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

IN THE MATTER OF APPLICATION NUMBER 85580
FILED BY Kobeh Valley Ranch LLC
ON October 28, 20 15

PROTEST

FILED
JAN 15 2016
STATE ENGINEER'S OFFICE

Comes now Diamond Natural Resources Protection & Conservation Association
Printed or typed name of protestant

whose post office address is P.O. Box 13, Eureka, Nevada 89316
Street No. or PO Box, City, State and ZIP Code

whose occupation is non-profit organization of Diamond Valley farmers and ranchers and protests the granting

of Application Number 85580, filed on October 28, 20 15

by Kobeh Valley Ranch LLC 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 Attachment A

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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 [signature]
Agent or protestant

Debbie Leonard, McDonald Carano Wilson LLP
Printed or typed name, if agent

Address 100 West Liberty Street, 10th Floor
Street No. or PO Box

Reno, NV 89501
City, State and ZIP Code

775-788-2000
Phone Number

dleonard@mcdonaldcarano.com
E-mail

State of Nevada
County of Washoe

Subscribed and sworn to before me on January 15, 2016
by Pamela Kaye Miller

[signature]
Signature of Notary Public Required

PAMELA KAYE MILLER
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 92-0545-2 - Expires November 1, 2018

Notary Stamp or Seal Required

**+ $30 FILING FEE MUST ACCOMPANY PROTEST. PROTEST MUST BE FILED IN DUPLICATE.**

**ALL COPIES MUST CONTAIN ORIGINAL SIGNATURE.**

**Attachment A to Protest of**
**Diamond Natural Resources Protection & Conservation Association to**
**Applications of Kobeh Valley Ranch LLC**

1. The proposed use conflicts with and/or will impair and interfere with existing rights and protectable interests in existing domestic wells and threatens to prove detrimental to the public interest.

2. The proposed use will conflict with the rights of protestant's members. The USGS has concluded, and the State Engineer agreed (Ruling 6127), that Kobeh Valley provides underground flow to Diamond Valley. The USGS is currently engaged in research and analysis of the Diamond Valley Regional flow system to quantify the groundwater inflow and outflow processes for each basin and to develop a conceptual model of the flow system. This study may reveal that the State Engineer's estimates of perennial yield and interbasin flow are inaccurate. Sustained pumping in Kobeh Valley is likely to reduce the amount of water available to satisfy prior rights held by protestant's members in Diamond Valley. Insufficient information currently exists to ensure that applicant's proposed diversions will not impair or conflict with these existing rights. The applicant's applications should not be considered until the USGS study is complete.

3. Currently, there are other pending applications to appropriate groundwater in Kobeh Valley, in particular those of Eureka County, that are prior in time to those of the applicant. Eureka County seeks to import water from Kobeh Valley to Diamond Valley to alleviate overdraft in Diamond Valley. Eureka County's applications should be granted first before the State Engineer considers the applicant's applications.

4. The applicant's proposed mining and milling use is by its nature temporary. Even temporary impacts on the static water level in Diamond Valley will conflict with the prior rights of and interfere with the livelihoods of protestant's members.

5. The applicant's proposed pit dewatering requires pumping of groundwater from Diamond Valley, which is currently overappropriated. The effect of dewatering on existing Diamond Valley rights must be adequately determined prior to granting applicant's applications.

6. On August 25, 2015, the State Engineer designated the Diamond Valley Hydrographic Basin a Critical Management Area pursuant to NRS 534.110(7)(a). Protestant and its members have been diligently working with the State Engineer to develop a groundwater management plan. The granting of applicant's applications would interfere with the Diamond Valley water budget, disrupt the groundwater management planning process and is contrary to the Critical Management Area designation.

7. The proposed points of diversion for the applications are in Basin 139 (Kobeh Valley), while the proposed place of use includes portions of Basin 153 (Diamond Valley). The

applicant has not met the requirements of an interbasin transfer set forth in NRS 533.370(6).

8. The applicant has not provided adequate proof of financial ability to construct the works and put the water applied for to beneficial use.

9. Prior to the granting of its applications, the applicant must develop a management, monitoring and mitigation plan that comprehensively addresses and includes methods to alleviate any impacts in Diamond Valley.

10. The base rights were abrogated in Ruling 6127 and therefore cannot be changed. For any change applications, the applicant should be limited to only the consumptive use portion of the base right.

11. Protestant requests that the hearing on applicant's applications be held in Eureka, Nevada so that protestant's members may readily attend and participate.

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