get the applications approved by the State Engineer.

Truckee Meadows Flood Management Authority (TMFMA). TMFMA is proposing a major flood project, a governmental agency created by the local governments of Reno, Sparks and Washoe County to develop a flood project to build up flood levees along the river in Reno. The issue for the Tribe is what they call the terracing project, the Vista Narrows, which they want to widen out and terrace the riverbank up to various elevations that will allow the water to flow a little more freely because the scenario is a big bottleneck into the river during floods that causes it to back up into Sparks and Reno. They want to elevate the bottleneck by widening the Vista Narrows and creating the terracing. It may be a good engineered result for Reno and

Sparks but it does have impacts for the reservation. There has been river bank and flood modeling done that shows it will cause the river to flow higher at certain areas on the reservation because of the Vista Narrows project. TMFMA has tried to be proactive and contacted the Water Team to say they know there is going to be impacts so they toned down their project to allow more flooding in Reno and Sparks in order to cause less impacts on the reservation. Their proposal is a project they will do themselves just off the reservation where the river could overflow and they will build mitigation. The proposal is to create a mitigation fund for the Tribe where the Tribe can dictate how the funding is used to do bank stabilization, habitat restoration and other mitigation projects on the reservation to address the impacts of their flood project. They started out with \$7 million for the mitigation fund which isn't enough and they know it's not enough. Currently the Water Team is working on a counter offer for how the fund should be, how much money should be in the fund and they are going to base it on the modeling that the Federal Emergency Management Agency (FEMA) has already done that shows where the impacts are going to be and what projects the Tribe needs to do. There may be a report also, that has dollar figures attached. They will bring the proposal back to Council for approval.

Councilmember John said a lot of the farm lands are along the river and every time it floods, they lose their farmland. When you lose farm land you can't request irrigation water for that farmland as it used to be, you have to reduce it which means it helps the people off the reservation to have more water in their system and the Tribe ends up with less farmland for production and water rights get reduced. It's still there but you can't ask for it if your land production is reduced, if the land is washed away and it's not replaced, it works for the benefit of people upstream and not for the benefit of Indian people that live along the river trying to making a living. The impacts of the flood project can be devastating to the Tribe unless they do something to protect the farmland because they only have the irrigation water right and fish spawning water right. What happened to the Dodge Flat water? They don't have it in production, the 3,800-acre feet goes into the system and stays there, someone else is using it. The Tribe can't ask for it because it's not in production. What's going to happen to the water rights? Will they lose it. Mr. Mixson said this is the type of project the Tribe could use the mitigation funding for. Shoring up the river banks so it doesn't flood the farmlands. And the Tribe does have the water rights for the flood waters of the Truckee River called the Unappropriated Water Right and it's 477,000-acre feet water right, which is a part of the Settlement Act, Public Law 101-618. With the Dodge Flat Groundwater, the Tribe has a Federal Reserve Groundwater Right for all the groundwater underlying the reservation, which includes Dodge Flat and you cannot lose Federal Reserve water rights. He hasn't heard the Economic Development proposal for the Dodge Flats in while so he is not sure where this project is. You can't give this away, it's a property in trust for the Tribe and in order to sell it you have to get Congressional approval. It can be leased but you can't lose the water rights.

Washoe County Federal Lands Bill. Mr. Mixson is working with Chairwoman Davis, Richard Frazier, Tribal Land Manager, Betty Aleck, THPO Office and Mervin Wright on this project. Pyramid Lake and the Reno Sparks Indian Colony are adamantly opposed to the Washoe Tribe, having any involvement in the Washoe County Lands Bill because they lack presence in Washoe County. Chairwoman Davis made it very clear, at a meeting in late April, to the Washoe Tribe in person, they were not welcome in the process and they shouldn't be requesting land in Washoe County including lands close to the Pyramid Lake Reservation. They also had a meeting with Senator Cortes-Masto, where Chairwoman Davis gave the same message to her as she did to the Washoe Tribe, which is the Washoe Tribe should not be involved in the Washoe County Lands Bill. She seems to understand the historic boundaries of both Tribes and their influences and

she is going to speak to Senator Rosen's office to get them to understand the same. They are working to get the lands bill to Congress before the August recess, it's challenging but they will see where it goes.

Councilmember Davis asked under recruitment, he mentioned they had hydraulic modeling they requesting comments but the Tribe wasn't going to make a comment due to the funding issue. Her question can BOR, because they don't make a statement, can they use the non-statement against them by thinking the Tribe didn't make a statement so they in effect are in agreement with it. Mr. Mixson said they won't because to be more specific, they are not going to provide technical comments at this time, but they will provide comments later in front of the Court. What he will do is provide written comments that say, they are not providing technical comments but they are not waiving the right to do it later. Along with Stetson, they have been highly engaged in the modeling and with the funding issues, why reiterate the same points they have been making for the last two years, they will save it for Court.

2. STETSON ENGINEERS LLP. Allan Richards.

CEMEX. Mr. Richards said they had three conference calls in April on CEMEX. One with BIA and BLM who are now engaged with them on the CEMEX matter. They have BIA geologists and BLM mining engineers looking at CEMEX's proposed plans for the pit wall repair and their mining plan of operations. They recently received CEMEX's plans to repair the Area A west pit wall, when it was actively mined it was excavated almost to the Truckee River and there is a lot of seepage coming in through the west pit wall into the pit. This is why they had to install pumps to dewater that pit so they could continue to mine. Before they asked them to cease the dewatering activities, they were pumping something in the order of 9000 gallons a minute 24/7 and discharging the water to the Truckee River through the ditch that runs along the east side of their operations. The concern is now that they stopped the mining and dewatering the area it has filled up with water and it's now a lake. And the municipal and local domestic wells have responded, the water levels in those wells came up after they stopped dewatering and the pit filled back up with water. The concern now is they are now proposing to repair this west pit wall by a method that is going to require dewatering again and they have a report from their own geologists that told them the pit wall is more stable with water in it than after it's dewatered. It will take approximately 18 months from when they start dewatering to the time they actually repair the pit wall, it will be a long process through a full season. The concern they are raising is when they dewater this pit for repair, the wall is going to become less stable than it is now with water in it. In addition, part of the repair plan involves cutting deeper into the west pit wall towards the river, it's over excavation for the purpose of putting, what they call a chimney drain on the side of the west pit wall which is a layer of gravel & rock which will help capture the seepage through the wall.

Councilmember Guerrero asked what the elevation is on the pit water now. Mr. Richards said the pit water is more or less the same elevation of the Truckee River. He doesn't have the data readily accessible but it was close to the elevation of the river and there is a perception that it might look higher when you are standing there but it's sort of an optical thing. Councilmember Guerrero said they excavated 150 feet below, top of surface and the Tribe gave them 40 feet the first time and 100 feet after that. He thought they were only supposed to go down 40 feet. Mr. Richards said they ended up at 80 feet deep by the time they told them to stop dewatering, not sure if they made it to the full 100 feet depth but they were deep enough to sever into the aquifer that extends to muni-well number four. In his opinion it wasn't until they got to the

deeper gravels when they severed the aquifer that muni-well four pumps water from and the damage wasn't done in the upper 40 feet. There is some assurance that what happened to the wells in the region won't happen again because they are not going to be able to go deeper than 40 feet in Area D. They can't discharge water to the Truckee River and they are already getting into water and so they are just pumping it into the other pit that is north of Area D. The Area D it is farther away and the ground surface elevation is higher than Area A where they were mining.

Truckee Meadows Effluent Pipeline/Tahoe-Reno Industrial Center. There were ten applications total and they filed in early April. They are awaiting comments from TMWA on those protests.

TROA Meetings and Scheduling. They had two TROA MOA meetings in April, they had a second one because spawning was peaking in April so they were more closely coordinating the fish water releases from Stampede to support the spawning activity in the lower river in April. The Truckee River flow at the Nixon gauge through May 3, 2022 averaged about 375 CFS which was due in combination to the releases they made for fish flows and they had a pretty good rainfall in April. Pyramid Lake elevation at the end of April was 3803 and rising a little because of the large flows.

Councilmember Guerrero asked what was the flow regime model for May through September for what is turned down to Pyramid Lake flows. Mr. Richards referred to the monthly inflows to the Nixon gauge. Ms. Noel responded they are on flow regime six through the end of the month, which is 300 this month then going to 120 next month, and will be stepping it down according to the Cottonwood Recruitment which is no more than two inches per day. Councilmember Guerrero said that his issue with irrigation, if they get to 120, how are they going to run all the ditches/irrigation if they hit 120 in July, how are they going to get enough water for irrigation, claim one. Ms. Noel said on June 1st, all the instream flows will kick in which will increase the flows in the lower river so it should go below 120. But storage in Stampede is low and they are trying to get all the water quality down and the joint program credit water down also just to maintain from June through October. They will maintain some fish water through June because of the LCT fry will still be in the river which is why it will be at 170. Mr. Richards said he doesn't usually attend the TROA MOA meetings, usually it's Ms. Noel and Curtis Lawler from Stetson's Office who does all their River Wear modeling and works directly with the Federal Water Master on the Tribe's scheduling for TROA water and fish releases and they work closely with the USFWS also. They will be calling for the water quality instream flows in June and the claims one and two in July which will be about 80 CFS for the claims one and two water. Councilmember Guerrero asked how much was going down the Hazen gauge. Mr. Richards said they are putting as much down the canal as they can which is over 400 from the Truckee which is from the OCAP.

EXECUTIVE SESSION

Councilmember Guerrero made a motion to *move into Executive Session*. Councilmember Brady 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 8:10p.m.*

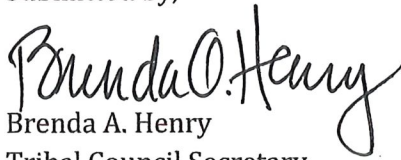
Councilmember Guerrero made a motion to *move out of Executive Session*. Councilmember Dunn seconded the motion. Votes were nine (9) **for** and zero (0) **opposed** with zero (0) **abstentions**. **Motion carried**. *Tribal Council moved out of Executive Session at 8:28 p.m.*

ADJOURNMENT

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

The meeting adjourned at 8:29 p.m.

Submitted by,

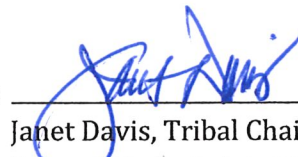


Brenda A. Henry
Tribal Council Secretary

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 **19th** day of **August 2022**, having **ten (10)** members present, constituting a quorum, by the vote of **eight (8)** FOR and **zero (0)** OPPOSED, with **one (1)** ABSTENTIONS.

Minutes attested and concurred by: _____



Janet Davis, Tribal Chairwoman
Pyramid Lake Paiute Tribal Council

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