# IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

FILED
AUG 30 2007
STATE ENGINEER'S OFFICE

STATE ENGINEER'S OFFICE

IN THE MATTER OF APPLICATION NUMBER. 76000

FILED BY. KOBEH VALLEY RANCH LLC

ON JUNE 29, 2007, TO APPROPRIATE THE

WATERS OF UNDERGROUND (EUREKA COUNTY)

PROTEST

Comes now EUREKA COUNTY
Printed or typed name of protestant

whose post office address is P.O. BOX 677, EUREKA, NEVADA 89316
Street No. Or P.O. Box, City, State and Zip Code.

whose occupation is POLITICAL SUBDIVISION and protests the granting

of Application Number 76000 filed on JUNE 29, 2007

by KOBEH VALLEY RANCH LLC to appropriate the

waters of UNDERGROUND situated in EUREKA
Underground or name of stream, lake, spring or other source

County, State of Nevada, for the following reasons and on the following grounds, to wit:

SEE EXHIBIT "A" ATTACHED

THEREFORE the Protestant requests that the application be DENIED
Denied, issued subject to prior rights, etc., as the case may be

and that an order be entered for such relief as the State Engineer deems just and proper.

Signed Kenneth F. Benson
Agent or protestant

KENNETH BENSON, CHAIRMAN, COUNTY COMMISSIONERS
Printed or typed name, if agent

Address P.O. Box 677
Street No. or P.O. Box No.

EUREKA, NEVADA 89316
City, State and Zip Code No.

Subscribed and sworn to before me this 24th day of AUGUST, 2007

JACKIE J. BERG
NOTARY PUBLIC, STATE OF NEVADA
EUREKA COUNTY• NEVADA
CERTIFICATE # 05-100599-8
APPT. EXP. OCT. 6, 2009

Jackie J. Berg
Notary Public

State of NEVADA

County of EUREKA

**$25 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.**
**ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.**

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# Exhibit "A"

## Eureka County Protests to Kobeh Valley Ranch LLC Application Nos. 75979 through 76009

1. Kobeh Valley is a designated basin per NRS 534.050. Ground water in the basin is fully or nearly fully appropriated at approximately 18,000 acre-feet per year. Granting change applications that are not supported by adequate proof of beneficial use will cause the basin to be over pumped to the detriment of the basin, prior existing water rights holders and in direct conflict with forfeiture provisions of Nevada water law. In the same way, transfer of ground water rights that supplement surface water irrigation rights will cause the basin to be over pumped to the detriment of the basin and prior existing water rights holders.

2. Existing USGS reports suggest that Kobeh Valley may provide 9,000 acre-feet per year to Diamond Valley as underflow. Sustained over pumping in Kobeh Valley is likely to reduce that amount and affect prior existing municipal water rights held by Eureka County and Devils Gate GID that supply the majority of the population in Diamond Valley.

3. Sustained over-pumping in Kobeh Valley is likely to impact irrigation and stockwatering water right holders in Kobeh Valley and impact domestic well owners. Sustained over-pumping in Kobeh Valley may impact irrigation and stockwatering water rights and impact domestic well owners in Diamond Valley and Pine Valley. The owners of these rights contribute to the long-term economic viability of the greater Eureka community; therefore, unless adequately mitigated, such impacts may prove detrimental to the health and welfare of Eureka County.

4. Hydrologic properties of the proposed points of diversion are currently being analyzed; therefore, impacts associated with sustained pumping of substantial water rights at the proposed points of diversion are not known. Propagation of the cone of depression from the proposed points of diversion must be adequately determined prior to granting the applications. Eureka County requests the ability to review all hydrologic data offered in support of the applications.

5. Some of the proposed points of diversion lie in Basin 139, while the proposed place of use may ultimately include portions of Basin 153 (Diamond Valley) and Basin 53 (Pine Valley); therefore the applications may call for a transfer of ground water out of the source basin for use in another basin. Compliance with the requirements of NRS 533.370(6) must be met.

6. There are currently 5 outstanding applications to appropriate underground water in Kobeh Valley for irrigation and 13 applications to appropriate underground water in Kobeh Valley for mining and milling. These applications are protested by numerous parties including, Eureka County, the Department of Interior and numerous private interests. Eureka County requests that a decision be rendered on these applications prior to dispensation of the present applications.

7. The works necessary to achieve beneficial use of the subject water rights are substantial and costly. The applicant has not presented the State with the scope of its proposed works, nor has the applicant demonstrated its ability to finance the works. Eureka County remains unclear whether the applicant is a mining company or a holding company. Eureka requests the opportunity to 1) review a proposed scope of work to achieve beneficial use and 2) satisfy its concerns regarding corporate purpose and financial ability.

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## Eureka County Protests to Kobeh Valley Ranch LLC Application Nos. 75979 through 76009

8. The applications cannot be granted because the applicant has failed to provide the State Engineer with all relevant information required by Nevada Revised Statutes. See letter from the State Engineer to the Applicant dated July 16, 2007. Because this information is missing, Eureka County reserves the right to supplement this protest and include other grounds of protest based on any further information submitted by the applicant in support of its applications to the State Engineer.

9. Eureka County recognizes that the custom and culture of mining is part of its history and appreciates the role mining plays in its local and regional economy. Eureka County welcomes new opportunity for mining in its communities as long as mine development is not detrimental to existing economic or cultural activity. This protest is aimed at ensuring that any development of water resources in Kobeh Valley is conducted in full accordance with Nevada law, the Eureka County Master Plan and related ordinances, and does not unduly threaten the health and welfare of Eureka County citizens. Eureka County encourages the proponents of these applications to engage its representatives and the Office of the State Engineer in dialog that will result in a binding, mutually-beneficial agreement for development and management of these ground water resources, including but not limited to reinjection or infiltration of dewatering water not consumed in the mining operation back in to the basin of origin in Eureka County to mitigate the effects of the Applicant's pumping.

10. The manner of use of water under the subject applications is by nature of its activity a temporary use. Because it is a temporary use, any permits granted should be subject to a restriction that any application to change the manner of use under any such permit will be subject to additional determination and evaluation with respect to the permanent effects on existing rights and the resource within the groundwater basin.

11. The State Engineer should consider the consumptive use of the water rights sought to be changed and the consumptive use of the proposed beneficial use of water in determining whether the proposed change in the place of diversion, manner of use and place of use complies with the provisions of subsection 5 of NRS 533.370.

12. Should these protests result in hearings before the State Engineer, Eureka County requests that such hearings be held in Eureka to facilitate access by the body of protestants.