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

IN THE MATTER OF APPLICATION NUMBER 80977
FILED BY Cortez Joint Venture
ON July 12, 20 11

PROTEST

FILED
SEP 16 2011
STATE ENGINEER'S OFFICE

Comes now Martin Etcheverry, on behalf of Diamond Cattle Company, LLC, and Etcheverry Family Limited Partnership
Printed or typed name of protestant

whose post office address is 7933 Calloway Drive / Bakersfield, CA 93314
Street No. or PO Box, City, State and ZIP Code

whose occupation is rancher and protests the granting

of Application Number 80977, filed on July 12, 20 11

by Cortez Joint Venture for the

waters of an underground source situated in Lander
an underground source or name of stream, lake, spring or other source

County, State of Nevada, for the following reasons and on the following grounds, to wit:
Please see Exhibit 1

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

Schroeder Law Offices, P.C., Therese Ure
Printed or typed name, if agent

Address 440 Marsh Avenue
Street No. or PO Box

Reno, Nevada 89509
City, State and ZIP Code

(775) 786-8800
Phone Number

counsel@water-law.com
E-mail

RECEIVED
2011 SEP 16 PM 3:26
STATE ENGINEER'S OFFICE

Subscribed and sworn to before me this 15th day of September, 20 11

REBECCA L. SQUIRE
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 06-103660-2 - Expires March 2, 2014

Notary Public

State of Nevada
County of Washoe

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

Exhibit 1

Protest to Application 80977

Protestant: Martin Etcheverry, on behalf of Diamond Cattle Company, and Etcheverry Family Limited Partnership

Address: 7933 Calloway Drive/Bakersfield CA 93314

Protestant is the holder of existing ground and surface water rights in Pine Valley and Kobeh Valley hydrographic basins/watersheds. Crescent Valley is adjacent to Pine Valley. Protestant owns and operates farming and ranching operation. Protestant's existing water rights are integral to its operation. Protestant objects to application 80974 as it will likely prove detrimental and cause injury to Protestants existing water rights. Protestant requests that the application be denied for the following reasons:

1. Crescent Valley is a designated basin. Ground water in the basin is fully or nearly fully appropriated. Granting change applications that are not adequately supported nor shown to protect the public interest will cause detriment to the basin, prior existing water rights holders and is in direct conflict with provision of Nevada water law.

2. This application will cause injury to Protestant's existing surface and underground water rights. Specifically this application will diminish the amount of water available for Protestants stock and other uses. Protestant has held its water rights for approximately 60 years. Protestant's water rights contribute to the continued and long-term economic viability of Protestant's ranching and farming operation. Unless Protestant's water rights are adequately mitigated and protected, the injuries to Protestant's water rights by approving application 80974 will prove a serious detriment to our important water rights.

3. The works necessary to achieve beneficial use of Application 80974 are substantial and costly. The applicant has not presented nor stated the scope of its proposed works, nor has the applicant demonstrated its ability to finance the works. We request the opportunity to (1) review a proposed scope of work to achieve beneficial use and (2) satisfy our concerns regarding the financial ability to complete this project and respond in money damage to any injuries to our water rights and ranching operations.

4. The State Water Rights Engineer should consider the consumptive use of the change application sought to be changed and consumptive use of the proposed beneficial use of water in determining whether the proposed change in the place of diversion and place of use complies with the public interest, the provisions of NRS 533.370(5) and all other applicable laws, rules and regulations.

5. The application is vague and ambiguous and lacks sufficient information for full understanding of the proposed change. NRS 533.445. Specifically, the application seeks a partial change in point of diversion and place of use. The applicant further suggests the change is sought to adjust existing well permitted duties to recent past

and expected performance levels. The suggested "recent past and expected" performance levels are unexplained, unsubstantiated and immaterial to the change requested. If applicants are seeking to diminish the base right, this change application is not the appropriate procedure to that end.

6. The application is contrary to the public interest. The State Engineer has a number of policy considerations to assess the public interest. *See Pyramid Lake Paiute Indian Tribe of Indians v. Washoe County,* 918 P.2d 697 (1996); NRS 533.370(5). The application does not contain sufficient information to determine if the public interest is protected by this application.