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

IN THE MATTER OF APPLICATION NUMBER 82571
FILED BY DANIEL S. VENTURACCI
ON FEBRUARY 25, 20 13

PROTEST

FILED
MAY 24 2013
STATE ENGINEER'S OFFICE

Comes now EUREKA COUNTY
Printed or typed name of protestant

whose post office address is POST OFFICE BOX 694, EUREKA, NEVADA 89316
Street No. or PO Box, City, State and ZIP Code

whose occupation is POLITICAL SUBDIVISION and protests the granting

of Application Number 82571, filed on FEBRUARY 25, 20 13

by DANIEL S. VENTURACCI for the

waters of UNDERGROUND situated in EUREKA
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:

SEE EXHIBIT "A" ATTACHED HERETO

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.J. GOICOECHEA, COMMISSION CHAIRMAN
Printed or typed name, if agent

Address POST OFFICE BOX 694
Street No. or PO Box

EUREKA, NEVADA 89316
City, State and ZIP Code

(775) 237-5262
Phone Number

E-mail

RECEIVED
2013 MAY 24 PM 3: 13
STATE ENGINEERS OFFICE

Subscribed and sworn to before me this 20 day of MAY, 20 13

DIANE D. PODBORNY
NOTARY PUBLIC
STATE OF NEVADA
Appt. No. 13-10500-8
My Appt. Expires March 12, 2017

Diane D. Podborny
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.

Exhibit "A"

Eureka County Protest to Daniel Venturacci

Application 82571

1. Eureka County affirms support for valid vested water rights and the doctrine of prior appropriation as established by state law. The County's protest does not challenge the existence of vested surface water rights to seasonal stream flow from Telegraph and Cox Canyons that may have been used for irrigation at the Cox Ranch. Nor does it deny there may have been some limited use of unnamed springs as a source of supply. Because the intent of Application 82571, specifically the diversion rate and annual duty, are unclear from the records and the Applications, the County's protest is intended to ensure that Eureka County citizens are informed and any final decision by the State Engineer on Application 82571 is based on consideration of all facts and potential issues related to the Applications.

2. The water which Application 82571 seeks to appropriate to supplement springs on the Cox Ranch is actually groundwater discharge accounted for in the estimation of the perennial yield of Diamond Valley. This spring, located in the groundwater discharge area of Diamond Valley, would inevitably cease to flow even if the basin were only pumped with a consumptive use at the basin perennial yield of 30,000 acre-feet per year, let alone being over appropriated at more than 134,000 acre-feet per year with a currently estimated consumptive use of approximately 55,000 acre feet per year. As a result, increasing the groundwater extractions from the basin by any amount, let alone an additional quantity of water to irrigate 344.89 acres (1,379.56 acre-feet per year assuming an annual duty of 4 acre-feet per year per acre) requested under Application 82570, would exacerbate the problems already associated with over allocation of the resource.

   Consequently, there may be no unappropriated water at the proposed source of supply, the proposed use may conflict with or will impair and interfere with existing rights and protectable interests in existing domestic wells and threatens to prove detrimental to the public interest.

3. The major springs in Diamond Valley, including any major springs east of the playa, have been addressed in historic investigations of Diamond Valley's water resources. References to the springs purported to be the source of the irrigation supply described in vested right claims and that are a basis of the current groundwater Applications are absent from these investigations. It is unlikely that scientists of the USGS overlooked major spring sources in these areas over the course of multiple water resource investigations. Furthermore, the groundwater flow model for the Mount Hope Project incorporated the major springs in Diamond Valley into their analysis and there was no information to justify incorporating major springs at the Cox Ranch into the model. Consequently, it is highly speculative that major springs that provided the claimed irrigation source ever existed at these locales. Instead, the primary source of irrigation supply was likely seasonal runoff from the streams of Telegraph and Cox Canyons.

RECEIVED
2013 MAY 24 PM 3: 13
STATE ENGINEERS OFFICE

4. The claim under Proof V02847, which is the basis of the current application 82571, respectively, has not been validated by the Nevada State Engineer through adjudication. Therefore, the amount of groundwater needed to provide a supplemental source of irrigation water supply to the declared acreage is unknown. It follows the State Engineer cannot grant permits for supplemental groundwater rights until a determination has been made as to the actual amount of surface water that has been historically applied for irrigation purposes under the two claims and the potential impacts on existing rights and domestic wells.

5. Eureka County asks the State Engineer to weigh the granting of Application 82571 (asserted to make vested claims "whole") in balance with State Engineer Orders within Diamond Valley. This includes, but is not limited to, Order 717 which states that: "All applications filed after December 31, 1978 to appropriate ground water for irrigation purposes on any land within the Diamond Valley Ground Water Basin will be denied."

6. Eureka County mandates the use of peer-reviewed science in the assessment of impacts related to water resource development. We request copies of the data and information used to determine the potential impacts related to the additional groundwater pumping that would occur under the Application and to justify the amount of groundwater applied for under the Application.

7. Under the facts and circumstances of this application, the State Engineer is without authority to grant the requested appropriation.

8. 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 Protestants.

RECEIVED
2013 MAY 24 PM 3: 13
STATE ENGINEERS OFFICE