

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

IN THE MATTER OF APPLICATION NUMBER 83026
FILED BY TIMBERLINE RESOURCES CORPORATION
ON AUGUST 14, 2013



FILED
OCT 17 2013
STATE ENGINEER'S OFFICE

PROTEST

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 83026, filed on AUGUST 14, 2013

by TIMBERLINE RESOURCES CORPORATION 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

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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

J.J. Goicoechea
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

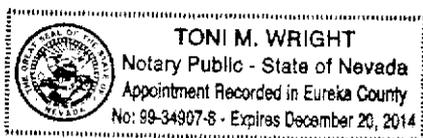
City, State and ZIP Code

(775) 237-5262

Phone Number

E-mail

Subscribed and sworn to before me this 7th day of OCTOBER, 2013



Toni M. Wright
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 Timberline Resources Corporation
Application No. 83026

1. There is no unappropriated water at the proposed source of supply, the proposed use conflicts 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. The perennial yield of 155A, Little Smoky Valley-Northern Part, is 5,000 acre-feet per year. Existing ground water appropriated in the basin totals approximately 5,055 acre-feet per year. Granting Application 83026 will cause the basin to be further over-appropriated and subject to over-pumping by an additional 724 acre-feet per year, exceeding the annual recharge and safe yield of the basin. Diversion of ground water above the annual recharge may lower the static water in the subject basin and could negatively affect hydraulic gradient influences and adversely affect the quality of the remaining ground water.
2. Currently, there are two other pending applications to appropriate ground water in the basin (i.e. 70751 and 70752). These outstanding applications are Desert Land Entries for 1,280 acre-feet per year. Eureka County requests that a decision be rendered on these applications prior to dispensation of Application 83026. If all pending applications are approved, the basin would be over-appropriated by approximately 2,457 acre-feet per year.
3. Little Smoky Valley is part of the Basin and Range Carbonate Aquifer System (BARCAS). The USGS BARCAS study was clear that the dynamics associated with the BARCAS are not completely understood. The BARCAS study did report a level of uncertainty related to the estimated recharge, discharge, and interbasin flow in Little Smoky Valley. Granting Application 83026 would be unwise given the uncertainty and lack of understanding of how over-pumping could impact water resources not only in adjacent basins, but within the entire BARCAS. Over-pumping in Little Smoky Valley will impact existing irrigation, stockwatering and domestic water rights holders in Little Smoky Valley. Over-pumping in Little Smoky Valley will likely impact irrigation, stockwatering and domestic water right holders in adjacent basins and throughout the BARCAS. The owners of many of these rights contribute to the long-term economic viability of the greater Eureka community; therefore, such impacts will prove detrimental to the health and welfare of Eureka County and the public interest.
4. Hydrologic properties of the proposed point of diversion are not fully understood or analyzed; therefore, impacts associated with pumping of substantial water rights at the proposed point of diversion are not known. Propagation of the cone of depression from the proposed point of diversion must be adequately determined prior to granting the application. Eureka County requests the ability to review all hydrologic data offered in support of the application.
5. It is a disservice to grant any water rights above the perennial yield as this impacts local private property by decreasing the value of water tied to private land of current and prior appropriators.
6. Increasing ground water pumped in Little Smoky Valley could serve to endanger the Fish Creek Springs tui chub, a protected fish in Nevada under NAC 503.065. The proposed point of diversion is approximately 10 miles from Fish Creek Spring and along the same range front where there could be a fault connection. Any adverse impact to the Fish Creek Springs tui chub

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would have an inequitable impact to the current water rights holders in this area as their water rights would likely be regulated or invalidated.

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 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.
8. Mining and milling in Nevada is commonly viewed as a temporary use of water due to the evanescent nature of mining. Once the operations come to an end, the water theoretically "returns" to the basin and becomes available for appropriation. However, many so-called temporary water rights have been used for decades and have the potential to be used far into the future. The consequence is an overdraft condition that can persist for generations. For example, KVR acquired Atlas Gold's "temporary" water rights for the Gold Bar project in the same hydrographic basin - well after Atlas Gold's mining operations ceased and which should have been retired - and transferred them for use at the Mount Hope Project, which is proposed to operate more than 40 years. With this action, the Nevada State Engineer clearly demonstrated that temporary mining water rights have been allowed to be transferred and have a potential to be something other than temporary.

The manner of use of water under the subject application is by nature of its activity a temporary use. Because it is a temporary use, any permit granted should be subject to a restriction that at the end of the mining use, the water will revert back to the source.

9. Any proposed monitoring, management and mitigation plan to address potential unknown impacts from the applicant's proposed pumping must be developed to a reasonable degree with supporting analytical data prior to any approval of the application.
10. The projected water usage listed exceeds the water usage typically necessary for a gold heap leach operation of this scale that does not have substantive dewatering needs.
11. 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 or the environment. This protest is aimed at ensuring that any development of water resources in Little Smoky 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, Eureka County and the Office of the State Engineer in dialogue that will result in a binding, mutually-beneficial agreement for

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development, management, monitoring, and mitigation of these ground water resources proposed to be appropriated.

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.

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