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

FILED
JUN 27 2008
STATE ENGINEER'S OFFICE

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STATE ENGINEERS OFFICE

IN THE MATTER OF APPLICATION NUMBER. 76989

FILED BY. KOBEH VALLEY RANCH LLC

ON APRIL 23, 2008, 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 76989 filed on APRIL 23, 2008

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 .....
Agent or protestant

J.P. "JIM" ITHURRALDE, 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 19TH day of JUNE 2008

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. 76989 and 76990

1. Kobeh Valley is a designated basin. 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. Phreatophytic/spring discharge should also be discounted from the total duty sought to be transferred by the subject applications.

2. Existing USGS reports suggest that Kobeh Valley may provide underground flow to Diamond Valley. 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. The proposed points of diversion for these applications 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. 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.

7. As noted in Item 15 of the Applications, the applications are intended to be utilized in conjunction with other applications previously filed by Idaho General Mines, Inc. and Kobeh Valley Ranch LLC for the Mt. Hope Mine project. All of the applications filed by the applicant cannot be granted because the amount of water applied for greatly exceeds the 16,000 afa the applicant states is necessary for its mining project.

8. 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 and limitation of the use of the water in Eureka County.

9. 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 point of diversion, place of use or 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 or that at the end of the mining use, the water will revert back to the source.

10. 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 NRS 533.3703.

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

12. It was specifically requested at the prehearing conference held on March 17, 2008, with regard to the applications filed by Kobeh Valley Ranch LLC for the Mt. Hope Mine project, that that change applications relating to the mine's purchase of the Fish Creek/Bartine Ranch water rights, Applications 76989 and 76990, be included in the hearing for the mine project. *See, Pre-Hearing Conference March 17, 2008 Transcript ("Transcript")* at page 60. These applications are part of the consumptive use duty sought for the mine project. *Transcript* at page 60, lines 11-25. The discussion at the prehearing conference indicated that the Fish Creek/Bartine Ranch change applications would be included in the hearing. *Transcript* at pages 60-61. These applications were filed by

Kobeh Valley Ranch LLC on April 23, 2008. The Notice of Hearing was issued May 7, 2008. These applications were not included in the Notice of Hearing.

It is important that all water rights the mine intends to utilize for the project be included in the hearing. As stated at the prehearing hearing, Eureka County believes some of the permits sought be changed by the mine are not in good standing and cannot be validly approved. *Transcript* at page 32, lines 18-22. Thus, if certain applications are not able to be approved, the applicant will presumably, based upon comments made at the prehearing conference, be looking to other pending applications to meet the water needs for its project. *Transcript* at page 21, lines 8-25, page 22, lines 1-5. Thus, for the State Engineer to appropriately review this project and the water rights necessary for the proposed use, all water rights associated or to be associated with the project need to be included in the hearing.