

# Pyramid Lake Paiute Tribal Council

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## PYRAMID LAKE PAIUTE TRIBAL COUNCIL WATER TEAM MEETING MINUTES Tribal Chambers January 31, 2020

### Members Present

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

Members Absent Alan Mandell, Vice Chairman

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Chairman Sampson Sr., called the January 31, 2020 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. Vice Chairman Mandell was absent. All other Tribal Councilmembers were present at roll call and a quorum was established for this meeting.

### APPROVAL OF AGENDA

Vice Chairman Mandell requested one addition to the agenda.

1. Add under Consent Agenda #2. Approval Ratification Poll Vote Reschedule Water Team meeting and #3. Approval Stetson Engineers Inc. December 2019 Invoice.

Councilmember Janet Davis made a motion to *approve the agenda with the additions*. Councilmember Harry seconded the motion. Votes were **eight (8)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.**

### CONSENT AGENDA

Following items were approved on the consent agenda:

1. Approval of Minutes: August 21, 2019 WTM
2. Approval Ratification Poll Vote Reschedule Water Team Meeting

3. Approval Stetson Engineers Inc., December 2019 Invoice

Councilmember Judith Davis made a motion to *approve the consent agenda*. Councilmember Ely-Mendes seconded the motion. Votes were **eight (8)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.**

**NEW BUSINESS**

**1. Approval to Post 30-Days Aquatic Species Ordinance.** Diana Mitchell, Law & Order Committee

Ms. Mitchell is requesting to post for 30-days the Aquatic Species Ordinance. Recommendation from Law & Order Committee was to forward to Water Team meeting for approval to post.

Councilmember Judith Davis made a motion to *approve the request for a 30-day posting of the Aquatic Species Ordinance*. Councilmember Janet Davis seconded the motion. Votes were **eight (8)** for and **zero (0)** opposed with **zero (0)** abstentions. **Motion carried.**

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

**1. Approval to use Extracted Willows from Numana for Truckee Meadows Parks Foundation.** Emily Hagler, Wetlands Specialist

Ms. Hagler is requesting for the Truckee Meadows Parks Foundation to come to the Reservation to collect willows Numana Wetlands below the Numana fish hatchery. It's a part of the Numana wetlands restoration plan that was pre-approved in 2017 to remove willows. By doing this they will have a large group to remove willows without any additional cost. They will be planting them on the Rosewood Golf Course to turn it back into a wetland and to improve water quality along the Truckee river. Councilmember Wadsworth stated in Ms. Noels report it stated the Inter-Disciplinary Team (IDT) approved with the usual recommendations, what are the usual recommendations. Ms. Hagler said they will be required to have Natural Resources staff members with them, to respect the areas they are not allowed to be in, stay on established roads, not pick up and remove any items. Councilmember Mix asked if they will have to do an environmental impact study for picking along the river. Ms. Hagler said they won't be picking along the river, they will be picking within the wetland, this is in accordance with a pre-approved plan in 2017 to restore Numana Wetland to have it function better because there are willows in that system that they've been slowly collecting patches out of for several years to increase the age diversity of the willows and to allow them to grow straighter for members who want to collect willows for basket making. Councilmember Mix asked about the water for growing the willows. Ms. Hagler said they will be cutting them at the surface so they'll just grow back like they do every year but straighter. The willows will be planted in their wetlands just off of the Steamboat Creek which will stabilize the banks which will help the water not move mercury downstream.

Councilmember Harry made a motion to *approve the extraction of willows for the Truckee Meadows Parks Foundation*. Councilmember Harry said the only request she had were received from the committee who wanted a specific date of when they'll be pulled, so they can go down there before. Ms. Hagler said the willows they'll be collecting won't be good for basket making. Councilmember Harry added to her motion *for one-time use/collection*. Councilmember Judith Davis seconded the motion. Votes were **seven (7)** for and **one (1)** opposed (Mix) with **zero (0)** abstentions. **Motion carried.**

## **2. Approval of Contract for US Fisheries and Wildlife Service Fish Passage Design and Permitting at Numana Dam.**

Ms. Noel is here for approval of a contract the fish passage at Numana Dam, this is for the design and permitting. They had three (3) bids come in, they were reviewed by Tim Loux, USFWS, Kameron Morgan, Water Quality Manager, and herself. The Stetson proposal was the lowest bid with the most experience so they're recommending Stetson for the contract for design and permitting of the fish passage at Numana Dam. Councilmember Wadsworth asked why they are including the cost to come out and look at the proposed area. Ms. Noel said it's because they're traveling the farthest, the other two are Reno companies and they didn't have any experience. They will do it in coordination with other tasks already scheduled here. Councilmember Harry said she thought the RFP had it included. Tim Loux is hoping to get some of the materials with the remaining funding budget since he said it won't pay for the whole project. To complete the construction project will be a whole new bidding process. The current fish ladder right now doesn't let Cui-ui go over it and it's also hard for the Lahontan Cutthroat Trout (LCT) because attraction flows come from both sides of the dam, where the dam cut out is and they're somewhat confused at the bottom. It's also not a good gradient for the fish to go through. The new design will start further down where the old fish filter is located up to the downstream top of Numana Dam. There will be resting pools along the way and the new ramp will allow the fish to slowing swim up. There will be a channel in the middle with a higher velocity for attraction flows to get them going in the right direction. Councilmember Harry asked what impacts to the banks will this possibly have. Ms. Noel said the design will include stabilizing them because it's going to be some big boulders that will have to stay in place during flood events. Councilmember Mix asked where will the rocks be coming from. Ms. Noel said CEMEX would be great but she doesn't know if they have that type of rocks or see if there is any construction around that have large rocks they need to remove. They will have to look into it. Councilmember Mix said they would be bringing in rocks with sediments on them. Ms. Noel said they could require them to be washed, especially if they came from an area with a lot of white top. That will be reviewed with the permitting. Ideally, they would like the design to be completed in 15 weeks but the permitting may take longer than that. It will probably be 6-8 months. Hopefully construction will begin in the fall before spawning next year. Tim Loux or a new person will be the project manager. Budget for the whole project is 2.2 million and they have 1.6 million now.

Councilmember Ely-Mendes made a motion to *approve the Request for the Contract for the fish passage design and permitting Stetson Engineers Inc*. Councilmember Harry seconded the motion. Votes were **seven (7)** for and **zero (0)** opposed with **one (1)** abstention (Wadsworth). **Motion carried.**

## **WATER TEAM REPORT**

### **Chris Mixson, Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP. Report Submitted**

**Endangered Species Act Section 7 Consultation.** Mr. Mixson provided a background to the new Councilmembers. This is the Bureau of Reclamation (BOR) re-initiation formal consultation with the US Fish & Wildlife Service (USFWS) under Section 7 of the Endangered Species Act regarding the 1997 Amended Operating Criteria and Procedures (OCAP) for the Newlands Project. They haven't relooked at this since 1997, they're supposed to do it every 10 years if not every 5 years. The way it works is the action agency, which is BOR, requests consultation and send the biological assessment to USFWS where BOR is assessing what BOR thinks the impacts are on the fish. Then USFWS takes the biological assessment and they create a biological opinion (BO) and the BO is what really matters to the Tribe because that has conservation measures, it'll have an incidental take statement which tells BOR and TCID how many of these listed fish they can accidentally kill every year while they're operating the project and they've never had an incidental take statement before in the 1997 opinion. Now we have LCT in the lower river, they are at risk of going into the Truckee Canal, which wasn't the case in 1997. After a couple of years of meetings, BOR provided their draft assessment to the Tribe and to the USFWS for comment. The water team provided comments by January 13<sup>th</sup>, which was the deadline, he will provide a copy of the comments in his next memo and they can discuss more then. They are not holding their breath that they will change anything in their biological assessment on the Tribe's comments. What matters most is the USFWS biological opinion. They are working with the USFWS in Reno and that's where they'll get the most impact is through the BO. One of the concerns is there is some modeling that's been done to determine what are the effects on the LCT and Cui-ui by diverting the water into the Truckee Canal. The scientists want to know how to quantify this effect. A lot of the questions comes from the modeling. Another concern is the Pyramid Lake level.

**TROA.** Mr. Mixson said the Newlands Project Credit Water (NPCW) which allows the US to store Truckee River water in upstream reservoirs that would have otherwise been diverted to Lahontan Reservoir by TCID. If hydrologic conditions allow, it converts to Fish Credit Water that can be used exclusively by the Tribe in lower Truckee River and Pyramid Lake. If TCID ends up needing the water later in the irrigation season, it can divert it at Derby Dam to Lahontan Reservoir.

BOR wants to establish Newlands Project Credit Water based on the water TCID is not able to physically divert during current construction of the new fish screen on Derby Dam/Truckee Canal. The Tribe does not agree because NPCW can only be stored when TCID could actually divert the water. After the Tribe's initial objection, BOR reduced its proposal for NPCW in half. Presently this is an academic exercise because the hydrologic conditions in the Carson River basin prevent BOR from establishing NPCW, but we continue to push the Tribe's position with an eye toward the potential precedent created during the fish screen construction. If BOR tries to establish NPCW in February or March, they will submit a written objection for purposes of making the record clear in case they attempt to do it in the future.

**Swan Lake/Lemon Valley.** Mr. Mixson reminded Council when Washoe County approached the Water Team with a request to pump water out of Swan Lake because of flooding and pipe it though the RSIC in Hungry Valley and it will flow through a drainage out into the desert. They recognized immediately that it's possible the water could flow to Pyramid Lake. They are proposing 3 cfs of water, Council at the time said they should study it and come back to Council, but the next thing they found out they filed an application with the State Engineer for this project. They did not send a draft to the Tribe so the Tribe filed a formal protest on December 16, 2019. In Swan Lake there is a combination of storm water and effluent, on the application they only said they would pipe the storm water and not the effluent but they're mixed together in the lake so it's impossible to separate them. They're also saying this is an in-stream flow project for wildlife and it's not, it's an effluent removal project.

**Washoe County/Truckee Meadows Federal Lands Legislation.** Mr. Mixson has been working this with the Chairman, Vice Chairman and Richard Frazier, Lands Manager. Washoe County is the lead on the bill, they are working closely with Reno and Sparks. He provided a description of how the process works. The Pyramid Lake Paiute Tribe and the Reno Sparks Indian Colony are leading the support for the lands for cultural reasons. Chairman Sampson Sr., said he's asked Betty Aleck, THPO, to look at the maps and review for cultural sites. The Tribe will eventually put a proposal together and will come to Council for approval to submit to Washoe County and the local governments.

**Proposed Pumped Energy Storage Project.** Mr. Mixson said this is a proposal from a company out of California to build a hydropower project on the north east part of Pyramid Lake where they will use solar during the day to create energy to run pumps to pump water out of Pyramid Lake to proposed reservoirs in the mountains. When there is demand for power they will release the water and the water coming back down to Pyramid Lake will go through a turbine a and produce power. Of course, they didn't consult with the Tribe before they filed the application. By the way, they filed another one for Walker Lake. The Tribe has filed comments with the Federal Energy Regulatory Commission (FERC) opposing the project. It's on the reservation, they can't do it without consultation with the Tribe.

#### **Alan Richards, Stetson Engineering Inc., Report Submitted**

**Washoe County Application No. 89265 (Swan Lake).** Mr. Richards said the proposal is to pump water from Swan Lake (treated effluent and storm water runoff) to the Warms Springs Valley and potentially to the Pyramid Lake basin. He thinks what's going to kill this application they've identified reservations lands as place of use and the State Engineer doesn't approve applications for lands that are not owned by the applicant.

**TROA Meetings and Scheduling.** Mr. Richards had their TROA parties meeting on December 12, 2019 regarding their monthly TROA scheduling with the Water Master. On December 19, 2019 they had a meeting with the US Department of Justice in Sacramento to discuss BORs interest in establishing Newlands Project Credit Water during construction of the fish screen at Derby Dam.

**Reclamation's ESA Consultation for OCAP.** Mr. Richards said they submitted their comments in January. The USFWS has reached out to Stetson for help to modify some assumptions that BOR used on what the effects will be on the fish.

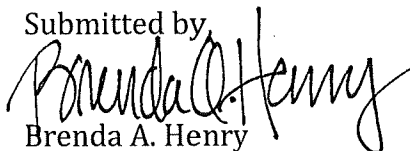
**Lower Truckee River and Pyramid Lake.** Mr. Richards provide copies of figures to his report. The river averaged 450 cfs at the Nixon gauge in December which is above the fish flow target. The fish flow regime is based on targets that were necessary for spawning, minimal to keep everything alive. There are gauges at Nixon, Numana Dam, below Derby Dam and at Vista. The lake elevation 3807.4 which there is still a good flow going into the lake and evaporation is slowing down. A table was provided to Council that showed the Truckee River inflow to Pyramid Lake trend showing 2016 as a drought year, 2017 as the year it flooded, 2018 was normal, and 2019 being above normal.

**ADJOURNMENT**

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

The meeting adjourned at 7:35 p.m.

Submitted by



Brenda A. Henry  
Tribal Secretary

**CERTIFICATION**

The foregoing minutes were adopted by the Pyramid Lake Tribal Council, governing body of the Pyramid Lake Paiute Tribe, at a meeting duly held on the **19<sup>th</sup>** day of **February**, 2020, having **ten (10)** members present, constituting a quorum, by the vote of **nine (9)** FOR and **zero (0)** OPPOSED with **zero (0)** ABSTENTION.

Minutes attested and concurred by:



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

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