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 United States Department of the Interior
 BUREAU OF INDIAN AFFAIRS
 WESTERN REGIONAL OFFICE
 P.O. BOX 10
 PHOENIX, ARIZONA 85001



IN REPLY
 REFER TO:
 Tribal Government Services
 (602) 379-6786

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Through: Superintendent, Western Nevada Agency *PLA*

Honorable Bonnie Akaka Smith

Chairperson, Pyramid Lake Paiute Tribal Council

Dear Chairperson Smith:

Being returned, as approved, is the Pyramid Lake Paiute Tribe's Resolution No. P.L. 59-03, consisting of the Tribe's Water and Sewer Ordinance. The Resolution was enacted on July 11, 2003, and approved by the Western Nevada Agency on July 21, 2003.

The resolution has been pending for review and was overlooked when reviewing the files for follow-up. As a result, the time frame for the Secretary's review has elapsed, and is hereby in effect by default due to passage of the 90-day time limit.

The Pyramid Lake Paiute Tribe's Resolution No. P.L. 59-03, consisting of the Tribe's Water and Sewer Ordinance, is in full force and effective as of July 21, 2003, the approval date of the Western Nevada Agency Superintendent.

We apologize for the long delay and not returning the document in a timely manner.

Sincerely,

[Signature]
 Acting Regional Director

Enclosures

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 PYRAMID LAKE TRIBE
 SECRETARY'S OFFICE

Pyramid Lake Paiute Tribal Council

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RESOLUTION NO. PL 59-03

RESOLUTION OF THE TRIBAL COUNCIL OF THE PYRAMID LAKE PAIUTE TRIBE NIXON, NEVADA

WHEREAS, the Pyramid Lake Paiute Tribe (PLPT) is organized pursuant to the provisions of Section 16 of the Indian Reorganization Act (25 U.S.C. § 476) and is federally recognized by the United States Government through the Secretary of the Interior and the Bureau of Indian Affairs; and

WHEREAS, the Pyramid Lake Paiute Tribal Council, the duly elected governing body of the Pyramid Lake Paiute Tribe, is responsible for planning and implementation of policies that directly affects the environment on the Pyramid Lake Paiute Indian Reservation (PLIR); and

WHEREAS, the Pyramid Lake Paiute Tribal Council, pursuant to Article VI, Section 1 (j) of the Constitution and By-laws of the Tribe, realizes the importance of health and general welfare of its tribal membership; and

WHEREAS, providing water and sewer services is vital in developing the infrastructure and protecting the public health of the Tribal communities; and

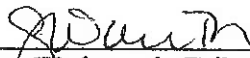
WHEREAS, the PLPT Water and Sewer Ordinance Number 51 will provide the structure for the PLPT Water and Sewer Program to operate in an efficient and responsible manner; and

NOW, THEREFORE BE IT RESOLVED, that the Pyramid Lake Paiute Tribal Council hereby approves the Water and Sewer Ordinance Number 51.

BE IT FINALLY RESOLVED, that the Tribal Council authorizes the Tribal Chairperson to take action as may be necessary to carry out the intent of this Resolution.

CERTIFICATION

It is hereby certified that the foregoing resolution of the Pyramid Lake Paiute Tribal Council, governing body of the Pyramid Lake Paiute Tribe, composed of ten members, of whom 9 constituting a quorum were present at a meeting duly held on the 11th day of July, 2003, was adopted by the affirmative vote of 7 for, 0 against, and 1 abstentions pursuant to the authority contained in the Constitution and By-laws of the Pyramid Lake Paiute Tribe.


Gina Wadsworth, Tribal Secretary
Pyramid Lake Tribal Council

PYRAMID LAKE PAIUTE TRIBE
UTILITY DISTRICT

WATER AND SEWER ORDINANCE

**PYRAMID LAKE PAIUTE TRIBE UTILITY DISTRICT
WATER AND SEWER ORDINANCE
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ORDINANCE NO. 51

**PYRAMID LAKE PAIUTE TRIBE UTILITY DISTRICT
WATER AND SEWER ORDINANCE**

Chapter 1: General Provisions

51-10-010 **TITLE:** This Ordinance is known and may be cited as the "Pyramid Lake Paiute Tribe Utility District Water and Sewer Ordinance" or the "Water and Sewer Ordinance."

51-10-020 **PURPOSES:** The purposes of this Ordinance are to:

- (a) Establish the Pyramid Lake Utility District to ensure proper management of public utility services within the Pyramid Lake Indian Reservation communities; and
- (b) Provide utility services in a manner that promotes the general health, safety, welfare, and peace of the Pyramid Lake Paiute Tribe.

51-10-030 **POLICY:** It shall be the policy of the Pyramid Lake Paiute Tribe that the Pyramid Lake Utility District operate, maintain, and manage the public utilities on the Pyramid Lake Paiute Reservation so that community residents are provided with a high level of utility services. It shall also be the policy of the Pyramid Lake Paiute Tribe that the operation, maintenance, and management of public utilities on the Pyramid Lake Paiute Reservation be carried out through an efficient program and in a financially responsible, cost-effective, and self-sufficient manner.

51-10-040 **DEFINITION OF TERMS:** The following definitions shall apply to this Ordinance:

- (a) "Appurtenances" are the real and personal property owned by the Tribe located on, near, or under the roadways and streets, such as fire hydrants, valves, manhole covers, and drains, etc.
- (b) "Collection Lines" are those sanitary sewer lines maintained by the Utility District by which sanitary sewage collection and disposal services are provided.
- (c) "Contractor" shall mean any individual, firm, or organization that the Utility District enters into a contract with to provide environmental services or utility repairs, design, inspection, construction and reconstruction, or operation services.

- (d) "Customer" means a person, business, agency, or other organization that uses, is entitled to use, or is obliged to pay for the use of or the provision of services from the Utility District.
- (e) "Customer Lines" are the potable water lines or sanitary sewer lines located immediately adjacent to, inside of, or under a Customer's residence or other building or property, which are either connected by a shutoff valve to utility service lines or are maintained by the Customer separately from utility service lines.
- (f) "Distribution System Lines" are those potable water lines or sanitary sewer lines maintained by the Utility District by which utility services are provided to customers.
- (g) "Meter" is a device, maintained by the Utility District for measuring the amount of water provided to a particular customer.
- (h) "On-Site Sewage Treatment and Disposal System" shall mean individual or community septic tanks and subsurface drain fields and associated appurtenances that collect, treat, and dispose of liquid waste generated by customers.
- (i) "Operator" shall mean an individual hired by the Utility Manager to provide daily preventive maintenance and operational service for the public water and sanitary sewer utilities.
- (j) "Pyramid Lake Paiute Reservation" or "Reservation" means all air, land, and water, both surface and underground, located within the exterior boundaries of the Reservation and on any acquired properties outside the exterior boundaries.
- (k) "Public Utilities" shall mean all utilities maintained, operated, or managed by the Utility District within the Pyramid Lake Paiute Reservation on behalf of the Pyramid Lake Paiute Tribe.
- (l) "Regulation" is a law, rule or procedure duly adopted by the Utility Board and approved by the Tribal Council for purposes of implementing the requirements of this Ordinance.
- (m) "Sewage" means all water and solids carrying waste.
- (n) "Sewage Disposal System Cleaner" shall mean any individual, firm, contractor, or organization that the Utility Manager hires to pump out on-site sewage treatment and disposal systems, dispose of the waste material and repair the on-site sewage treatment and disposal systems located on the Pyramid Lake Paiute Reservation.

- (o) "Tribal Council" shall mean the elected Tribal Council of the Pyramid Lake Paiute Tribe.
- (p) "Tribal Lands" shall mean all lands owned by the Pyramid Lake Paiute Tribe and its members, regardless of whether such lands are owned in trust or fee, and all lands within the exterior boundaries of the Pyramid Lake Paiute Reservation and any newly acquired properties outside the exterior boundaries.
- (q) "Tribe" shall mean the Pyramid Lake Paiute Tribe of Nevada.
- (r) "Utility District" means the Pyramid Lake Utility District, a governmental program of the Tribe authorized to operate and maintain public utility services on the Pyramid Lake Paiute Reservation.
- (s) "Utility Board" shall mean the Board appointed under Section ____ - 02-050 of this Ordinance, whose duties include advising the Tribal Council on the operation and maintenance of public utilities and setting of fees and rates.
- (t) "Utility Manager" shall mean the individual hired by the Tribe to oversee and manage the operation of the Water & Sewer Program under the direction of the Pyramid Lake Utility Board.
- (u) "Vendor" is any individual, firm, contractor, or organization that supplies parts, equipment, supplies, and/or services for consideration to the Utility District.

Chapter 2: Establishment of Pyramid Lake Utility District

- 51-20-010 ESTABLISHMENT OF PYRAMID LAKE UTILITY DISTRICT: There is hereby established the Pyramid Lake Utility District.
- 51-20-020 JURISDICTION: The Utility District shall generally operate within the exterior boundaries of the Reservation.
- 51-20-030 AUTHORITY OF THE PYRAMID LAKE UTILITY DISTRICT: The Utility District shall maintain and manage the public utilities of the Tribe within the Reservation. To fulfill these responsibilities, the Utility Board Utility Manager (with the approval of the Utility Board) shall have the power to:
 - (a) Levy and collect reasonable fees for utility services, including but not limited to monthly service charges, connection fees, late fees,

late penalties, construction permits, and other assessments deemed necessary by the Utility Board.

- (b) Provide for the hiring and compensation of appropriate management and maintenance personnel.
- (c) Adopt appropriate regulations and policies to implement the requirements of this Ordinance, subject to any Tribal Council approval required under this Ordinance.
- (d) Authorize disbursement of funds for the operation, maintenance, and repair of utility services.
- (e) Contract with vendors and contractors to assure that safe and reliable utility services are available to residents of Reservation.

51-20-040 UTILITY MANAGER: The Utility Manager shall manage the daily business and operating affairs of the Utility District. The Utility Manager may provide for hiring and contracting personnel for the care and maintenance of the public utilities, provided that such actions shall be taken in accordance with Tribal personnel and financial policies.

51-20-050 UTILITY BOARD: The Tribal Council shall appoint a five (5) member Utility Board consisting of members of the Tribe who reside in Wadsworth, Sutcliffe, and Nixon. The Utility Board shall meet when necessary to review and approve policies, regulations, and fee for service schedules prepared by the Utility Manager. The Utility Board shall have no management or supervisory authority over the Utility Manager.

51-20-060 REGULATIONS AND POLICIES: The Utility District shall adopt regulations or policies as needed to implement the provisions contained in this ordinance. Regulations, fee schedules, and policies must be approved by the Tribal Council before becoming effective, unless the Tribal Council delegates authority to the Utility Board or the Utility Manager to implement certain regulations or policies without further Tribal Council approval. Such regulations or policies shall include, but are not be limited to, the following subjects:

- (1) Fee schedules;
- (2) Billing policies;
- (3) Delinquent payment procedures;
- (4) Maintenance service schedules;
- (5) Emergency notification procedures;
- (6) Emergency response procedures; and
- (7) Inspection procedures.

51-20-070 AMENDMENTS: The Utility Board shall recommend to the Tribal Council amendments to this Ordinance necessary to promote efficient, cost-effective, and self-sufficient operation of the Utility District.

Chapter 3: Operation

51-30-010 SERVICES: The services provided by the Utility District shall include domestic water, sewer, and related appurtenances. The Tribal Council may provide additional services upon recommendation of the Utility Board.

51-30-020 WATER SERVICE: The Utility District is responsible for providing safe, adequate water for a fee to those customers whose residences are connected to Utility District's Distribution System Lines. The Utility District's responsibility for maintenance shall only extend to water sources, treatment facility(s), storage tanks, controls, mainlines, valves, hydrants, and service lines up to curb stop or water meter/valve to the house, and shall not extend to Customer Lines. The Utility District's responsibilities will also include the watering of Tribal facilities such as cemeteries, parks and other community facilities. Interior house plumbing and Customer Lines are the responsibility of the customer. The individual household water meters are the property of the Tribe and shall be maintained by the Utility District.

51-30-030 SEWAGE SERVICE: The Utility District shall provide sanitary disposal of domestic liquid waste for a fee to those houses connected to the Utility District's Collection Lines. The Utility District may, for a fee, provide maintenance and repair of individual on-site sewage disposal systems and septic systems. The Utility District's responsibility for maintenance will include treatment facilities, pumping stations, mainlines and manholes, and service lines to the property lines.

51-30-040 PRIVATE SEPTIC OR WATER SYSTEMS: No person may install a septic system or groundwater well on the Reservation without the prior notification to the Utility District.

51-30-050 MAINTENANCE SCHEDULE: The Utility Manager shall adopt procedures establishing a maintenance service schedule for each water and sewage system. Records shall be kept of all routine maintenance and needed repairs performed.

51-30-060 EMERGENCY NOTIFICATION: Procedures for emergency notification shall be established by the Utility Board. Emergency notification regulations shall notify residents and visitors of:

- (1) At least 24 hour advance notice of any known discontinuation in service;
- (2) Known substandard conditions in water quality, particularly primary standards regulated under the Safe Drinking Water Act; and
- (3) Any other conditions which may adversely affect the health of the community residents or visitors.

51-30-070 LIMITS OF RESPONSIBILITY: The Utility District shall not be responsible for, nor maintain nor repair, any private or domestic water or sewer system, except by specific agreement establishing fair rates of compensation to the Utility District. The Utility District shall not be liable for any loss or damage beyond its control resulting from any defect in, or damage to, a customer's water or sewer lines.

51-30-080 INSPECTIONS: The Utility District and its agents are authorized to make limited inspections, at reasonable times, of any grounds, building or residence served by the Utility District to the extent necessary to ensure that customer utility fixtures, lines, and equipment are not being operated in a manner that would likely disrupt or interfere with utility services. The Utility Manager shall provide customers with at least 24 hours notice prior to entering and inspecting the premises, except in cases of emergency where life or property are threatened, or in cases of immediate water shortages.

51-30-090 DISRUPTION OF SERVICE: The Utility Manager may terminate water or sewage service, or disrupt traffic on the public right-of-way to perform repairs, provided that advance notice has been given to affected customers. Advance notice is not required in cases of emergencies where loss of life or property is threatened, or in cases of immediate water shortage. The Utility District shall not be responsible for consequential damages as a result of lack of water or sewage during authorized disruptions of service.

51-40-100 UNNECESSARY WASTE OF WATER: The Utility Board reserves the right to terminate a customer's service when the customer has repeatedly and unduly wasted water. Such undue waste can be evidenced by the fact that hydrants, taps, hoses, or other fixtures are permitted to run continuously without specific prior approval of the Utility Board. This includes using the municipal water system to irrigate gardens and livestock. Where such conditions have been observed, the Utility Manager shall personally serve the customer with a written notice from the Utility Board to correct the water waste. If the customer does not terminate their water waste within the time specified in the notice, the Utility Manager may terminate water service to the customer. Service shall be resumed only after correction of the condition causing water waste, and payment by the customer of the approved reconnection fee, penalties and any other accounts in arrears to the Utility District.

51-40-110 **CONSERVATION OF RESOURCES:** The Utility Manager shall conduct operation, maintenance, and repair services in a manner that will maximize the conservation of natural, financial, and property resources.

Chapter 4: Fee Schedules and Billing

51-40-010 **FEE SCHEDULE ESTABLISHMENT:** The schedule of fees and required deposits for utility services shall be set by the Utility Board with approval of the Tribal Council. The fee schedule shall be based on the estimated average annual costs for operation of the particular utility service (e.g., water, sewage, solid waste). The monthly fee schedule shall include a basic rate for services provided by the Tribe and/or Utility District, payment of which shall be required of each customer regardless of whether, or the extent to which, the customer uses any of the services during the month. The fee schedule may be adjusted as needed to meet utility operating expenses. The fee schedule may include: user fees, meter fees, construction permit fees, connection fees, disconnection fees, reconnection fees, inspection fees, penalties, late payment charges, and other assessments determined by the Utility Board and approved by the Tribal Council. The fee schedule may be amended if meters are installed to determine actual usage. The fee schedule may provide different rates for residences and different categories of businesses.

51-40-020 **PUBLIC HEARING:** The Utility Board shall hold a public hearing whenever a new or revised fee schedule is proposed for adoption. At least five days in advance of the hearing, the notice of the public hearing with the proposed fee schedule shall be sent to current customers and posted in a public location. Following the public hearing, the Utility Board shall set a fee schedule to be presented for Tribal Council approval, taking into consideration comments received at the hearing.

51-40-030 **NOTICE TO CUSTOMERS:** A copy of the new or revised fee schedule adopted by the Tribal Council shall be sent to each customer at least 30 days prior to the date the established schedule takes effect.

51-40-040 **BILLING RESPONSIBILITY:** The Pyramid Lake Finance Department shall be responsible for billing customers for utility services.

Chapter 5: Enforcement

51-50-010 **REMEDIES AUTHORIZED:** One or more of the following remedies are available to the Utility District for failure of the customer to comply with any provisions of this Ordinance or with any duly adopted regulation of the Utility Board:

- (1) Termination of utility services;

- (2) Assessment of penalties based upon regulations established by the Utility District;
- (3) Assessment of late charges based upon regulations established by the Utility District;
- (4) Assessment of damages from the customer's non-compliance;
- (5) Forfeiture of all or part of a deposit and any accumulated interest;
- (6) Seeking damages based on the customer non-compliance in the Pyramid Lake Tribal Court; and/or
- (7) Referring violations that may involve criminal conduct to the Tribal Police.

In all cases, the billing policy and due process must be followed.

51-50-020 **REMEDY GUIDELINES:** The Utility Board shall use the following guidelines when considering the appropriate sanctions to be imposed in any given case:

- (1) Whether the sanction is required by this Ordinance or other applicable law, or whether imposition is discretionary;
- (2) The minimum sanction needed to effect compliance;
- (3) The harm to operation of the Utility District and to the Tribe if the sanction is not imposed;
- (4) The customer's past record of compliance or non-compliance, or good faith efforts to achieve compliance;
- (5) The harm to other persons or property if the sanction is not imposed; and
- (6) The effectiveness of similar sanction in securing compliance in other cases.

Chapter 6: Customer Grievances

51-60-010 **DETERMINATION FOR GRIEVANCE:** Any person aggrieved by a determination of the Utility District to terminate service(s) or assess damages or penalties may file a written grievance with the Utility Manager.

51-60-020 **TIME PERIOD:** The aggrieved person must file a written grievance with the Utility Manager within ten (10) working days from the date of the action from which the grievance arises, which may be the date the aggrieved person receives the determination letter or other notification of a determination by the Utility District, or else the person's right to grieve the matter is forfeited.

51-60-030 **CONTENTS OF GRIEVANCE:** The written grievance must be addressed to the Utility Manager and set forth the specific grounds for the grievance. The person shall submit all documentary evidence the person wants the Utility Manager to take into consideration.

- 51-60-040 MANAGER DECISION: The Utility Manager shall issue a written decision on the grievance within ten (10) working days after receipt of the grievance. The written decision shall set forth a statement of facts leading up to the grievance and the grounds for the decision on the grievance.
- 51-60-050 ADMINISTRATIVE APPEAL: If the person is not satisfied with the Utility Manager's decision on the grievance, he may submit a written request for an administrative appeal to the Utility Board. The written request for an administrative appeal to the Utility Board must be submitted within ten (10) calendar days from the date the person receives or should have received notice of the Utility Manager's decision.
- 51-60-060 UTILITY BOARD HEARING: The person may request an administrative hearing in his request for an administrative appeal. If the person requests a hearing, the Utility Board shall schedule the hearing within twenty (20) calendar days of the date of receiving the administrative appeal request. The Utility Board shall send the person written notice of the time and location of the hearing. At the hearing, the person may present evidence, inspect the evidence of the Utility District and be represented by legal counsel.
- 51-60-070 FINALITY OF DECISION: The decision of the Utility Board shall be final.

Chapter 7: Miscellaneous Provisions

- 51-70-010 SOVEREIGN IMMUNITY: The Utility District, as a governmental entity of the Pyramid Lake Paiute Tribe, is immune from suit. Nothing contained herein is intended to waive the Tribe's or the Utility District's sovereign immunity from suit.
- 51-70-020 SEVERABILITY: The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part(s).