

JOINT HEARING

Minutes of Meeting -- February 15, 1971

Senate Committee on Federal, State and Local Governments  
Assembly Committee on Government Affairs

A joint hearing of the Senate Committee on Federal, State and Local Governments and the Assembly Committee on Government Affairs was held on February 15, 1971, for consideration of Assembly Bill 190. Chairman Hal Smith of the Committee on Government Affairs called the meeting to order at 3:00 P.M.

Those in attendance were:

- |                           |   |                                  |
|---------------------------|---|----------------------------------|
| Hal Smith, Chairman       | ) |                                  |
| Dave Branch               | ) |                                  |
| Virgil Ghetto             | ) |                                  |
| Frances Hawkins           | ) | Assembly Committee on Government |
| Mary Frazzini             | ) | Affairs                          |
| Nick Lauri                | ) |                                  |
| Joseph E. Dini, Jr.       | ) |                                  |
| Richard Bryan             | ) |                                  |
| Dick Ronzone              | ) |                                  |
| James I. Gibson, Chairman | ) |                                  |
| Warren L. Monroe          | ) |                                  |
| Lee Walker                | ) | Senate Committee on Federal,     |
| Carl F. Dodge             | ) | State and Local Governments      |
| Chic Hecht                | ) |                                  |
| Stan Drakulich            | ) |                                  |

Also present were:

- Eileen B. Brookman, Assemblyman
- Gary Stone, Manager, Carson Valley Water District
- Fred Settlemyer
- Ross Morres, Executive Director, Indian Affairs Commission
- Jose Zuni, Bureau of Indian Affairs
- James W. Long, Bureau of Indian Affairs
- Mervin Wright, Pyramid Lake Tribal Council
- Teddy James, Pyramid Lake Tribal Council
- Albert Aleck, Pyramid Lake Tribal Council
- James Vidovich, Pyramid Lake Tribal Council
- Robert Stitser, Attorney for Pyramid Lake Tribal Council

Melvin Thom, Walker River Paiute Tribal Council  
Paul Richards, Attorney  
Bob Hunter, Head of Inter-Tribal Council  
James W. Johnson, Attorney for Interstate Compact Commission  
Ray Knisley, Tahoe Planning Compact  
Bolton Minister, Nevada Compact Commission  
Roland Westergard, Nevada Compact Commission  
Robert Leighton, Nevada Compact Commission  
Dora Garcia, Secretary to Pyramid Lake Tribal Council

Press representatives.

Chairman Smith outlined the procedure which would be followed during the hearing for witnesses who would be testifying.

Assemblyman Eileen Brookman then made a brief statement introducing several speakers who were present and urging the committees to hear all the testimony and not limit it just to the amendments.

Mr. BOLTON MINISTER was asked to speak first with reference to the proposed amendments to AB-190. He stated that they are largely a matter of semantics, punctuation and re-wording. The Nevada Commission has gone over the amendments and found no substantive change or provision that operates to the detriment of Nevada. The Nevada Commission unanimously recommends to the legislature of the State of Nevada passage of the bill exactly as California has amended it. Mr. Minister then went over each amendment with the committees. A brief explanation of the material he presented is attached hereto. (Exhibit "A")

Chairman Smith then asked what pre-planning Nevada is presently doing in order to assure ourselves of a future water supply. This question was answered by Mr. Westergard, who stated that this is part of the consideration in the development of information upon which a state water plan is based. Through the efforts of several organizations plans are being made to assure future water supplies for this state.

Mr. JAMES JOHNSON then answered questions from the committee. He stated that on the Truckee River Basin California has less than 10% of the waters flowing from the Truckee River allocated to it; therefore, as their protection for the 10,000 acre feet they limited its use to agricultural, domestic and industrial uses. He pointed out that the 10,000 acre feet is less than 2% of the water involved in the Truckee stream system. In response

to a question from Mr. Bryan he also stated that in his opinion nothing in the proposed amendments had impaired the compact as approved by the last session of the Nevada legislature.

In response to a question from Mr. Lauri regarding Article 18, Section (c), and the intent therein, Mr. Minister explained that this language was intended to clarify the misconception that the purpose of the compact was to protect waters for individuals. This is not the point of the compact, but is only for the equitable division of the waters between the two states. With reference to this same section Mr. Johnson explained that this compact does not mean to preclude anyone who has rights under the federal or state law either one. It was also stressed that this compact makes a "first priority" of those waters allocated to Pyramid Lake from the Truckee River.

With reference to page 2, line 2, Article 14, Mr. Bryan asked for Mr. Johnson's interpretation of this amendment. He stated that he felt it adds to the compact and strengthened it as far as Nevada's position because it includes Pyramid Lake as part of the Truckee River Basin. It was because of the appearance of the Tribal Council in California that this language was re-inserted as originally proposed by Nevada.

Mr. RAY KNISLEY spoke to the committee referring to page 7, Article 5, and testified that without this being approved there is no authority for transporting sewage out of the Tahoe Basin. Also with reference to Section (d) the words "including ground water" have been inserted. The 23,000 acre feet is an exchange from California for its existing right. He further testified that they hope this bill will be passed.

Mr. Ghetto questioned Mr. Knisley regarding the amendment allowing the transportation of effluent out of the Tahoe Basin as to whether it would be helpful or adverse to Nevada? He said it will be helpful to the Tahoe Basin and he is not sure in which direction the effluent will go -- at the present time it appears it may go into Alpine Valley. Mr. Westergard commented at this point that they have on record an agreement by some of the people treating effluent at South Lake Tahoe that any of the water supply that originates in Nevada and goes through the facilities of California will still be credited to Nevada.

The next witness to testify was Mr. BOB HUNTER, Executive Director of the Inter-Tribal Council. He stated that he had appeared before the committees during the last session when this compact was under consideration and had indicated then, as he does now, that the compact is unacceptable to Pyramid Lake and the Indians in the State of Nevada. He emphasized that this compact is important not only to those Indians in the State of Nevada, but to all Indians nation-wide. It will set a precedent in Indian water rights, so it is of vital concern to all people. He said they felt that although the compact might be beneficial to the states of Nevada and California, it is still detrimental to the rights of the Indians. The compact intends to legislate water rights on federal or Indian land, and they feel this is wrong. He said they also felt the compact should include the Indian Nation as one of the negotiators and not just include them with Nevada as a whole.

Mr. BOB STITSER, attorney representing the Pyramid Lake Indians, was next to speak to the committees with regard to the proposed amendments to the compact. A summation of the points he made in this matter is attached hereto. (Exhibit "B") Questions and discussion followed his presentation. It was stressed that in any court action the State of Nevada would be bound by a federal court decision.

The committees heard next from Mr. TEDDY JAMES, Chairman of the Pyramid Lake Tribal Council. His statement is attached hereto as Exhibit "C".

Senator Dodge questioned the reference made by witnesses to a 23% increase of acre feet of water upstream on the Carson river. Mr. Johnson, Mr. Minister and Mr. Fred Settemeyer all stated that there was not an increase effected by this compact, and again emphasized that this compact only allocates water as between the two states and not as to individual water users.

Assemblyman Brookman then called attention to Article 4, Section (b), line 34, and stated that they objected to this because of the requirement stated therein that in order to be on the commission one has to be a real property owner. Because the Indians live on federal land, they will not be considered for a position on commissions such as this.

Mr. JOSE A. ZUNI, Superintendent of the Nevada Indian Agency representing the Bureau of Indian Affairs, testified that the

Bureau opposes the compact in its present form and will continue to do so unless the language is changed to adequately protect the water rights of Pyramid Lake and the Paiute Reservation.

Mr. MERVIN WRIGHT, Vice Chairman of the Pyramid Lake Tribal Council and Mr. ALBERT ALECK, also of the Pyramid Lake Tribal Council both spoke to the committees. A copy of their presentations is attached hereto as Exhibits "D" and "E".

There was some discussion at this point as to the deletion of the word "wards" from the compact and just what it would mean to the Indians. Mr. Stitser stated that removal of this word would simply protect the Indians by assuring them of their right to court action. It was emphasized that by leaving the word in as presently proposed, it precludes them from pursuing a court action on that portion of the water allocated to California. Mr. Vidovich spoke to the committee stressing that the State of Nevada would be taking an important step toward making the Indians "first-class citizens" by eliminating the word "wards" from the compact.

The next witness to speak was Mr. MELVIN THOM, Chairman of the Walker River Paiute Tribal Council. He pointed out that they support the Pyramid Lake issue and have a further concern regarding the waters of Walker Lake. He testified that regardless of what had been said the compact does allocate water to different interests other than the two states. It is unacceptable as far as they are concerned with its present wording.

Mr. PAUL RICHARDS, attorney from Reno and representing organizations for the preservation of Nevada wildlife, stated that he had worked for the adoption of this compact for many years. He said that the position they take on this matter is based upon recognition of Pyramid Lake, the Truckee Basin, Lake Tahoe, and so on, and they feel that the adoption of this compact as presently proposed is only the first of many steps that will have to be taken here in Western Nevada for the preservation of fresh water. He stressed that it was their contention that this compact as presently worded is a guarantee to the Indians of certain fresh water and that the allocation and use of the water within the State of Nevada and the problems presented would have to be decided only by this state. He further testified that the Indians have many friends among the sportsmen and businessmen of this state who use the facilities at Pyramid Lake.

Mrs. DORA GARCIA, Secretary of the Pyramid Lake Tribal Council, testified to the committees that it would mean a great deal to the Indian Nation if the word "wards" could be removed from the compact.

The last witness to speak to the committees was Mr. Ross Morres, Executive Director of the Indian Affairs Commission, who testified that they are violently opposed to the present structure of the compact and that it does not look after the best interests of the Indians.

There being no further business, the meeting was adjourned.

Respectfully submitted,

---

Mary Jean Pondi,  
Committee Secretary

TO THE MEMBERS OF THE GOVERNMENT AFFAIRS COMMITTEE

/-134

GENERAL INFORMATION REGARDING THE CALIFORNIA AMENDMENTS TO THE BI- STATE WATER COMPACT.

The first amendment to the Compact suggested by California concerns the definition of the Truckee River Basin in Article II - D and it conforms the language in II - D to the terminology used in the description of the Lake Tahoe Basin to specify that Pyramid Lake is included within the Truckee River Basin as in Article II - C.

The second amendment in Article III - A recognized beneficial uses of water and gave each state the right to determine pursuant to its own law the right to use waters allocated to it by the Compact. There was no provision made in the Compact to require such water to be beneficially used. Therefore, language was amended into Article III of the Compact to require water allocated by the Compact to be beneficially used and to limit the amount of use to such quantities of water as may reasonably be necessary for the beneficial use to be served.

They also amended Article V -D to specify that the total annual gross diversion of water from the Lake Tahoe Basin from all natural sources included groundwater. The intent of Article V - F which related to pumping from the Lake Tahoe Basin in the event of drought emergency. The amendment clarifies the intent of all concerned that pumping from the Lake Tahoe Basin to meet downstream domestic and samitary water requirements was to take place only after all water available from all sources was being utilized to meet such requirements.

The principal changes recommended by California with regard to the proposed Compact relate to the California allocation of water from the Truckee River Basin. As the Compact was presented California was entitled to develop an unlimited amount of additional water from the Truckee River Basin adverse to the Pyramid Lake Indian Reservation but subject to the limitation that all existing beneficial uses of water in Nevada as of the time the additional yield was developed would be reconized and not impaired by the additional development. For the purpose of determining the availability of surplus water for development by California the maximum amount of water to be recognized as being beneficially used on the Pyramid Lake Indian Reservation was specifically limited to the amount of water decreed in the case of UNITED STATES v. ORR DITCH COMPANY, plus domestic use.

This provision was strenously objected to by the Pyramid Lake Indians. Therefore, the language limiting the recognition of the rights of the Pyramid Lake Indian Reservation to the amount specified in the UNITED STATES v. ORR DITCH COMPANY was deleted from the Compact and that the development of additional yields for use in California be subjected to a maximum development of 10,000 acre-feet annually.

Exhibit "A"

There has been no objection voiced to the additional yield to be developed for use in California being adverse to Pyramid Lake and, therefore, only domestic, municipal, industrial and agricultural uses in Nevada will be recognized for purposes of developing the 10,00 acre-feet of additional yield for use in California. The limitation on the recognition of such uses does not affect the remainder of the Compact and exists only for the purpose of assuring California the right to develop some additional water from the Truckee River Basin.

Article VII - D of the Compact recognized present uses of water on national forest lands in the Toiyabe National Forest. It was very difficult to understand the meaning of this provision due to the fact that they could not determine its effect upon the recognition of water rights on national forest lands in other river basins covered by the Compact or the effect of such provision upon other national forest lands within the Carson River Basin. As a result of this confusion it was recommended that the entire provision be stricken from the Compact.

California also made a technical correction in Article VIII - B - 3 to delete obsolete terminology which required a report to be submitted by July 1, 1969.

It has consistently been expressed that the intent and purpose of the Compact was simply to provide for a division of water between the States of California and Nevada and that it was not the purpose or intent of the Compact to either grant to anyone the right to use water or to take away a water right which presently exists. As you are undoubtedly aware, a great deal of concern has been expressed that the proposed Compact might have the effect of adversely affecting the rights of the Pyramid Lake Indian Reservation to the waters of the Truckee River. Additional assurances were necessary not only to provide that the Pyramid Lake Indians would not be adversely affected but that all other water users in the river basins covered by the Compact would, likewise, have their rights protected. Article XVIII - C was added to the Compact in order to assure that the rights of all individuals would be protected within the allocations to the individual states if the Compact in its present form is subsequently adopted by the Legislatures of California and Nevada and ratified by the Congress of the United States.

There was some concern as to whether or not the manner in which the Compact was drafted could be interpreted as granting a compact water right to individuals using water within the State's allocations. This concern was expressed with regard to the allocations within the Carson River Basin and the Walker River Basin. Therefore, subdivision D was added to Article XVIII to specify that nothing in the Compact could be construed as granting to any person or entity the right to divert, store, or use water. The intent of this amendment is to assure that each water user must secure a right under either Nevada or California state law as the case may be, or, have a right under federal law, to use water covered by the Compact in order to have a



water right..

The last amendments are technical in nature and conform <sup>1-136</sup> the references in Article XXII to the changes made by deleting the reference to water use in the Toiyabe National Forest in Article VII of the Compact.

MEMO ABOUT THE CALIFORNIA-NEVADA INTERSTATE COMPACT RE:

THE AGREEMENT DIVIDING THE WATERS  
BETWEEN CALIFORNIA AND NEVADA (THE  
TRUCKEE-CARSON AND WALKER RIVERS)

-----

To adequately protect the water rights of the Indians of Nevada, and to clear up obvious conflicts in the ~~21st~~ Compact bill as it was passed by the State of California, the word "wards" (found in Article 22, Section 3 of the Compact bill) must be DELETED.

So far as the conflicts in the Compact are concerned, article 18, Section C, was amended by the California Legislature from the bill (which was originally sent over to California having been passed by the Nevada Legislature, 1969).

That section C of Article 18 provides that nothing in this Compact shall derogate against any claim or right of anyone (and that includes the Pyramid Lake Paiute Tribe as well as any other tribes) concerning the use of the waters noted in the Compact as those rights may be established under state or federal law.

HOWEVER: this amendment by California is contradicted by the word "wards" in Article 22, Section 3 because: it is provided in that article that the US Congress must bind its 'wards' (another name for Indians) to the substantive provisions of the Compact. (Substantive provisions being those which establish property rights).

So you will find that the Compact as it reads with the word "wards" in it BINDS THE INDIANS OF PYRAMID LAKE, for instance, to Article 6, Section D, of the Compact.

ARTICLE 6, SECTION D; provides that all the waters from the Truckee River, other than a small 30,000 acre feet allocated to the tribe (under Section A, Article 6) and some 10,000 acre feet allocated to California (under Section B), plus other storage rights, are allocated to the State of Nevada. (Nevada comes out very well in this Compact.) Thus, the major share of the Truckee River, which runs some 485,000 acre feet of water on an average year at Stateline, is allocated to Nevada. And through the interaction of Article 22, Section 3, the Congress binds the Indian tribes to that massive allocation to the State of Nevada. Therefore, the Indians are left with only 30,000 acre feet of water.

Exhibit "B"

Now one must look to Article 3 as to how the water would be divided up -- i.e., allocated from the Truckee River in the state of Nevada.

Pursuant to Article 3, It is stated that each state (namely, Nevada here) shall have jurisdiction to determine, pursuant to its own laws, the rights to the use of waters allocated to it herein (in the compact, and in particular Section D of Article 6, explained above). Therefore, the Indians of Pyramid Lake could only assert state law to establish their water rights, and there is no state law in Nevada which gives to Indian tribes any water other than that under State decrees.

Further--State of Nevada Water Law requires that application must be made to the State Engineer for him to make a determination to see if the applicants shall be granted a permit. Because the waters of the Truckee River x have been x allocated by State court and by court decrees and permits in derogation to the Indians (whose reservation was established in 1859), there is really ~~xxx~~ NO EXTRA WATER LEFT that the Indians could apply for under State law.

The only chance that the Pyramid Lake Indian Tribe has to establish water is to look to FEDERAL LAW, not state law, namely, the WINTER'S DOCTRINE established under Winters v. U.S., a Supreme Court case handed down in 1906.

WINTERS DOCTRINE:

This landmark, and other cases (federal law cases) have expanded the doctrine to mean that when Indian reservations were established the United States IMPLIEDLY RESERVED TO THE INDIANS (the Indians did not give up) sufficient waters which flowed through, or bordered or were used by the reservation at the time of establishment (Pyramid Lake, 1859) so that the Indians were provided with the means to make a living for themselves on the reservation.

So far as the Pyramid Lake Paiute Tribe is concerned this means they should have enough water from the Truckee River to maintain the lake ~~xxxxx~~ and sufficient amounts to provide fresh water recharge annually to prevent the water from becoming more saline so that their fishery will not be lost.

Therefore, if the State of Nevada were to pass the Compact just as it was passed by the California Legislature, and if the Congress of the US also passes the same Compact with the word "wards" in Article 22, Section 3, and the ~~xxxxx~~ courts were subsequently to interpret the Compact to mean that the Indians were bound to seeking ~~xxx~~ water only under the laws of Nevada, the Pyramid Paiutes will lose all their meaningful water rights to the Truckee River because there is NO state law which provides for any implied water rights to the rivers appertinent to the reservations AS FEDERAL AX LAW DOES.

The only remedy the Indians would have would be to go to the Court of Claims and seek MONEY for the loss of their water rights. The Pyramid Lake Paiute Reservation would be destroyed, Pyramid Lake would dry up, and the Pyramid Lake Paiute society would end.

Therefore, for the foregoing reasons there is an obvious conflict between Article 18, of the Compact, which says that the Compact shall NOT derogate from the claim of any part which might be established under state and federal law, and the provisions of Article 22, Section 3 and Article 6 Section D, which state that an Indian Tribe cannot provide that a party was in the State of Nevada. In this case the Pyramid Lake Paiute Tribe could only look to STATE LAW to establish their water rights (and we can see how fruitless that would be).

There is a great amount of legislative intent in the California Legislative history regarding the California-Nevada Interstate Compact bill which indicates that the legislature of California meant the Compact should NOT HAVE AN ADVERSE EFFECT PARTICULARLY UPON THE PYRAMID LAKE PAIUTE TRIBE.

Therefore, to make this intent meaningful rather than flim-flam or scheme, the word "wards" should be removed from Article 22, Sec. 3, and the obvious conflict in the Compact regarding the Pyramid Lake Paiute Tribe be cleared up.

cc:

TESTIMONY

TEDDY JAMES  
TRIBAL COUNCIL CHAIRMAN  
PYRAMID LAKE PAIUTE TRIBE  
NIXON, NEVADA

I am here today for many reasons, but they are all because Pyramid Lake is worth saving. I trust that you will agree with me.

First, I am here on behalf of 1400 Pyramid Lake Tribal members who would like to be able to rely upon the Pyramid Lake Paiute Reservation as a place in which they could live and make a living with dignity. Our life blood has always been Pyramid Lake. It is the mother of the greatest fresh water fishery known in the western United States. And its fish fed the Indian tribes from all over the Great Basin area. But now that fishery is largely gone and the Tribe can no longer rely upon the lake to produce its food. Soon, at the rate the water is being diverted away from Pyramid Lake, we, elder tribal members, who have watched this slow disaster creep up on us, can foresee the death of our whole society out at Pyramid Lake--just as the lake dies so do we.

This Compact that you are considering today, in its present form, hastens that death of our Indian society and hastens the death of the lake.

Secondly, I am here to speak for all of us in Northern California and Nevada. The Bureau of Outdoor Recreation of the United States Government has said that Pyramid Lake, if it is allowed to live, will offer more outdoor water-based recreation for the people of

Exhibit "C"

Northern California and Nevada than any other lake in this whole area. This is because of the unique fact that the lake is under one ownership, the Indian tribe, and that Indian tribe has determined that the public interest shall best be served by making available to everyone the beauty of the lake whether they be white, red or whatever color. Finally, I am here today to speak for the unique wildlife of Pyramid Lake. Just recently the Department of Interior published a list pursuant to the Endangered Species Preservation Act of 101 species of wildlife that were in great danger of extinction in this country. Included in that notorious list are the two fish of Pyramid Lake, the Lahonton cutthroat trout and the ancient cui-ui.

You ask me how does this Compact further the destruction of Pyramid Lake and the destruction of our society as well as the finest potential recreation asset this part of the country has? Well I would address your attention to Article XXII of the Compact. Pursuant to that Article, the United States Congress is required, if it approved this Compact, to bind its wards. Wards is another name for Indians. Then you must look to the list of things stated in the Compact to which the Indians are bound.

First, they are bound to Article VII, Section a, b, c and d. This Article is the one that divides up the waters of the Truckee River. Under Section a of Article VII only a mere 30,000 acre feet is allocated to Pyramid Lake. And that is allocated for irrigation use and not the more important use of recreation. But more dangerous is binding of the Indians to Section d of Article VII. When read with Article III of the Compact, you can see that

the Indians are limited to establishing any claim they may have to the Truckee Rivers pursuant to Nevada law. The simple fact is that the Indians could never establish their claim to the waters under Section d of Article VII pursuant to Nevada law because no Nevada law recognizes the Indians water rights to Pyramid Lake. Only Federal law does this. Secondly, the Tribe is bound to the provisions of Article VII which divides up the waters of the Carson River. The Compact gives away a bonus to the upstream Carson users over the lower Carson users from Lahontan Reservoir on down. This bonus amounts to 23% more prior water rights than the upstream users are presently entitled to pursuant to the Carson River decree which presently governs the use of Carson River waters. This 23% bonus amounts to some 9,000 acres of land to receive this priority or probably about 40 to 50 thousand acre feet of water. Thus, in the lower Carson River there will be a large deficiency of water. After watching this creeping disaster over the years, I can't help but think that this deficiency shall be made up by extra diversion from the Truckee into the Carson River and away from Pyramid Lake thus hastening the lake's death as well as our society.

I must call to your attention that Article XVIII, Section c, says that nothing in this Compact shall derogate against any claim of anyone to the use of water which could be established under State or Federal law. This is a very good clause.

However, as you can see from what I have told you already, the fact that the U.S. Congress binds the Indians to the certain provisions then direct conflict with beneficial language of Article XVIII. Our attorney is prepared to tell you that the United States

Congress under the Federal Constitution has the power to grant or take away the property of the Indian Tribes. And the courts have uniformly backed this power up. Therefore, if the Congress binds the Indian Tribes to these important provisions of the Compact which give and take away the water, then, we can't help but feel that Article XVIII is really meaningless for our salvation.

*Teddy James*  
TEDDY JAMES, Tribal Council Chairman  
Pyramid Lake Paiute Tribe  
Nixon, Nevada



February 15, 1971

TESTIMONY

MERVIN WRIGHT  
VICE-CHAIRMAN  
PYRAMID LAKE TRIBAL COUNCIL  
PYRAMID LAKE PAIUTE TRIBE  
NIXON, NEVADA

I am here today to tell you about the despair with which the young tribal members, including myself, view the future.

We look for some sign every day that the white community will respect the contract we made with the United States Government in 1859 and allow us to live as a tribal society on our Pyramid Lake Reservation. But only yesterday, in the Nevada State Journal it was brought home to us that the white society apparently has no intention of recognizing our right to exist as a tribal community. The main story in the Nevada State Journal made note of the fact that in the next 50 years Pyramid Lake and Walker Lake, both the prime assets of the two major Indian reservations in the State, will be sacrificed to the white communities' needs. Further, it was made plain that the State of Nevada's own agent, its State Engineer, conducted his study without any recognition of the right of us to continue to live at Pyramid Lake. Of course, we had come to expect this from the State Engineer because he has already attempted to exercise his jurisdiction and give away the waters on the South Fork Reservation in Elko County to people outside the Reservation, even though the waters come from a spring that is on the Reservation itself. If, despite the fact, that there is a clear Court decision in the U. S. District Court in Nevada that the State Engineer has no

Exhibit "D"

jurisdiction on Federal preserves. Your response to this obvious lack of concern by the white community and its agents, such as the State Engineer, relative to the proposed destruction of Pyramid Lake and the death of the Tribe might be that this is an unsequential matter compared with a promotion and development of a tremendous population and industrial empire in northern Nevada. To this I must respond as follows:

1. The white community intended the destruction of the lake and the death of the Tribe in 1859 why did it make a deal with the Tribe giving to the Tribe the Pyramid Lake Reservation which included the Pyramid Lake which provided the Tribe with its source of food and livelihood. At that time the Government told us that this Reservation would be a place in which we could always live as a Tribe and make a living there because the fish would always be plentiful in the lake and, therefore, our home would always be hospitable. Instead, in 1906, the Federal Government began diverting away our water to irrigate the reclamation project in the lower Carson Valley. Instead of making this reclamation project adhere to efficient use of water standards that the Government imposes on other reclamation projects, the Government is allowing a tremendous waste of water in the lower Carson project, which if curbed, could save approximately <sup>200,000</sup> ~~2000,000~~ acre feet of water a year, more than enough to maintain our beautiful lake and serve all other interests that are now entitled

to water. Therefore, because we made a deal with the United States Government in 1859 to lay down our arms in return for a hospitable place to live, we think the Federal Government and the State Government, as well, are bound to live up to their deal and not welch and destroy our lake and our society. It is time for you as legislatures to look in the mirror and determine whether if you were in the position of the Indians and had made a supposedly binding contract if whether you would like it if somebody callously breached that contract with the obvious intent of destroying your home and even your family. This is the situation we are in. This was certainly evident in the story which appeared in the Nevada State Journal yesterday.

2. Even though the promoters and real estate developers would like to blanket this beautiful northern Nevada area with industry and homes, I would like to ask you whether or not this is in itself a form of self-destruction, not only for the Tribal community at Pyramid Lake, but for a white community as well. Can this fragile, desert country of ours stand such tremendous development that would increase the population from 1.2 million the great basin area to 3.2 million within 50 years. I would like to suggest that instead of promoting such development in our fragile environment that you instead consider strict zoning and anti-pollution laws that will prevent this self-destruction.

The preservation of Pyramid Lake at its present level, the maintenance of the Pyramid Lake Paiute Reservation and the Tribe is in the best and wisest interest of both your society and mine. Pyramid Lake is the most beautiful desert lake in the United States. It has been termed as having the greatest recreational potential of any lake in northern California and Nevada. We should not do acts, such as passing the Compact in its present form, which will tend to dry up that lake and destroy that recreation resource.

If we dry up our recreation resources so that we can fallaciously promote more population and industrial development, aren't we going to choke on this population and development?

Life in this beautiful area if it is to mean anything at all we must preserve priceless outdoor assets so that we can recreate among them. This has long been the only solace for the tribal members, whose unemployment run 81% compared with a mere <sup>4 to 7%</sup> ~~6%~~ for Washoe County as a whole. Thus, because most of you have been so busy turning the crank of commerce you have not had time to think about the disaster that will surely occur if we continue to feed the monster of commerce and thereby destroy our natural recreation resources. All that you need to do as legislatures to protect the Tribe, as well as your own invaluable recreation resource, the beautiful Pyramid Lake, is to remove the word wards from Article XXII of this Compact. This would remove the conflict that is presented with the word wards in Article XXII and the beneficial intent of the contradictory Article XVIII. I think we are asking you a very small thing to do. I would respectfully urge your favorable consideration of this action.

---

Mervin Wright, Vice Chairman  
Pyramid Lake Paiute Tribe  
Nixon, Nevada

February 15, 1971

TESTIMONY

ALBERT ALECK  
TRIBAL COUNCILMAN  
PYRAMID LAKE PAIUTE TRIBE  
NIXON, NEVADA

You have probably already heard how one little word in the Compact spells disaster for the Pyramid Lake Paiute Tribe, as well as the beautiful Pyramid Lake which provides so much enjoyment to so many thousands of people. Although you may be embarrassed to say it, you may be thinking that the Tribe as well as the lake is expendable, because it is owned by a small band of 1400 people which carries small weight when compared to the powerful economic interests which wish to divert the Tribe's water, and will be able to do so with impunity if this Compact is passed. However, in my years of reviewing this problem, I have come to the belief that no present bonafide users of water of the Truckee River need be shorted if this legislature were to protect the Tribe by taking out the word wards in Article XXII, and if the Tribe were to go on and perfect its water rights for Pyramid Lake that it has now pending in the Federal Courts.

I say this because I have carefully reviewed the Department of Interior's studies relative to water uses in the Truckee and lower Carson Rivers. That study made by one of the world's most famous water experts, Mr. Wayne Criddle, former State Engineer for the State of Utah, shows that only one out of every five acre feet

Exhibit "E"

of water that is used in the lower Carson River, and that includes about 250,000 acre feet of water which is diverted from the Truckee there each year, is actually consumed by the crops which that water is supposed to feed. The other four acre feet are lost through waste. As a matter of fact, the Newlands Reclamation Project is one of the most wasteful reclamation projects in the United States.

In regard to other reclamation projects in the United States, the Department of Interior requires at least a 65% efficiency ratio. This means that for every three acre feet of water diverted to the project, two acre feet are actually consumed by the crops.

In the Newlands Project there are about 57,000 acres of crops. In the whole lower Carson River area there are only 71,900 acres of crops. Now, lets compare this with the average water available and show you what has happened.

In an average year the Carson River runs 242,000 acre feet at Ft. Churchil. The average crop in the lower Carson watershed consumes 1.7 acre feet of water during the full growing season. Therefore, if you could round these figures off to 72,000 acres of cropland times 2 acre feet actually consumed by the crops you would come up with a irrigation requirement of only 144,000 acre feet of water. But you must add another acre foot for transmission loss and evaporation and other waste that can be ordinarily expected in the noraml operation of irrigation projects in the West. Therefore, adding another 72,000 acre feet of water to the 144,000 acre feet of water consumed by the crops you come up with a total of 216,000 acre feet of water required to irrigate the whole lower Carson area.

As you can see this is only a 65% efficiency ratio which is required in other reclamation projects in the West. And, as you can see, the real requirement of only 216,000 acre feet of water is far less water than the Carson River runs by itself, since its average yearly flow coming into Lahontan Reservoir is 242,200 acre feet, for a margin of 26,200 acre feet of water over what is required for irrigation if the lower Carson users would be held to the same standard of irrigation efficiency as other reclamation projects in the West.

Now, it has been said that the Stillwater marshes will die if Pyramid Lake and its tribe is allowed to survive. We have always considered this argument a sham. The Stillwater marshes were always there when those marshes were fed by only the Carson River and <sup>should</sup> the lower Carson irrigation project would be limited to merely the flow of the Carson River, the Stillwater marshes would still be there because of the tremendously high water table and natural drainage into the Stillwater marshes.

We readily admit that the Stillwater swamp area has become enlarged through the last 60 years of tremendous diversions of water from the Truckee River into the Carson watershed and the largely wasteful use of the water once it was taken out of the Truckee River. But the enlargement of the swamps in the Stillwater area is not exactly a blessing for the water fowl there. The experts in the field say that large bodies of very still water is the ideal breeding place for the dread Botulism disease which is the scourge for wild ducks, geese and swans. This is why some 1500 birds died down in the Stillwater area last summer, if you will recall. They were inflicted by Botulism which spawned



in these vast pools of still waste water.

But, I ask you, is it worth killing the outstanding recreation resource of Northern California and Nevada which is Pyramid Lake and killing the Pyramid Lake Tribal society and making their Reservation worthless just so the wasteful use of water can be continued in the lower Carson River area? Why can't this legislature leave the Tribe alone by this Compact; take the words out of Article XXII and leave us a fair chance in perfecting our water rights and stop the waste that has been going on. If we succeed in doing this, I am sure that whitemen and the redmen can all live in this wonderful State in harmony with the water that we have.

Albert Aleck, Tribal Councilman  
Pyramid Lake Paiute Tribe  
Nixon, Nevada