



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

DEC 19 2008

The Honorable Mervin Wright Jr.  
Chairman  
Pyramid Lake Paiute Tribe  
P.O. Box 256  
Nixon, Nevada 89424

Subject: Approval of the Pyramid Lake Paiute Tribe Water Quality Standards

Dear Chairman Wright:

On January 30, 2007, the Environmental Protection Agency approved the Pyramid Lake Paiute Tribe (PLPT) application for Treatment in the Same Manner as a State (TAS) to administer the water quality standards and certification program under Sections 303 and 401 of the Clean Water Act (CWA). Today, I am pleased to approve the PLPT water quality standards submitted to EPA in October 2008. These standards were adopted by the Pyramid Lake Paiute Tribal Council on September 19, 2008, by PLPT Resolution No. PL 66-08. They were certified by the Tribe's Attorney on October 2, 2008, and submitted to EPA for approval on October 3, 2008.

EPA's action is pursuant to CWA Section 303(c)(3) and 40 CFR 131.5 of EPA's implementing regulations, and pertains to those tribal regulations governing water quality standards for surface waters within the exterior boundaries of the PLPT. Specifically included are the portions of those regulations addressing beneficial uses, water quality criteria, antidegradation, and implementation of water quality standards for surface waters. To be consistent with the PLPT's TAS approval, EPA is approving the PLPT WQS to apply specifically to those waters for which the Tribe has received TAS approval.

We would like to commend the Pyramid Lake Paiute Tribe for its long and extensive efforts to establish protective water quality standards for its waters. We particularly wish to thank the PLPT staff and their consultants who were involved particularly in the early years of the standards development process for their hard work, persistence, and cooperation in accomplishing this goal.

Section 7(a)(2) of the Endangered Species Act states that each federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species (listed species) or result in the destruction or adverse modification of critical habitat. The U.S. Fish and Wildlife

Service (Service) has been a long term participant in the PLPT WQS development process, and, as such, EPA has initiated informal consultation with the Service regarding our anticipated action on these standards.

Pursuant to the August 2002 Memorandum of Agreement between the Environmental Protection Agency, Fish and Wildlife Service, and National Marine Fisheries Service Regarding Enhanced Coordination Under the Clean Water Act and Endangered Species Act (MOA, EPA-823-R-02-003), EPA is consulting with FWS and NMFS on Section 304(a) criteria. The MOA provides that, during the 304(a) consultations, EPA may approve state water quality criteria that are identical or more stringent than the existing 304(a) criteria, pending the results of the national consultations, and that such action will be covered by the national consultation. The standards adopted for Pyramid Lake are identical or more stringent than the existing 304(a) criteria for the respective pollutants. Accordingly, EPA is deferring consultation on this action pending completion of consultation on the final national criteria, and is approving the standards applicable to Pyramid Lake subject to the national consultation under section 7 of the ESA. Concerning the standards applicable to other PLPT waters (e.g., the Truckee River), EPA has determined that today's action will have no effect on any federally listed threatened or endangered species or critical habitat because the tribal standards for protection of aquatic and wildlife habitat provide essentially the same level of protection provided by the standards already existing for these and upstream waters, and the more stringent standards adopted by the Tribe are for protection of human health.

The water quality standards regulations at 40 CFR 131.20 requires that the Pyramid Lake Paiute Tribe hold public hearings at least once every three years for the purpose of reviewing its water quality standards and, as appropriate, modifying them or adopting new standards.

We look forward to working jointly with the Tribe on future reviews of your standards. If you have any questions, please contact Janet Hashimoto of the Standards and TMDL Office at (415) 972-3452, or Phil Woods at (415) 972-3405.

*Congratulations & thank you!*

Sincerely,

*Alexis Strauss 19 Dec. 2008*  
Alexis Strauss  
Director, Water Division

cc: Dan Mosley, Pyramid Lake Environmental Department  
Robert Williams, Director, U.S. Fish and Wildlife Service, Reno, Nevada  
Caroline Whitehead, (EPA Headquarters, Mail Code 4301)