

IN THE OFFICE OF THE STATE ENGINEER OF NEVADA

IN THE MATTER OF APPLICATION NUMBER 763641  
FILED BY Kobeh Valley Ranch LLC  
ON 10-9 2007, TO APPROPRIATE THE  
WATERS OF the State of Nevada

PROTEST

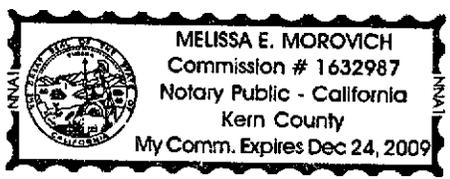
Comes now Etcheverry Family Limited Partnership by Michelle Etcheverry  
whose post office address is P.O. Box 1093, Eureka, NV 89316  
whose occupation is Rancher & Farmer and protests the granting  
of Application Number 763641 on 10-9 2007  
by Kobeh Valley Ranch LLC to appropriate the  
waters of the State of Nevada (under ground) situated in Eureka Co.  
County, State of Nevada, for the following reasons and on the following grounds, to wit:

See Exhibit "A" which is attached hereto and incorporated herein by this reference.

THEREFORE the Protestant requests that the application be denied in full w/prejudice  
and that an order be entered for such relief as the State Engineer deems just and proper.

Signed Michelle Etcheverry  
Michelle Etcheverry  
Address 7933 Callowayds  
Bakersfield Ca 93314

Subscribed and sworn to before me this 14<sup>th</sup> day of February 2008  
Melissa E. Morovich  
Notary Public  
State of California  
County of Kern



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

*dy*

## Exhibit "A"

Etcheverry Family Limited Partnership & Diamond Cattle Co., LLC  
Protests to Kobeh Valley Ranch LLC Application Nos. 76364 & 76365

1. Pine Valley is a designated basin per NRS 534.050. Existing permitted and certified ground water rights in the basin total approximately 15.694 acre-feet per year. The perennial yield listed for the basin is 20,000 afa. The instant applications are part of a group of applications seeking a total combined duty of 16,000 afa for mining, milling and domestic purposes. The instant applications filed by Kobeh Valley Ranch, we understand are the most junior underground applications in the Pine Valley hydrographic basin/watershed. Granting these new applications may likely cause the basin to be over pumped to the detriment of the basin as a whole and our prior existing water rights, including our surface rights. We have owned these rights for approximately 60 years and they contribute to the continued and long-term economic viability of our ranching and farming operations; therefore, unless adequately mitigated and protected, such impacts will likely prove detrimental to these important water rights.
2. Hydrologic properties of the proposed points of diversion are still currently being analyzed by experts and consultants; therefore, even expert opinions about the potential 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. We request the ability to review any and all hydrologic data and expert reports containing opinions and conclusions offered in support of the applications.
3. The proposed points of diversion for these applications lie in Basin 53, while the proposed place of use may ultimately include portions of Basin 153 (Diamond Valley) and Basin 139 (Kobeh Valley); therefore the applications may call for 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.
4. There are currently outstanding applications to appropriate underground water in Pine Valley. Eureka County requests that a decision be rendered on these applications prior to dispensation of the present applications;
5. The works necessary to achieve beneficial use of the subject water rights are substantial and costly. The applicant has not presented us nor do we understand the state with the scope of its proposed works, nor has the applicant demonstrated its ability to finance the works. We were told by applicant that they did not have the present ability to finance the project and their future ability to do so remains unclear. It is also unclear whether the applicant is a mining company, holding company or some type special

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purpose limited liability entity with no assets (a shell). We request the opportunity to 1) review a proposed scope of work to achieve beneficial use and 2) satisfy our concerns regarding corporate purpose and financial ability to complete this project and respond in money damages to any injuries to our water rights and ranching operations.

6. We recognize that mining is part of the history of the State of Nevada and Eureka County. But, mining has no superior right to exist and thrive over livestock grazing and farming operations. This protest is aimed at ensuring that any development of water resources in Pine Valley is conducted in full accordance with applicable Federal Law, Nevada Law, the Eureka County Master Plan and related ordinances, and does not unduly threaten our property rights and livestock and farming operations. We would encourage the proponents of these applications to engage its representatives and the Office of the State Water Resources Engineer in dialog that will result in a binding, mutually-beneficial agreement for development and management of these precious ground water resources, including but not limited to reclamation, reinjection or infiltration of dewatering water not consumed in the mining operation back in to the basin or origin in order to mitigate the effects of the Applicant's pumping.
7. 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 resources within the groundwater basin and the entire watershed.
8. The State Water Resources 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. and all other applicable laws, rules and regulations
9. Should these protests result in hearings before the State Water Resources Engineer, we request that such hearings be held in Eureka to facilitate our access to these proceedings.