

Once again I feel the appeal process is the right way to go at this time. Having said that, if a 3M plan is to go forward, I feel that the people that are going to be most affected should be a part of the process of the 3M plan going forward, that being ranchers and Diamond Valley irrigators.

It is my feeling that this Moly mine has said all along that there would be no impact to Diamond Valley and the irrigators by the mine at all, and I have always disagreed totally with their assessment of this.

No one can really see what is happening underground and in the past, other water models have been wrong. Area ranchers are being hurt right now because too much water is being drawn out of the ground from mines, and this mine is closer to home than any of the others.

So at this time, I would like to ask the Eureka County Commissioners to stay the course with their appeal and take their time with the upcoming 3M plan. The county has won water issues in the past through litigation, and I feel that with proper guidance with this commission that they will prevail once again.

It is the Moly mine that needs Eureka County, not Eureka County that needs this Moly mine. They are the ones that should be coming to this community and making everything right for all the people that they are going to affect. They have already cost this county millions of dollars, and they need to make things right for all the county residents. Just do the right thing for a change.

Why can't we all work together and try to bring this water resource back into balance?

This is for the record to the Board of Eureka County Commissioners on this 19th day of September, 2011.

I am Mary Jean Etcheagaray, a Diamond Valley irrigator. My late husband LeRoy, and I have been irrigators in this valley since 1974.

I have a comment that should be addressed about the 3M plan. There should be an irrigator on the planning committee that would represent the Diamond Valley flow system, which includes Kovich Valley. It should be an individual to represent the irrigators as well as the ranching and livestock sector. It is only fair we have a voice at the table along with Eureka County and the Moly mine.

Thanks to Eureka County Commissioners, Dennis, Jim and Mike. You have in my opinion as an irrigator done a good job on this very important water issue and it is my hope that we can continue as land irrigator in cooperation with the commissioners to work together until this water issue is resolved. I will have my ongoing support, especially on the appeals process. It is vital to all of us. Take your time on the 3M water plan and get it right.

Thank you.

Mary Jean Etcheagaray

September 19th, 2011

Eureka County Commissioners' meeting

From: Marty Plaskett, 2nd generation owner of Diamond Valley Hay Co. and Eureka County resident since 1965.

Dear Commissioners:

In the matter of approving a three "M" plan for the effects of Mt. Hope water usage in Eureka County *I support* Eureka County's appeal of the State Water Engineer's latest decision to the fullest extent your Council sees fit.

Therefore, there is no logical reason or haste to move forward with a three "M" plan, especially one without trigger values or a monitoring well schematic in detail.

Prioritizing a defensive approach that protects current water users in the Eureka County, I feel General Moly should mitigate known negative effects from test pumping that already occurred in Kobeh Valley, before we can accept any Good Faith effort to maintain the health of the entire Flow System in Eureka County.

Thank you,

(s) Marty Plaskett
Marty Plaskett

JERRY SESTANOVICH
PO Box 62640
460 County Rd. 100
Eureka, Nevada 89316

September 19, 2011

Board of Eureka County Commissioners

Dear Friends:

I represent my family and our beet and hay production business. I am a lifelong resident of Eureka County. My wife and I have lived in Diamond Valley for 32 years, and raised 4 sons who are also residents of Eureka County.

Eureka has been put under a great deal of pressure to approve a 3M plan. I do not believe it is necessary to rush a plan through. Eureka has a good outline started, but needs to complete it further and in depth so it can be enforced. It is very important to have adequate triggers and security to make a 3M plan enforceable. Hopefully General Moly's water model is accurate, and no problems will come up. However, a water model is no more than a guess, for example, the dewatering models in northern Eureka County have proven to be extremely inaccurate. The cones of depression at these mines are much larger than projected.

Eureka County is currently appealing the ruling by the State Engineer on General Moly's water rights. Eureka County does not agree with the state's ruling. I question why Eureka is participating in a 3M plan with General Moly. I believe Eureka County should continue to create a solid, enforceable and secured 3M plan on its own. I don't feel there should be a rush to have a 3M plan done now, until the appeal process has been completed with the state.

Eureka County Commissioners remain justifiably committed to making General Moly settle with the people in Kobeh Valley who are affected by the mine's use of water there. I commend your support of Kobeh Valley residents, and I ask that you renew your commitment to have General Moly settle with Diamond Valley farmers also.

Thank you for your time.

Sincerely,

Jerry Sestanovich

Board of Eureka County Commissioners

September 19th 2011

Dear Sirs:

As a long-time resident and water user in Diamond Valley, I respectfully urge you to keep in place any protest or appeal until such time as General Moly has compensated for the retirement of 11,300 acre feet of Diamond Valley water rights.

As for the 3M plan, it should be postponed indefinitely or until proper bonding and triggers are in place to insure proper mitigation of impact on water resources.

Sincerely,

1st Donald F. Palmore
Donald F. Palmore

SCHROEDER LAW OFFICES, P.C.

Laura A. Schroeder, Esq., Scott Bonson, PhD., David N. Gole, Esq., Corney B. Duke, Esq., Sarah R. Eberle, Esq., Wyatt B. Rolfe, Esq., Therese A. Eberle, Esq.,
Debra L. Bonson, Esq., Jennifer L. Bonson, Esq., Corney B. Duke, Esq., Corney B. Duke, Esq., Corney B. Duke, Esq., Corney B. Duke, Esq., Corney B. Duke, Esq., Corney B. Duke, Esq.,
Nevada and Washington

September 18th, 2011

VIA ELECTRONIC AND US MAIL

Board of Eureka County Commissioners
P.O. Box 77
Eureka County, NV 89316
Chairman: Leonard J. Lawrence - ljlawrence@eurekacounty.org
Vice Chairman: chrislaw@eurekacounty.org
Mike Papp - mikepapp@eurekacounty.org

RE: Comment: Mt. Hope Project's Proposed Monitoring, Management, and Mitigation Plan

Dear Commissioners:

We are writing on behalf of Diamond Valley Ranch Company LLC and Michel and Margaret Ann Echeverry Family LLP (hereinafter jointly referred to as "Echeverry") to provide public comment and testimony as to the draft of proposed *Nevada Division of Water Resources Monitoring, Management, and Mitigation Plan for the Mt. Hope Project* identified as 3M Draft 2011-08-01 Rev. 02. This plan as drafted will not adequately protect Echeverry's existing water rights of use and Eureka County should not approve this 3M Plan.

While it is noted that the State Engineer (SE) approved Kooch Valley Ranch LLC's (KVR) application in Ruling #6127, petitions for judicial review (PJR) were filed by no less than three groups or entities. It is acknowledged that this Ruling conditions the approval of her applications and water use on drafting a 3M Plan subject to the approval of Eureka County and the SE. However, we would caution Eureka County, as an entity who filed a PJR, not to engage in the 3M Plan process unless and until the Nevada Courts approve Ruling #6127, or KVR's applications are amended so as to not violate Nevada Law, and not injure any existing water rights of use.

KVR and Eureka Moly LLC (EMMLC) acknowledge in the current draft 3M Plan that they will cause injury to existing rights. As a rancher, landowner, and water right and vested claim holder, Echeverry ranching and livestock operations will be adversely affected. Loss of water to any Echeverry operation will be significant and will detrimentally impact their interests. *(See excerpt below from the SE Hearing as to effects on one of Echeverry's interests.)*

The County must consider the interests of its existing community and residents to ensure that the stability and foundation of the County remain whole.

The 3M Plan should not be approved by the County. Etcheverrys have provided the following comment as to the 3M Plan:

1. KVR's applications already violate Nevada law in that they will cause injury to existing water rights of use. NRS 533.370(5); *see also*, NRS 533.345(2)(c) regarding temporary transfers. The law provides that "...where the proposed use or change conflicts with existing rights or protectable interest in domestic wells... the State Engineer shall reject the application and refuse to issue the requested permit." NRS 533.370(5). EMLLC and KVR, in the 3M Plan, admit that they will cause injury and conflict with existing water rights. See 3M Plan Section 6(E), (F), (H)(g). Regardless of the adoption of a 3M Plan, the State Engineer should not have approved KVR's applications as the losses to my Ranch cannot be adequately mitigated. Eureka County must protect the existing water resources and water rights in its County.

2. Diamond Valley is a designated basin and additional or new water use from Diamond Valley should not be allowed. Section 1(A) states that 20% of the extraction will come from Kober Valley and 80% will come from Diamond Valley. This statement does not specifically state the water is only from the pit dewatering, though it is implied. However, any water taken from Diamond Valley's designated basin will affect Eureka County's water users in Diamond Valley.

3. The 3M Plan Section 2(A) states that one of the purposes of the 3M Plan is to avoid adverse impacts to existing water rights and customary uses of local water dependent resources. This document then proceeds to contradict itself in Section 6(E) when it states that the modeling and analyses already predicts "declining water levels due to Project pumping in Kober, Pine and Diamond Valleys. The analysis predicts impacts will occur to existing water rights and customary water uses in Kober Valley." This statement shows EMLLC and KVR acknowledge that the Project will affect existing rights. And due to the location of the well field in relation to Etcheverry property, Etcheverry interests that will be injured. Prior to any Project activity, the purposes of the 3M Plan are found and acknowledged to fail, and thus this document as drafted should not be approved by the County.

4. The 3M Plan Section 3(A) puts final authority over the 3M Plan with the State Engineer and places EMLLC as the responsible party for implementing and complying with the 3M Plan. While EMLLC is an appropriate party for implementing and complying with the plan, it is doubtful that the SE will want to administer and monitor every action for enforcement should EMLLC or its agents, contractors, or subsidiaries fail to comply. The SE already lacks funds and it is doubtful that the SE's office will have the resources to monitor and enforce the 3M Plan. The 3M Plan does not provide for other party to monitor and enforce except for two committees that will be created by EMLLC. A non-biased outside third party should sit in adjudication over the 3M Plan to determine compliance issues.

5. The 3M Plan Section 3(B) states that the 3M Plan should provide participation for and transparency to the locally affected stakeholder. This section goes on to state that participation is then by *invitation only*. This Section states "In the event there are other entities who have vested interest in water resources and this 3M, these entities *could* be invited to participate." Emphasis added. There are no assurances that Etcheverrys, or others with affected interests, will be invited to participate in, or have any kind of input into, the monitoring management and mitigation plan. This plan is discretionary in nature and does not provide any assurances to any party, including the County, that the water resources in Diamond, Kober, and/or Pine Valleys will be protected, and that existing water right holders will remain whole.

6. The 3M Plan Section 5(B)(a) notes the establishment of the Water Advisory Committee ("WAC") with "the Parties" but again this section refers to the "Parties" that are chosen by EMLLC, the SE, and Eureka County. This group will then establish procedures to create the Technical Advisory Committee ("TAC"). A representative from the SE will be invited to participate though there are no assurances that the representative will accept. If the SE representative will be participating in his/her professional capacity, the SE office will have to support the employee's position as incorporating participation in the 3M Plan. If the SE declines to accept the advisory position, then the WAC will simply elect a chairman. Thus depending on the outcome of the election, the County could be voted out of any meaningful participation in the 3M Plan.

7. The 3M Plan Section 5(B)(b) notes that the WAC will establish policy, define roles, and responsibilities, and develop Operating Guidelines, consistent with Nevada Law. This provision requires us to caution Eureka County, as these OG appear to be administrative rules, and if the SE is participating in this action, any such OG would be unauthorized Administrative Rule Making. In addition, who is the party who will decide whether or not the OG comply with Nevada Law?

8. The 3M Plan Section 5(B)(c) notes that the WAC will meet once a quarter through the end of the project's first year, but no less than once annually thereafter. We recommend that the WAC should meet more often once the Project starts because after the start date is when the major effects of the project and dewatering will occur. In addition the 3M Plan does not identify what constitutes the "start date."

9. The 3M Plan Section 5(B)(d) outlines many purposes and functions of the WAC, however most of these functions are discretionary. The WAC will identify "action criteria" which, if exceeded, "may be concern" for the

Parties which could cause the need for mitigation actions. Exceeding action criteria in-and-of-itself should require mitigation. There are too many areas for discretion by the WAC wherein an injured party could be denied recourse or adequate remedies.

10. The 3M Plan Section 5(C)(a) identifies the creation of the Technical Advisory Committee ("TAC") by the members of WAC. This procedure, like the procedure for the formation of WAC, will be biased and lack of impartiality.

11. The 3M Plan Section 5(C)(c) outlines the functions and purposes of TAC, which again, are full of discretionary functions that create room for bias. Specifically, the TAC will evaluate monitoring data and determine if any action criterion has been or is predicted to be exceeded, thus creating a possible adverse impact. However, if action criteria are exceeded, by definition, there will be adverse impacts of some kind, whether to an existing water right, to stream flow, or to the ground water table. TAC is charged with evaluating effectiveness of an implemented mitigation measure. However, if mitigation is implemented in the first place, there has already been an injury. Prevention of injury, not mitigation after the fact, is what the Nevada law requires.

12. The 3M Plan Section 5(D) outlines the use of the numerical flow model which we would argue needs to evaluate predictions at a 5-foot contour level as opposed to 10 feet. As noted during the SE Hearings relating to Ruling #6127, the 5-foot contour level shows many more effects and impacts to streams and other water sources. This Section also outlines the use of data collection recovery after the first six months. We would argue that waiting for six months to pass by is too long. At the SE Hearing it was shown that Well 206 dropped within the first day, dropped 30 feet after the first 32 days. When the pump test on Well 206 ceased on the 32nd day, the well did not fully recover. See *exhibit below relating to this KVR pump test and aquifer draw down immediately adjacent to Etcheverry property*.

13. The 3M Plan Section 5(H) notes that quantitative action criteria developed by TAC for WAC will be presented to the SE for consideration as a management and mitigation trigger. This all assumes that the SE will want to take an active, hands-on role in the 3M Plan. Further, while the action criteria are submitted to the SE, the procedures of implementation, monitoring and mitigation may be submitted to the SE. This document states that any final action taken or decision made by the SE shall be subject to the provisions of Nevada Water Law. What is considered to be a "final" action in this context? If the SE is following these Operating Guidelines and is making final decisions based thereon, then the Operating Guidelines are effectively administrative rules that were not created in compliance with administrative rule making procedures. Any decision made by the SE on provisions of the 3M Plan should constitute an order that is subject to reconsideration rights and judicial review.

14. The 3M Plan Section 5(G) outlines the Decision-Making Process. This section is flawed as it allows the WAC, an illegally formed administrative adjudicatory committee (if approved by and directed by the SE), to make decisions that could result in the taking of a water right in violation of procedural and substantive due process. The process outlined to seek recourse or remedy if water rights are injured, is flawed. The 3M Plan establishes a quasi-administrative body and procedure that the water right of use holder must go through in order to seek mitigation of his loss. A petition to the SE to consider any issue is simply unsatisfactory as the SE is not required, under the procedure outlined, to hear any petition from an aggrieved party. If the water right of use holder is forced to go through this process, remedy will not be immediate; additional injury will occur, and additional damages will compound. The water right of use holder, like Etcheverry, has no motivation to follow the 3M Plan processes and would be better off to immediately seek judicial remedies via an injunction and restraining order against EMLLC and KVR to cease water pumping, among other things.

15. The 3M Plan Section 5(H)(a) states that the WAC may modify the 3M Plan. Section 5(H)(b) then allows the Parties (as defined within the document) to individually or jointly petition the SE to modify the 3M Plan. If the SE approves any modification to the 3M Plan, there again will be unauthorized rulemaking in violation of administrative rules.

16. The 3M Plan Section 6(A) identifies hydrological studies that may be incorporated into the monitoring group, however only that data that is found to be "reliable" will be incorporated into EMLLC's database. The use of the term "reliable" is discretionary and should be further defined, or otherwise allow hydrological studies to be incorporated by all Parties, including Butte County.

17. The 3M Plan Section 6(D) outlines the monitoring of groundwater. This section should require real-time reporting on all monitoring wells, meters, gages, and other devices that can immediately be published to a website for review by all parties including the public.

18. The 3M Plan Section 6(D)(c) should be modified to state a minimum number of monitoring wells within the monitoring network. While the number need not be exact, this section should state that the number of network wells should be no less than X (X being a specific defined number). As currently written, the number of monitoring wells in the network could merely be two.

19. The 3M Plan Section 6(E)(a) outlines the simple calculation by which pit dewatering water will be proportioned to each hydrographic basin. The calculation cannot be so simple. For example, if 75% of the pit is in

Diamond Valley and 25% of the pit is in Kobeh Valley, the amount of water pumped from the pit cannot be allocated at 75% and 25% respectively. Water flows through different strata and aquifers at different rates, and this should be accounted for. In addition, as the pit will essentially remove one of the natural barriers between two hydrographic basins, a gateway for water to flow, between the two basins, will theoretically be created. The direction and amount of water flow from each basin cannot be simply calculated as suggested.

20. The 3M Plan Section 6(F) outlines the monitoring of surface waters as being "continuous." Etcheverry's opine that this continuous monitoring must provide real time results available for immediate posting to a website wherein all parties, and the public, could gain immediate access.

21. The 3M Plan Section 6(G) outlines water quality testing but does not state the frequency of the testing. Thus, as currently drafted, the water quality could theoretically be tested once.

22. The 3M Plan Section 6(H) provides guidelines for monitoring biological resources, however, like the comment to Section 6(G), the frequency of testing, monitoring and data collection is not identified.

23. The 3M Plan Section 6(J) allows the WAC discretionary authority as to when and how remote sensing and monitoring of subsidence will be completed. The details of subsidence monitoring should be incorporated into the 3M Plan to provide the parties, and the public, assurance that such monitoring will be completed as stated.

24. The 3M Plan Section 6(K)(a) notes that all monitoring data will be entered into the 3M database and only available to the public (i.e. non-parties) upon request. It is Etcheverry's opinion that all data should be available at any time by anyone. EMLLC and KVR could simply and immediately upload all data to a website what would be available for access at any time by party or public person.

25. The 3M Plan Section 6(K)(b) notes that EMLLC will prepare an annual report which will be provided to her parties. The 3M Plan's annual report should be available to the public for review.

26. The 3M Plan Section 7(A) notes that EMLLC will mitigate adverse impacts, as agreed upon by the Parties. Normally, Parties are specifically defined in this document and may, or may not, include the aggrieved or injured person. If an injured person is not a "party," then there is no assurance that EMLLC would ever mitigate their injury if not agreed upon by the parties. As drafted, if no agreement is reached among the parties, then an injured party may not receive mitigation.

27. The 3M Plan Section 7(C) and (D) outline the funding available for mitigation noting that such funding may be an insurance type account. If mitigation is needed, what assurances to injured persons have that the insurance is going to pay for mitigation, when the injured person is not a defined party and mitigation in the first place is discretionary.

28. The 3M Plan Section 7(E) notes that EMLLC's model and analyses already predict ground water aquifer levels to be drawn down, and that there will be injury to existing water rights and customary water uses. The 3M Plan does not outline mitigation measures but only identifies procedures to validate the occurrence of the predicted impacts. If mitigation is discretionary, then how is an injured person to navigate through an unknown procedure, noting that the procedure may or may not receive mitigation.

29. The 3M Plan Section 7(G) notes that mitigation will be developed on a case by case basis under the 3M Plan provisions and implemented as directed by the SP. Again, if implemented by the SP, then the SP is acting as an adjudicatory authority given by provisions or rules, as outlined in the 3M Plan that were not created pursuant to administrative rule making procedures.

30. The 3M Plan Section 7(H) outlines potential mitigation measures, however, they are discretionary, and what type of mitigation is determined as an "adequate adjustment" is not defined. Etcheverry's opine that any decline, loss, or injury to their water rights and water sources is not acceptable under Nevada Law, and that if EMLLC cannot operate without injuring Etcheverry's rights, then the mine should not operate. Finally, as in subsection (H), water dependent recreation cannot simply be replaced or augmented.

In conclusion, any injury or diminishment in whole, or in part, of any valid existing water right will be a taking of Etcheverry's property rights without just compensation, and without due process. For all the reasons above, Etcheverry's encourage the Eureka County Board of Commissioners to reject the drafted 3M Plan until the issues identified above have been adequately addressed to ensure that none of Etcheverry's interest will be injured.

Very truly yours,

SHROEDER LAW OFFICES, P.C.

1s/Therese A. Ure

Therese A. Ure

TAU:tau

Enclosures

cc: Clients via email

cc: Via Email Only to

Ted Beutel, District Attorney
701 South Main Street, P.O. Box 190
Eureka, Nevada 89316
tbeutel@dca@nvdacnv.org

Jake Tibbitts, Natural Resources Manager
P.O. Box 682
Eureka, Nevada 89316
natresmgr@eurekanv.org

Karen Peterson / Allison MacKenzie,
Pavakis, Wright & Fagan, Ltd.
402 N. Division Street, P.O. Box 646
Carson City, Nevada 89702
kpeterson@allisonmackenzie.com

¹ The 3M Plan draft has two sections identified as 6. Section 7 as identified in these comments, relates to the "Mitigation Measures" section starting on the draft 3M Plan page 10 of 12.

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100
440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800
www.water-law.com counsel@water-law.com

Opening Argument Excerpt

Excerpt from the Nevada State Engineer Hearing on KVR's Application
December 6, 2010

Karen Peterson Opening Statement

Springs located in lower altitudes in the Roberts Mountains such as sites 630 and 640, and those are shown in Figure 4-4-20, are more likely to be impacted due to closer proximity to the Kobeh Valley central well field, resulting in a larger predicted drawdown at these locations.

Discharge at Mud Springs, site 721 and Lone Mountain Spring, site 742, located near the southeast edge of Kobeh Valley central well field near proposed Well 226 are predicted to be impacted and will likely cease the flow based on predicted drawdowns of 40 to 50 feet. Both of these springs discharge less than approximately one gallon per minute. Apparently that's according to the date that they were measured.

But when you look at the [water] right on Mud Spring, site 721, its Application 12748, Certificate 5880 currently owned by the Etcheverry Family Limited Partnership. The application was filed in 1948 and the certificate was issued in 1965. The amount of the appropriation under the certificate is 0.015 CFS or sufficient water for 100 cattle, 5,000 sheep and 50 horses.

So while the spring discharge may be considered minor on the date that the spring was measured, the right allows water sufficient to water 500 cattle, 5,000 sheep and 50 horses.

Closing Argument Excerpt

Excerpt from Proff. Kenneth E. Benson's Closing Argument filed on February 11, 2011, as relating to the administrative hearings starting on December 6, 2010 before the Nevada State Engineer on KVR's Applications for the Mt. Hope mining project.

Note that Well 206 is KVR's (the Applicant's) requested point of diversion which is adjacent to Etcheverry property.

Well 206

Applications 79934 through 79939 each list Well 206 as the requested point of diversion. Although the Applicant's base case model scenario assumes only 350 gpm will be pumped from Well 206 for a projected total of 5% of the mine's water supply, Applications 79934 through 79939 request a total cumulative diversion rate of 5.98 cfs or 2,681 gpm and a total cumulative duty of 3,862.29 acre feet, which represents more than 31% of the 11,300 acre feet required for the Mt. Hope mine operations.

Well 206 draws from a carbonate rock aquifer with relatively high transmissivity. Applicant conducted a 32 day constant rate aquifer test on Well 206 from April 10 to May 12, 2008 at a target pumping rate of 1,400 gpm. Observed drawdown in Well 206 reached 30 feet at the end of the 32 day pumping test. Although Well 206 recovered more than 20 feet directly following shutdown, static water levels did not return to pre-testing levels and a residual drawdown of 4.5 feet was observed.

Well 206 is uniquely situated in that it is located within roughly 75 feet of a private ranch, Roberts Creek Ranch, owned by the Etcheverry Limited Family Partnership.³⁸ The Etcheverry Family possesses multiple water rights for Roberts Creek Ranch, and also maintains at least one domestic well on the property. Following the Applicant's pumping test of Well 206 in 2008, the Etcheverry family observed that water levels in nearby Nichols Springs were cut by half and have never fully recovered.³⁹ Furthermore, ever since the Applicant's pumping test of Well 206, the Etcheverry family has been forced to haul water to the cattle that were previously supplied by Nichols Springs.⁴⁰

Even based on the "conservative" pumping of Well 206 at 350 gpm, the Applicant's scientific analysis indicates that there will be 205 feet of drawdown at the end of the mine's 44 year pumping period.⁴¹ Applicant's own witness, Jack Chidress, acknowledged that the net effect of Applicant's proposed pumping from Well 206 will be to

"dewater" the carbonate block that houses Well 206.¹⁴ Indeed, Applicant's experts indicate pumping over time will cause impacts to multiple springs and stock watering wells on the floor of Kobeh Valley.¹⁵ In addition to the water rights the Applicant identified that may be impacted according to its projected ten (10) foot drawdown contour, an additional five (5) wells and two (2) springs are within the area of impact if a five (5) foot drawdown contour is used.¹⁶ The ten (10) foot drawdown contour was chosen by Applicant as a threshold for analyzing impacts for the Bureau of Land Management's Environmental Impact Statement process.¹⁶ The State Engineer can consider the Applicant's pumping effects using the five (5) foot drawdown contour.

¹⁴ See Exhibits 21-22 and 122-125.

¹⁵ See Exhibits 21-22 and 122-125.

¹⁶ Exhibit 40 at 19, 53.

¹⁷ Exhibit 40 at 48, 74, Table 10.

¹⁸ Exhibit 40 at 48.

¹⁹ Exhibit 40 at 48.

²⁰ Exhibit 526, Transcript at pg. 25 in 22 through pg. 26 in 2, pg. 34 in 9-15 (Dec. 9, 2010).

²¹ Transcript at pg. 33 in 4-6 (Dec. 9, 2010).

²² Transcript at pg. 34 in 16 through pg. 35 in 22, pg. 42 in 8 through pg. 44 in 3 (Dec. 9, 2010).

²³ Transcript at pg. 42 in 8-18 (Dec. 9, 2010).

²⁴ Exhibit 32, volume II, Appendix B and

²⁵ Transcript at pg. 39 in 25 through pg. 40 in 2 (Dec. 9, 2010). ("What we're going to be doing [I] is basically dewatering the carbonate block that houses 205, 206, 213, 214, and 215. Water levels are going to drop in that block.")

²⁶ Transcript at pg. 187 in 7-16 (Dec. 6, 2010).

²⁷ See Exhibit 302 at 4-10.

²⁸ Transcript at pg. 75, 74 (Dec. 10, 2010).

Following the letters, Chairman Fiorenzi commented that the State Engineer's ruling offered Eureka County the chance to work with Eureka Moly on a 3M Plan, but it is not the County's plan. Eureka County proposed a 3M Plan over three years ago, but it wasn't accepted by the BLM. The County has worked with Eureka Moly to incorporate portions of that original plan into the subject plan, but does not have control over the timeline that the plan will be submitted by Eureka Moly to the State Engineer.

Background on County Efforts Towards a 3M Plan: Natural Resources Manager, Jake Tibbitts, reviewed recent history and the County's original commitment to producing a 3M Plan that would work for all parties. Mr. Tibbitts recognized a need and began pushing for a 3M Plan over three years ago, before the original State Engineer ruling on the Mt. Hope water and before the County was involved in related litigation. All parties were invited to participate in formulating a plan, including the State Engineer, but that effort failed. The next best option was to work with the BLM on a plan through the Mt. Hope NEPA process, but that wasn't as successful as hoped. During the last Legislative Session, Eureka County submitted a bill mandating that a 3M Plan, allowing participation by the local government, be included in every State Engineer ruling granting water. The bill did not pass.

Update on Draft 3M Plan: With direction from the Commission and input from the NEPA Committee, County staff, and the public, Mr. Tibbitts and Hydrologist, Dale Bugenig, have worked hard to integrate as much of the original County 3M Plan and recently raised concerns into the plan being prepared by Eureka Moly for submittal to the State Engineer. Mr. Tibbitts does not feel the plan is ready to be approved by the County, but progress has been made. Additionally, Mr. Tibbitts noted, *"I have never come to this Board with a 3M Plan that I said is ready for your approval."*

Mr. Tibbitts was out of town following the last meeting and was not able to meet with Eureka Moly to review the changes recommended at the September 6th Commission meeting. Upon his return on September 13th, he spoke with Rick Felling at the Division of Water Resources. Mr. Felling had sent out an email on September 8th suggesting dates that all parties

could meet to discuss the draft 3M Plan. Within hours of that email, Eureka Moly was in the State Engineer's office submitting a 3M Plan that they felt was adequate. Mr. Felling assured Mr. Tibbitts that a plan will not be approved without first talking to Eureka County regarding outstanding concerns.

Mr. Tibbitts and Mr. Bugenig then provided a comprehensive review of the latest changes to the draft 3M Plan. Redline copies were provided to the Board and made available to the public. Items addressed included structure of the Water Advisory Committee in order to provide greater representation of all interested parties; better definition to clarify action and action criteria, as well as inclusion of a method for development of specific quantitative action criteria (by the WAC with recommendations from the TAC); empowering the WAC to implement either management or mitigation measures and to ensure actions are feasible, reasonable, timely, and effective; administration of funding and improved funding mechanism; greater assurance of adequate funding, including more defined cost estimates related to mitigation of impacts; safeguards for unforeseen and unpredicted impacts, including those that may occur after cessation of mining; and clarification of authority and responsibility to provide for improved enforceability.

Chairman Fiorenzi still had concerns over enforceability and requested input from the District Attorney. Mr. Beutel stated that ultimate authority over the plan and the water resource lies with the State Engineer; if the County is not satisfied with enforcement, judicial action is their only recourse.

Mr. Tibbitts acknowledged the presence of Rick Felling, Chief of Hydrology for the Division of Water Resources. Chairman Fiorenzi invited Mr. Felling forward to comment. Mr. Felling addressed the enforcement concern. The State Engineer has statutory authority to enforce anything placed in the plan ultimately approved by the State, including authority to terminate the permit to pump for failure to comply with the plan. Mr. Felling stated he hasn't had time to read the entire plan, but observed that it appears to have a lot of input from both the mine and Eureka County. The Division often requires plans from the mines, including Barrick and Newmont, and this plan is as comprehensive and thorough as anything they have ever seen. He believed the State Engineer would be inclined to accept a plan very similar to this, but was not prepared to do so at this time because they haven't had a chance to sit down at the table with both Eureka Moly and Eureka County to talk about outstanding concerns and unresolved issues.

The County asked if the State Engineer would accept a plan without County endorsement and what timeframe they were anticipating for approval of the plan. Mr. Felling responded that the State would accept a plan without County approval, but would make the final determination on any unresolved issues within the plan. As far as timing, the State Engineer does require that a plan be in place before any pumping begins, but nonetheless pumping cannot occur while the permits are under appeal.

Chairman Fiorenzi invited further public comments regarding the draft 3M Plan. Pat Rogers, General Moly, clarified that a plan was given to Mr. Felling, but that it was presented as a draft and not Eureka Moly's final submission. Mr. Rogers had informed Mr. Felling that there were outstanding issues and that the mine was still collaborating with Eureka County. Mr. Felling confirmed that this was the perspective with which the draft was submitted.

Hollon Moll, Diamond Valley resident, stated the area has just experienced a 10 year drought. The State has not monitored his well for two or three years due to lack of funding. He wondered if the County could do an updated study of all Diamond Valley wells to provide updated data. Mr. Tibbitts noted that the County is working on a comprehensive Water Resource Master Plan, but time and money dictate that they can't monitor every single well in Diamond Valley. Also, there comes a point where additional data does not enhance results, and it simply isn't worthwhile to collect redundant data. Mr. Bugenig added that the study being

conducted by US Geological Survey, partially funded by Eureka County, will provide useful information on water levels.

Lloyd Morrison, Diamond Valley farmer, commented that the \$22 million in funding at the end of five years, outlined in the latest version of the plan, should at the very least be bonded. He also felt the amount should be increased to adequately cover mitigation of unpredicted impacts, suggesting that it be administered similar to a reclamation bond. The ultimate goal should be to balance and preserve the Diamond Valley flow system, including Kobeh Valley, by not allocating more water than exists. General Moly should live up to its original commitment to the farmers to buy and retire water to compensate for the pumping proposed for the Mt. Hope Project.

Bob Pennington, Vice President of General Moly, addressed the Board and the public. He agreed that the mine committed to retiring 11,300 AFA (acre feet annually), but this commitment is contingent upon withdrawal of all appeals and legal action. Mr. Pennington briefly reviewed the history of cooperating with the County towards a 3M Plan. Meetings between the two entities began in June, followed by vetting of the plan, including input from the public, at Commission meetings in August and September. Mr. Pennington commented that the newest version presented by Mr. Tibbitts is a significant departure from the previous plan. Among other things, it raised the financial assurance to \$22 million and shifted authority from the State Engineer to the WAC (which is intended to be an advisory committee, not a regulatory committee). Mr. Tibbitts requested a meeting to go over these changes, and Eureka Moly is willing to meet to see if both sides can work towards consensus on these issues.

Mr. Tibbitts responded with two questions to Mr. Pennington. He asked what timeline Eureka Moly had in mind for submission of the 3M Plan and asked if permits are in place with fees paid. Mr. Pennington replied that the mine believes they are within two to four weeks of submitting a final plan, and permits have not yet been written. Mr. Tibbitts commented that Mr. Pennington felt that the latest changes were significant diversions from what he referred to as a 'consensus' plan, and noted that the changes were made at the instruction of the Board. Mr. Tibbitts requested that the Board provide specific direction regarding these changes and particularly provide input related to his work going forward on this plan.

Chairman Fiorenzi stated Mr. Tibbitts did a good job of addressing his comments in the plan and he realized any changes are open to negotiation with the mine. Commissioner Ithurralde stated he was committed to broad representation on the WAC, which had now been addressed. Commissioner Page simply asked that Mr. Tibbitts report back regarding the mine's perspective on the changes.

NEVADA STATE ENGINEER RULING 6127

Public Comment: As promised, Chairman Fiorenzi provided an opportunity for public comments on Nevada State Engineer Ruling 6127. Everyone agreed that that this had been pretty well 'hashed out' during the previous agenda item and nobody came forward with additional comments.

Update from Eureka Moly, LLC, on Efforts to Address Impacts: Mr. Pennington reported that during the August 5th meeting, the Commissioners directed Eureka Moly to resolve conflicts with all water holders within the five ft. drawdown contour and Chairman Fiorenzi cited the 'first-in-time first-in-right' concept, as conditions to withdrawing Eureka County's appeal of the State Engineer's ruling. These water rights holders were identified as the BLM, Mr. & Mrs. John Colby, Mr. & Mrs. James Etcheverry, and Mr. & Mrs. Michel and Margaret Ann Etcheverry. Eureka Moly has reached resolution with two of the four water rights holders. Mr. Pennington presented a letter and *Stipulation for Withdrawal of Protests* from the BLM, and a notarized agreement from John & Paula Colby declaring their water issues have been resolved. Proposals have been addressed to James Etcheverry and Martin Etcheverry on behalf of their

family interests and no responses have been received to-date. Mr. Pennington provided the following letter and attachments to be included in the public record:

EUREKA MOLY

55 North Main Street, Post Office Box 1067
Eureka, Nevada 89316

September 19, 2011

Eureka County Board of Commissioners
Mr. Leonard Fiorenzi, Chairman
P.O. Box 677, 10 South Main Street
Eureka County, Nevada 89316

Re: Response to September 19, 2011 Agenda Item -- Nevada State Engineer Ruling 6127

Dear Chairman Fiorenzi:

Pursuant to the above referenced September 19th Agenda Item, Eureka Moly LLC respectfully submits this letter outlining mutual decision items set forth in the Eureka County Commissioners' Agenda and requests that this letter be accepted by the Commissioners and made part of the public record of the September 19, 2011 minutes.

By background, the Nevada State Engineer (NSE) July 15, 2011 Ruling 6127 granted Kober Valley Ranch LLC's (KVR) water applications, subject to, among other items, the approval by the NSE of a monitoring, management, and mitigation plan (3M Plan) submitted by KVR. In consultation and cooperation with Eureka County, On behalf of KVR, representatives of Eureka Moly LLC (EM) and Eureka County have been meeting and working since June 7th on a 3M Plan, even before Ruling 6127 was issued. On July 28, 2011 Eureka County issued a Press Release announcing it is finalizing its appeal of Ruling 6127, citing outstanding issues with the NSE ruling. At the Commissioners' August 1st 2011 meeting, an affirmative vote confirmed its intention, and Eureka County filed its Petition for Judicial Review on August 3rd 2011. Also at the August 1st 2011 meeting, the Commissioners announced that, subject to completion of the following items, Eureka County would take future action to approve or deny moving forward with the appeal of the NSE ruling.

1. EM to resolve conflict with all water rights holder in the five (5) foot draw down that are filed in time and has in right. Resolution to be confirmed by September 19, 2011 via notarized letters of such water right holders and
2. EM to reach consensus with Eureka County on 3M Plan.

In response to this public directive, representatives of EM and Eureka County identified the water rights holders discussed in directive as (a) United States Bureau of Land Management (BLM); (b) Mr. and Mrs. John Colby; (c) Mr. and Mrs. James Echeverry; and (d) Mr. and Mrs. Michel and Margaret Ann Echeverry, together with their respective family trusts, partnerships and enterprises. Since the issuance of this public directive, absent any legal compulsion otherwise, EM has taken the following action:

- a. BLM: all water resource issues have been resolved, as set forth in the Stipulation for Withdrawal of Protests, attached hereto as Exhibit A.
- b. Colby: notarized letter of resolution, attached as Exhibit B.
- c. James Echeverry: copy of September 1, 2011 proposed resolution offer, attached as Exhibit C. No substantive response or counter offer has been received to date from Mr. and Mrs. Echeverry, and
- d. Michel and Margaret Echeverry: copy of September 1, 2011 proposed resolution offer, attached as Exhibit D. No substantive response or counter offer has been received to date from the Echeverrys. The Echeverrys have also filed a Petition for Judicial Review of the NSE ruling.

At the August 5th Commissioners' meeting, the County's Natural Resources Manager, Jake Tibbitts, submitted a draft 3M Plan for the Commissioners' review and consideration. Mr. Tibbitts expressed to the Commissioners during the August 5th meeting that he and Dale Bugenig and representatives of BLM were in agreement on the terms and conditions of this consensus 3M Plan. The 3M Plan was accepted by the Commissioners for public review and comment at the next Commissioners' meeting scheduled on August 19, 2011.

The draft 3M Plan was again presented and reviewed by the Commissioners at the August 19th meeting, where instruction was given by the Commissioners to Tibbitts to make further changes, including increasing the amount of

financial assurance. No action was taken concerning the judicial review of the NSE ruling. Comment was made that any updates to the 3M Plan would be reviewed and discussed at the next Commissioners' meeting scheduled for September 6, 2011. Thereafter, representatives of EM and technical staff of Eureka County discussed the Commissioners' statements, and Mr. Tibbitts concluded that he would make changes to the 3M Plan.

At the Commissioners' September 6th meeting, upon review of updates presented solely by County staff to the 3M Plan, Chairman Fiorenzi discussed for the first time that the 3M Plan should address the potential issue of mitigation in Diamond Valley, including financial assurances for Diamond Valley water rights holders and suggested that County staff look at "hard trigger points". These new concepts directly contradict the public direction provided at the August 5th meeting, and are contrary to the NSE's findings in Ruling 6127 that KVR's applications "will not conflict with existing rights in Diamond Valley". Further, the County's revisions to the draft 3M Plan escalated the proposed EM initial funding for financial assurance from the amount agreed to in the consensus 3M Plan of \$1,000,000 to \$6,000,000, with interest equating over a 44 year mine life to a fund of \$29,000,000. Along with these new and contrary provisions, language was also added to make the 3M Plan's administrative/technical meetings subject to the Nevada Open Meetings Law. The NSE's ruling requires that KVR demonstrate "financial capability to complete any mitigation work necessary in a 3M Plan" but specifically does not require any amount of financial assurance.

EM received on Monday, September 16th, additional changes unilaterally proposed by Mr. Tibbitts and as we understand resulting directly from revisions requested by all three Commissioners. Mr. Tibbitts requested a meeting with EM following the Commissioners' meeting of September 19th to discuss these changes. We will meet with Mr. Tibbitts as he requested. There are significant changes in this latest revision by Mr. Tibbitts, further increasing the proposed financial assurance initial funding from \$6,000,000 to \$22,000,000, with interest over the life of the mine to a fund of \$140,000,000 (4% interest assumed). In many respects, with specific reference to the exaggerated financial assurance provision, the revised 3M Plan is a significant departure from the consensus document that was prepared and submitted cooperatively by the technical experts of EM and Eureka County. This revised plan gives access and distribution of the funds to the WAC and allows the WAC to modify the 3M Plan without apparent NSE approval. It also broadens the use of the 3M Plan management measures and sets aside a portion of the funds to mitigation of Diamond Valley in direct conflict with the Ruling. These aspects will be discussed with the County staff to understand the changes that we have not been a party to so that we can finalize our submittal of the 3M Plan to the NSE.

In summary, and in response to the Agenda item presented at this September 19th meeting, EM respectfully submits the following accomplishments from the two (2) August 5th public directives:

1. All potential conflicts have been resolved with the BLM and the Colby family. Reasonable proposals have been presented to the two Echeverry families, without substantive response or counter offers.
2. Consensus 3M Plan - EM has repeatedly met with the Commissioners' directed technical staff of Eureka County receiving input and cooperation that culminated in a consensus 3M Plan that was originally presented at the August 5th and subsequently the August 19th Commissioners' meeting. The 3M Plan being submitted today is the unilateral work product taken from the direction of the Commissioners and does not represent in many respects the consensus technical work of EM and Eureka County.

It is disheartening to point out that the citizens of Eureka County have spent in excess of \$2.7 million dollars (as referenced from the minutes of your July 15th public meeting in Crescent Valley) reviewing, studying and challenging the State of Nevada, BLM, and EM regarding the Mr. Hope project. This is an overwhelming number when you consider that it equates to approximately \$6,000 for each family in Eureka County.

EM has attempted to meet the expectations and directions of the Commissioners, including the publicly stated directives that were set forth in the August 5th Commissioners' meeting. EM has and will continue to operate this project as a good neighbor and member of the Eureka County community. We respectfully submit that after the Commissioners' review of the original consensus 3M Plan, our efforts to address the Commissioners' directives on Kober Valley water rights holders, and the substance of the NSE ruling, the Commissioners should act to withdraw the Petition for Judicial Review of the Ruling 6127.

In the event that the Commissioners' action is to continue with the Petition for Judicial Review of the NSE ruling, EM will consider the County's input from these meetings, and will finalize the 3M Plan for submission to the NSE. EM will provide a copy of the submitted 3M Plan to the Commissioners, and move forward to defend the actions of

the NSE in its grant of KVR's water applications. Please do not hesitate to contact me directly with any questions or concerns.

Sincerely,

Robert L. Pennington

Robert L. Pennington
Vice President Engineering and Construction
Eureka Moly, LLC

cc: Mr. Jason King, State Engineer, State of Nevada
Mr. Rick Felling, Office of the State Engineer, State of Nevada

Following are the attachments/exhibits included with Mr. Pennington's letter:

EXHIBIT A

United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Battle Mountain District Office
30 Bashan Road, Battle Mountain, Nevada 89820
Phone: 775-635-4000, Fax: 775-635-4034, www.blm.gov/nv

AUG 13, 2008

In Reply Refer To:
(NV060)

General Moly, Inc.
Pat Rogers - Director, Environmental and Permitting
4558th Street
Eureka, NV 89801

Dear Mr. Rogers:

Enclosed is a signed copy of the Stipulation for Withdrawal of Protest between General Moly, Inc. (GMI) and Bureau of Land Management (BLM). The enclosure is your copy for your records.

I want to thank you and others at GMI for your willingness to work with my staff during the initiation and completion of the Stipulation. I am looking forward to the continued working relationship with you and others at GMI as we move forward with the implementation of Exhibit A on the Stipulation and with the Technical Review Panel.

If you have any questions, please contact Gene Seiditz at (775) 635-4000.

Sincerely,
Gerald M. Smith
Gerald M. Smith
District Manager, Battle Mountain

The above letter, dated August 13, 2008, from Gerald M. Smith, Battle Mountain District Manager, United States Department of the Interior-Bureau of Land Management, included an attachment, "STIPULATION FOR WITHDRAWAL OF PROTESTS" between General Moly Inc. (signed 08-06-08) and the Bureau of Land Management (signed 08-12-08) and totals 19 pages.

EXHIBIT B

To whom it may concern:

We, John West Colby II and Paula Mae Colby, residents of Kobeh Valley have entered into a mitigation agreement with Eureka Moly, LLC and we are satisfied with the mitigation and terms of the mitigation.

1st Paula Mae Colby
Paula Mae Colby

1st John West Colby II
John West Colby

STATE OF NEVADA)

County of Eureka)

On this 7 day of September, 2011, before me, the undersigned, a Notary Public in and for the state aforesaid, personally appeared John West Colby II and Paula Mae Colby husband and wife, known or identified to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal the day and year in this certificate first above written.

1st [Signature]

1st [Signature]
Notary Public in and for the State of Nevada
Residing at 70 Railroad St., Eureka, NV
My Commission expires Oct. 6, 2013.

EXHIBIT C

EUREKA MOLY, LLC

2215 N. 5th Street, Eureka, Nevada 89801-2411

Phone: (775) 436-0000 Fax: (775) 436-2322

Email: prokers@eurekamoly.com Website: www.eurekamoly.com

September 14, 2011

Mr. James Hichevery
General Deliver
Eureka Bristol Company - A Bar Ranch
Eureka, Nevada

Mr. James Hichevery
16249 Winfield Avenue
Bakersfield, California 93312

Dear Mr. James Hichevery:

The Nevada State Engineer (NSE) on 15 July 2011 granted multiple applications providing Kobeh Valley Ranch (KVR) a combined duty of 11,300 ac for mining use. Among various conditions imposed in the NSE Ruling 6127 (Ruling) is preparation of a monitoring, management and mitigation plan (3M). A 3M is being prepared and will be submitted to the NSE in accordance with the requirements of the Ruling.

The 3M provides for a process by which adverse impacts may be identified and ultimately mitigated, should they occur. It is intended to provide the necessary data to assess the response of the aquifer(s) to pumping groundwater, provide an early warning capability, and provide safeguards for responsible management of water and water

dependent resources. One pertinent requirement of the 3M includes extensive monitoring of groundwater and surface water in Kobeh, Pine, Antelope and Diamond Valleys. In addition, the 3M calls for committees, whose members will be comprised of stakeholders that share an interest in the Diamond Valley Flow System, to actively participate in the 3M and provide transparency to all water rights holders to examine monitoring data, review reports and findings, and participate in protecting the overall health of the basins.

State records indicate you have three groundwater rights in the Kobeh Valley alluvial basin. We also understand you have a domestic well at your 3 Bars Ranch in Kobeh Valley. We have on several occasions discussed with you your concerns about our plans to develop the Mt. Hope mine. We understand that you generally agree with the studies that indicate your water resources will not be adversely affected, but are understandably concerned about the impacts to your water rights should impacts occur. While we are not required by the Engineer or the law, in the spirit of goodwill, we are offering you an individual mitigation plan that specifically attempts to address your concerns.

We offer you the mitigation plan shown as ATTACHMENT A to this letter. Please give this offer your careful consideration and let us know by 9 September 2011 if you approve and accept the offer. We are willing to discuss and consider any aspects of the offer with you. If you accept the offer, we will require that you sign a letter of acceptance.

Sincerely,

Patrick Rogers

Patrick Rogers
Director, Environmental and Permitting
General Motors

Original signed document provided

ATTACHMENT A

Proposed Mitigation

- 1) The mitigation scope includes:
 - a) Domestic Well (one well)
 - (1) Monitor and report depth to water of well annually
 - (2) Replace or deepen the well and lower the pumpout if it is adversely impacted
 - (3) Pay for incremental operating costs of domestic well
 - (4) Estimate incremental operating costs of well attributed to drawdown
 - (5) Compensate with cash payment for additional pumping costs
 - b) Groundwater sources
 - (1) Install solar operated groundwater pumps at each well location
 - (2) Or, at Echeverry's option, refurbish the windmills and deepen wells in these locations
 - (3) Pay for replacement operating and maintenance costs of the solar operated pumps while mine is in operation
 - (4) Upon mine closure, compensate with a cash payment for replacement operating and maintenance costs
 - c) Surface water sources
 - d) Meadows
 - (1) Implement a long term monitoring program to measure flows in the meadows area
 - (2) All monitoring locations will be mutually agreed and data will be provided to Echeverry annually
 - (3) If monitoring indicates that mine operations results in decreased flow, GMI will provide replacement water by installation of a groundwater well and a power source
- 2) Other non-permitted water sources in the mountain blocks
 - a) Echeverry will be provided routine reports of the monitoring conducted in accordance with the 3M to be approved by the State Engineer
 - b) If monitoring indicates that mine operations resulted in decreased flow, GMI would provide replacement water by the installation of guzzlers or some other method

EXHIBIT D

EUREKA MOLY, LLC

2215 N. 5th Street, Elko, Nevada 89801

Phone: 775-748-6000 Fax: 775-753-7722

Email: progers@generalmoly.com Website: www.generalmoly.com

September 1, 2011

Mr. Martin Etcheverry
General Delivery
Diamond Cattle Company, Alpha Ranch
Eureka, Nevada

Mr. Martin Etcheverry
Etcheverry Family Ltd Partnership
7933 Calloway Drive
Bakersfield, California 93314

Dear Mr. Martin Etcheverry:

The Nevada State Engineer (NSE) on 15 July 2011 granted multiple applications providing Koben Valley Ranch (KVR) a combined duty of 11,300 aia for mining use. Among various conditions imposed in the NSE Ruling 6127 (Ruling) is preparation of a monitoring, management and mitigation plan (3M). A 3M is being prepared and will be submitted to the NSE in accordance with the requirements of the Ruling.

The 3M provides for a process by which adverse impacts may be identified and ultimately mitigated, should they occur. It is intended to provide the necessary data to assess the response of the aquifer(s) to pumping groundwater, provide an early warning capability, and provide safeguards for responsible management of water and water dependent resources. One pertinent requirement of the 3M includes extensive monitoring of groundwater and surface waters in Koben, Pine, Antelope and Diamond Valleys. In addition, the 3M calls for committees, whose members will be comprised of stakeholders (ranchers, farmers and others) that share an interest in the Diamond Valley Flow System, to actively participate in the 3M and provides transparency to all water rights holders to examine monitoring data, review reports and findings, and participate in protecting the overall health of the basins.

We have on several occasions discussed with you your concerns about our plans to develop the Mt. Hope mine. We understand that you disagree with the large volume of data and studies that indicate your water resources will not be adversely affected. While we are not required by the Engineer or the law, in the spirit of goodwill, we are offering you an individual mitigation plan that specifically attempts to address your concerns regarding water rights in Koben Valley and in Pine Valley immediately north of the proposed Mt. Hope mine.

State records indicate you have one underground domestic well on Kobens Creek Ranch and three spring sources in the Koben Valley alluvial basin. You have two surface water rights in Koben Valley, those being on Kobas Creek. In addition, in the vicinity and north of the proposed Mt. Hope mine, you have two surface rights, those being on Henderson Creek. You use various mountain block springs that are high in elevation off the valley floor that do not have associated water rights.

We offer you the mitigation plan shown as ATTACHMENT A to this letter. Please give this offer your careful consideration and let us know by 9 September 2011 if you approve and accept the offer. We are willing to discuss and consider any aspects of the offer with you. If you accept the offer, we will require that you sign a letter of acceptance and dismiss your Petition.

Sincerely,

/s/ Patrick Rogers
Patrick Rogers
Director, Environmental and Permitting
General Moly, Inc.

Offer of Settlement Without Prejudice

ATTACHMENT A

Proposed Mitigation

1) The mitigation scope includes:

a) Domestic Well (one well)

- i) Monitor and report depth to water of well annually
- ii) Replace or deepen the well and lower the pump if it is adversely impacted
- iii) Pay for incremental operating costs of domestic well
 - (1) Estimate incremental operating costs of well attributed to drawdown
 - (2) Compensate with cash payment for additional pumping costs

b) Spring water sources (3)

- i) Install solar operated groundwater pumps at each of the three spring locations in the Kobeh Valley alluvial basin
- ii) Pay for replacement, operating and maintenance costs to the solar operated pumps while mine is in operation
- iii) Upon mine closure, compensate with a cash payment for replacement, operating and maintenance costs

c) Surface water sources:

i) Henderson Creek

- (1) Implement a long-term monitoring program to measure flows in Roberts Creek
- (2) All monitoring locations will be mutually agreed and data will be provided to BLM every annually
- (3) If monitoring indicates that mine operations results in decreased flow, GML would provide replacement water by installation of a groundwater wells and GML would pay administrative and O&M costs for the duration of mine operations

ii) Roberts Creek

- (1) Implement a long-term monitoring program to measure flows in Henderson Creek
- (2) All monitoring locations will be mutually agreed and data will be provided to BLM every annually
- (3) If monitoring indicates that mine operations results in decreased flow, GML would provide replacement water by installation of a groundwater wells and GML would pay administrative and O&M costs for the duration of mine operations

2) Other non-permitted water sources in the mountain blocks

- a) Eureka Moly will be provided routine reports of the monitoring conducted in accordance with the 3M to be approved by the State Engineer
- b) If monitoring indicates that mine operation resulted in decreased flow, GML would provide replacement water by the installation of emitters or some other method

In summary, Mr. Pennington reiterated that Eureka Moly is committed to fixing any potential harm created by the Mt. Hope project and believe they have proposed a 3M Plan that will do just that. Additionally, Eureka Moly has helped Diamond Valley with creation of a \$4 million trust despite conclusions by both the State Engineer and the BLM that Mt. Hope pumping will not adversely affect Diamond Valley. Mr. Pennington felt the conditions outlined by the Commissioners for withdrawal of the County's appeal has only proven to embolden the water rights holders in Kobeh Valley and Diamond Valley created a situation of 'money-grabbing' rather than reasonable mitigation, making settlement nearly impossible.

Accept or Reject Eureka Moly, LLC, Efforts on 3M Plan and Impacts: Commissioner Page motioned to table this agenda item to allow Eureka Moly to review the latest changes to the draft 3M Plan; Commissioner Ithuralde seconded the motion; motion carried 3-0. The Board directed Mr. Tibbitts to continue working with the mine representatives.

Continue with Appeal of Nevada State Engineer Ruling 6127: Commissioner Page motioned to continue with appeal of the Nevada State Engineer Ruling 6127 (in the form of Petition for Judicial Review filed in District Court); Commissioner Ithuralde seconded the motion; motion carried 3-0.

PUBLIC COMMENT

Chairman Fiorenzi called for public comments. There were none.

ADJOURNMENT

Commissioner Page motioned to adjourn the meeting at 3:50 p.m.; Commissioner Ithurralde seconded the motion; motion carried 3-0.

Approved this 21st day of November, 2010.

/s/ Leonard Fiorenzi

Leonard Fiorenzi, Chairman

Attest: /s/ Jackie Berg

Jackie Berg, Clerk

PROOF OF SERVICE

Pursuant to NRAP 25(d), I hereby certify that on the 26th day of July, 2013, I caused a copy of the foregoing ***JOINT APPENDIX VOLUMES 1 THROUGH 8*** to be served on the following parties as outlined below:

VIA COURT'S EFLEX ELECTRONIC FILING SYSTEM:

Francis Wikstrom
Jessica Prunty
Cassandra Joseph
Dana Walsh
Gary Kvistad
Bradford Jerbic
Daniel Polsenberg
Bradley Herrema
Michael Pagni
Jeffrey Barr
Debbie Leonard
Josh Reid
Theodore Beutel
Karen Peterson
John Zimmerman
Francis Flaherty
Paul Taggart
Michael Rowe
Gregory Walch
James Erbeck
Jennifer Mahe
Dawn Ellerbrock
Neil Rombardo
Ross de Lipkau

///

///

***VIA US MAIL, POSTAGE PRE-PAID
ADDRESSED AS FOLLOWS:***

William E. Nork, Settlement Judge
825 W. 12th Street
Reno, NV 89503

Dated this 26th day of July, 2013.

/s/ Therese A. Ure

THERESE A. URE, NSB# 10255

Schroeder Law Offices, P.C.

440 Marsh Avenue

Reno, NV 89509

PHONE (775) 786-8800;

FAX (877) 600-4971

counsel@water-law.com

*Attorneys for Appellants Michel and
Margaret Ann Etcheverry Family, LP,
Diamond Cattle Company LLC, and
Kenneth F. Benson*

SCHROEDER LAW OFFICES, P.C.
Laura A. Schroeder, NSB #3595
Therese A. Ure, NSB #10255
440 Marsh Ave.; Reno, Nevada 89509-1515
PHONE: (775) 786-8800; FAX: (877) 600-4971
counsel@water-law.com
Attorneys for Appellants

Electronically Filed
Jul 29 2013 09:45 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

**IN THE SUPREME COURT
OF THE STATE OF NEVADA**

EUREKA COUNTY, a political subdivision of
the State of Nevada; KENNETH F. BENSON,
individually; DIAMOND CATTLE
COMPANY, LLC, a Nevada limited liability
company; and, MICHEL AND MARGARET
ANN ETCHEVERRY FAMILY, LP, a
Nevada registered foreign limited partnership,
Appellants,

v.

THE STATE OF NEVADA STATE
ENGINEER; THE STATE OF NEVADA
DIVISION OF WATER RESOURCES; and
KOBEL VALLEY RANCH, LLC, a Nevada
limited liability company,

Respondents.

Case No. 61324

MICHEL AND MARGARET ANN
ETCHEVERRY FAMILY, LP, a Nevada
registered foreign limited partnership;
DIAMOND CATTLE COMPANY, LLC, a
Nevada limited liability company; and,
KENNETH F. BENSON, individually,
Appellants,

v.

STATE ENGINEER, OF NEVADA, OFFICE
OF THE STATE ENGINEER,
DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCE; and KOBEL
VALLEY RANCH, LLC, a Nevada limited
liability company,

Respondents.

Case No. 63258
*(Consolidated with
Case No. 61324)*

**JOINT APPENDIX
VOLUME 4**

APPENDIX SUMMARY

Chronological Order by Filing Date

Document	Filing Date	Vol.	3MJA Page Nos.
Letter from State Engineer Approving 3M Plan	June 6, 2012	I	1
Petition for Judicial Review	July 5, 2012	I	2-35
Lisa Morlan's Affidavit of Service of Notice of Petition for Judicial Review and Petition for Judicial Review	July 18, 2012	I	36-38
State Engineer's Record on Appeal Vol. 1	August 3, 2012	I	39
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Kobeh Valley Ranch, LLC’s Answer to Petition for Judicial Review	August 17, 2012	VI	526-531
Petitioners’ Opening Brief	November 5, 2012	VI	532-576
Kobeh Valley Ranch’s Answering Brief	Dec. 20, 2012	VI	577-610
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Findings of Fact, Conclusions of Law, and Judgment	May 17, 2013	VIII	720-736
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APPENDIX SUMMARY

Alphabetical Order

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Kobeh Valley Ranch's Answering Brief	Dec. 20, 2012	VI	577-610
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EUREKA COUNTY BOARD OF COMMISSIONERS
September 19, 2011

STATE OF NEVADA)
 :ss
COUNTY OF EUREKA)

CALL TO ORDER

The Board of Eureka County Commissioners met pursuant to law on September 19, 2011. Present were Chairman Leonard Fiorenzi, Vice Chair Mike Page, Member Jim Ithurralde, District Attorney Theodore Beutel, and Clerk & Treasurer Jackie Berg. The meeting was called to order at 9:30 a.m. and began with the Pledge of Allegiance. The interactive video conference system was connected and utilized between Crescent Valley and Eureka for the entire meeting.

APPROVAL OF AGENDA

Chairman Fiorenzi noted some minor changes to the agenda. The bid award will be addressed immediately following the Planning Commission; public comment will be taken and letters will be read during discussion of the Mt. Hope Project 3M Plan and State Engineer Ruling 6127. Commissioner Page motioned to approve the agenda with those changes; Commissioner Ithurralde seconded the motion; motion carried 3-0.

PUBLIC COMMENT

Chairman Fiorenzi opened the floor to public comments; there were none.

FINANCE

Payment of Expenditures: Expenditures were presented for approval by Recorder & Auditor, Mike Rebaleati. Commissioner Ithurralde motioned to approve expenditures in the amount of \$785,998.14 for accounts payable and \$281,164.32 for payroll, for a grand total of \$1,067,162.46; Commissioner Page seconded the motion; motion carried 3-0. Commissioner Page motioned to approve Yucca Mountain expenditures in the amount of \$3,160.90; Commissioner Ithurralde seconded the motion; motion carried 3-0.

Auditor's Report: Mr. Rebaleati presented the Auditor's Report for review. At the October 6th meeting, he will present Fiscal Year 2010-2011 augments from the general fund, including an augment for the Fair Board and review of their budget.

COMMISSIONERS

Update Reports: Commissioner Page stated he has been busy with personal items, but did take time to view progress of the Crescent Valley Arsenic Treatment Plant, which is coming along nicely. Commissioner Ithurralde participated in the Central Nevada Regional Water Authority teleconference on September 8th, and met with the joint committee for the School District's proposed gymnasium on September 13th; he reminded everyone of the upcoming Great Basin Water Forum in Ely on October 13th & 14th. Chairman Fiorenzi had several meetings with staff.

Change Meeting Date: Commissioner Ithurralde motioned to change the regularly scheduled meeting from October 20th to October 24th to accommodate conflicting obligations of members of the Board; Commissioner Page seconded the motion; motion carried 3-0.

Letter from Jacqualeene Campbell Regarding Driveway & Sidewalk: The Board received a letter from Jacqualeene Campbell requesting improvements to the sidewalk and driveway access at her property located at 154 N. Main Street and 160 N. Main Street in Eureka. Commissioner Ithurralde motioned to provide a copy of the letter and direct Public Works to look into the request from Ms. Campbell; Commissioner Page seconded the motion; motion carried 3-0.

PUBLIC WORKS

Force Account Change Order – Street Maintenance Project: Public Works Director, Ron Damele, explained that due to some drainage issues at the warehouse and shop, a concrete retaining wall and swale were constructed. Mr. Damele proposed a change order to the Street Maintenance Project to have the contractor, Sierra Nevada Construction, repave the 13,500 sq. ft. area that was excavated. Commissioner Page motioned to approve the force account change order to the 2011 Street Maintenance Project to complete 13,500 sq. ft. of paving at the County warehouse and shop, not to exceed \$43,200.00; Commissioner Ithurralde seconded the motion; motion carried 3-0.

2011 RPM Tech LM220 Snow Blower: Commissioner Ithurralde motioned to approve joining the Fresno County bid #070-4874 to purchase a new 2011 RPM Tech LM220 Snow Blower for \$134,481.00; Commissioner Page seconded the motion; motion carried 3-0.

Reyman Bros. Construction Proposal: A proposal was obtained from Reyman Bros. Construction to remodel the interior of the Physician's Assistant residence located at 381 Well Street in Eureka, in the amount of \$87,471.19. Work will be performed under the National Joint Powers Alliance, Gordion Group contract #NV02-032911-RBC. Mr. Damele explained that this is for an entire remodel of the interior including plumbing, heating, fixtures, paint, and flooring. The exterior is sound a new roof and new skirting was recently installed. Chairman Fiorenzi commented that the County could invest in a new residence for not much more than the price of the remodel. Commissioner Ithurralde suggested selling the unit and providing a house at the new subdivision. Commissioner Page stated he would like to tour the house before making any decisions. Commissioner Ithurralde motioned to table the proposal to remodel the Physician's Assistant residence until the Commissioners could tour the house; Commissioner Page seconded the motion; motion carried 3-0.

AMBULANCE & EMS

Update Report: EMS Coordinator, Mike Sullivan, reported on emergency activities since his last report on August 19th. Eureka received 15 calls for service (111 year-to-date); Crescent Valley had three calls for service (39 year-to-date). Two of the calls received by Eureka Ambulance required extrication of the patient and transport by Summit Air Ambulance. Both Eureka Volunteer Fire Department and Diamond Valley Volunteer Fire Department responded to the call on US Highway 50 on August 25th and Eureka VFD responded to the call on Austin Summit on September 18th.

Mr. Sullivan reviewed staffing levels for the Crescent Valley and Eureka services. Applications have been received for new volunteers, including two EMTs and four First Responder Drivers in Eureka, and one First Responder Driver in Crescent Valley. Mr. Sullivan checked into the Emergency Vehicle Operations Class and the cost wasn't prohibitive, so he is purchasing the course and will conduct the class locally. Continuing education training is scheduled in Eureka on September 26th and in Crescent Valley on September 29th. On August 31st, Mr. Sullivan met with the new Base Manager for Summit Air Ambulance, Rolando Gomez. On September 14th & 15th, he attended the 2011 Emergency Managers Workshop sponsored by the Nevada Division of Emergency Management in Carson City.

Ambulance Bill Write-Off: Commissioner Page motioned to approve ambulance bill write-off for patient #2006586 in the amount of \$325.00; Commissioner Ithurralde seconded the motion; motion carried 3-0.

BID OPENING

EXISTING SPRINGS WATER COLLECTION SYSTEM, PHASE 1: REHABILITATION PROJECT

Bid Opening: As advertised, bids for the Existing Springs Water Collection System, Phase 1: Rehabilitation Project were received and opened at 10:00 a.m. A total of five bids were received, as follows: (1) A&K Earth Movers, Inc., in the total amount of \$604,270.00

(schedule A-\$279,980.00, schedule B-\$268,740.00, schedule C-\$2,775.00, schedule D-\$2,775.00, force account-\$50,000.00); (2) Sierra Nevada Construction, Inc., in the total amount of \$696,007.00 (schedule A-\$328,272.00, schedule B-\$312,735.00, schedule C-\$2,500.00, schedule D-\$2,500.00, force account-\$50,000.00); (3) ACHA Construction, LLC, in the total amount of \$560,140.00 (schedule A-\$251,359.00, schedule B-\$250,975.10, schedule C-\$3,903.00, schedule D-\$3,903.00, force account-\$50,000.00); (4) Remington Construction, LLC, in the total amount of \$717,717.00 (schedule A-\$332,883.00, schedule B-\$330,234.00, schedule C-\$2,300.00, schedule D-\$2,300.00, force account-\$50,000.00); and (5) Mesquite General Contracting, Inc., in the total amount of \$541,715.00 (schedule A-\$246,364.00, schedule B-\$241,611.00, schedule C-\$1,870.00, schedule D-\$1,870.00, force account-\$50,000.00).

Commissioner Ithurralde motioned to accept the bids into the record for the Existing Springs Water Collection System, Phase 1: Rehabilitation Project and to direct Public Works Director, Ron Damele, and Mike Bennett, Lumos & Associates, to review the bids and return that afternoon with a recommendation for award; Commissioner Page seconded the motion; motion carried 3-0.

EUREKA FAMILY DENTISTRY

Introduction of Daniel Norris, DDS: Dr. Steven Hooper, DDS, was in attendance to introduce the dentist who is purchasing his practice in Eureka, Daniel Norris, DDS. Dr. Hooper began by thanking the Commissioners and the residents of Eureka for the past five years. Dr. Norris provided a brief background, stating he has been in practice for eight years, originally coming from Spanish Fork, Utah, but has been practicing the past five years in Haley, Idaho. His kids are enjoying the school here and his family has been well received. The Board welcomed Dr. Norris and his family and thanked Dr. Hooper for his years of service to the community.

COUNTY FACILITIES & ECONOMIC DEVELOPMENT

Update Report: Cultural, Tourism, & Economic Development Director, Andrea Rossman, reported on recent activities. Ms. Rossman began by introducing Patty Bice, who was recently hired as Economic Development Department Assistant. Preparations are underway for Silver Strike Day on October 8th. Ms. Rossman and Museum Director, Ree Taylor, will attend the Nevada Museum Association Convention in Carson City in late October. The Opera House sponsored a guitar and cello concert on September 16th, featuring Brad Richter and Viktor Uzur.

SWIMMING POOL, PARKS, & RECREATION

Update Report: Parks, Recreation, & Facilities Director, Cindy Adams, provided an update on the pool, parks, and recreational facilities. There were 348 swimmers in August, including participants in exercise and lap swimming, and 94 students for a back-to-school party on August 17th sponsored by Juvenile Probation. The Eureka Fairgrounds was busy with the County Fair August 10th-14th, other scheduled events, and regular use by ropers and the High School Rodeo Club. The buildings and grounds crews have been mowing the parks, maintaining grounds, pulling and spraying weeds, cleaning bathrooms, and updating the marquee at the Fairgrounds. Staffing level is down to nine from 19, with students returning to high school and college.

EUREKA LIVESTOCK, LLC

Letter from Eureka Livestock: Eureka Livestock submitted a letter outlining concerns over adverse impacts to local water resources by the impending Mt. Hope project, and asked that their letter be read into the record.

Eureka Livestock, LLC

3-Bars Ranch
HC 62 Box 62540
Eureka, NV 89316

Jim Etcheverry
16249 Winfield Ave.
Bakersfield, CA 93314

September 11, 2011

Eureka County Commissioners and Clerks Office
PO Box 677 (10 South Main Street)
Eureka, Nevada 89316

Dear Eureka County Commissioners and Jake Hibbits:

As a long time resident and agricultural producer in Central & Northern Nevada (Kobeh Valley & Elko), I am concerned about the future longevity of our operation relative to the potential impact of our natural water resources. The scarce but demanded water resources and new consumptions thereof will have a negative effect on my property's operations and the associated value of the deeded items that our family acquired in 1956.

Our operation has been progressive for many years and we will continue this progression as long as our collective water resources are uninterrupted or not infringed upon. These natural resources are required and essential for our family to continue to benefit from this on going business concern. We encourage progressive industry in the area as long as we can work together and compatibly resolve the use of these finite water resources.

As an historical overview, the water for the entire Western United States (WUS) have been naturally produced and used for many varied purposes (agriculture, recreation, wildlife, grazing, industry, scenery & habitat, etc.). As history has shown, not all these purposes have been mutually beneficial to all the parties especially not to land owners that typically have the priority to this water. To continue, there are many incidences within the WUS that have been adversely affected by aggressive water consumption plans and new demands put on by others. Most excessive consumptions typically caused by over draining excessive water pumping beyond the natural recharging capacities, the transferring or redirecting of water to different geographical areas and lastly the general drainage water quality as a result of these new demands.

Our historical operations in Nevada depend on uninterrupted consistent water resources that are essential to produce native feed, sub-irrigated grazing lands, riparian irrigated hay pastures, water for livestock operations, and other agricultural practices. As a recent example in 2011 and all prior years, we produced over 11,600 tons of native hay valued at \$302,000 that was a direct result of surface water irrigation, sub-irrigation, directed run off and area rainfall. This produced hay is fed to live stock and additionally the meadows are grazed yearly.

Being on the upper end of the Kobeh Valley Water Shed, our 3 Bars Ranch collectively uses the aquifers, water rights, deep wells, sub-irrigated pastures, artesian wells, rain fall collection, riparian water basins for live stock, our family operation depends on all these water resources. We need to pay more attention about the potential adverse impact that the new water demands will have on our intricate but delicate water system.

The established intricate water system details and some of the collective items are listed below:

- Wells - 1 domestic and 6 windmills - PART OF 3 BARS WATERING SOURCE
- 16 sub-terrain water holes or artesian wells - LIVESTOCK & HAY MEADOWS
- Over 42 larger springs with many in the draw down zone - MOUNTAIN RANGE
- Water rights - First in Time Priority and One per history and land needs - RIGHTS
- Flowing artesian water levels to 18 foot static water levels - FLE SIMPLE LAND
- Top elevation of 3 Bars - 6693 to 6646 Horse and North End - DRAW DOWN
- Lower elevation of 3 Bars - 6493 to 6435 Lower and South End - DRAW DOWN
- Watered hydraulic water impacts and area draw downs - WATER RESOURCES

Our Kobeh Valley Water System is expected to support a new water use rate at 7000 GPM for 365 days per year. This increased demand for the area is only a minimum use rate and these new water demands will have a detrimental

effect on our established operations. This excessive use of water will condemn the historical operations as we know it today and eliminate the current productivity of our land and ranching efficiencies. This will force the ecological operation to change as a result of the newly imposed water demands. Our water levels coupled together with the ranch's natural replenishing capacities will be jeopardized especially when abnormal or excessive requirements are put on the water system. These new demands created or approved by others are not directly tied in to the property's heritage. The livelihood and historical ranching experiences we receive from our established operation will be financially impacted by these new water demands and the excessive consumption thereof. There is no proven evidence that can predict the quantitative changes in the water or the areas recharging capacities as a result of the added demands. Any additional water demands on the same hydrological system will be detrimental to area owners and contrary to our best interest.

We encourage progressive operations in Koebe Valley that mutually benefit the county and the existing land owners but we do not want any and all burden to be only paid for by a few land owners in the valley. Per the attached letter from General Moly dated September 1, 2011, this inadequate mitigation offering did not address all long term potential water problems and losses such as our sub-irrigated meadows and riparian waters used in the operation, nor did they address the financial impact. We support the county's decision to continue with the appeal until they fully mitigate all future losses. Furthermore, this General Moly letter prejudicially misrepresents our concerns of the potential water impact and we do not agree that the water resources and their undisclosed plan will be sufficient enough to address all the future concerns we will have on the 3 Bars Ranch. Our 3 Bars Ranch is unique in that it has more natural water influences and sources on its property(s) than other ranches in the valley. We have many combined uses for our collected runoff water: sub-irrigated meadows, springs, wells, artesian waters and riparian watershed pastures that collectively contribute to the financial profitability for our operations.

Your assistance to these matter and concerns will be appreciated by me and our family.

Sincerely,

Jim Eicheverry - Eureka Livestock

cc: Karen Peterson, Water Attorney for Eureka County, PO Box 646, Carson City, NV 89701 (775) 687-0202
Allison MacKenzie Pavlakis, Wright & Fagan Ltd.

General Moly - Eureka Moly LLC - 2215 N. 3rd Street Elko, NV 89801 (775) 748-6000

Commissioner Page requested that the response letter to General Moly, which was an attachment to the Eureka Livestock letter, be read as well.

EUREKA MOLY, LLC	
2215 N. 3 rd Street Elko, Nevada 89801	
Phone: 775-748-6000 Fax: 775-751-7722	
Email: progers@generalmoly.com Website: www.generalmoly.com	
September 1, 2011	
Mr. James Eicheverry General Delivery Eureka Livestock Company / 3 Bars Ranch Eureka, Nevada	
Mr. James Eicheverry 16249 Winnfield Avenue Bakersfield, California 93312	

Dear Mr. James Etcheverry:

The Nevada State Engineer (NSE) on 15 July 2011 granted multiple applications providing Kobeh Valley Ranch (KVR) a combined duty of 11,300 cfs for mining use. Among various conditions imposed in the NSE Ruling 6127 (Ruling) is preparation of a monitoring, management and mitigation plan (3M). A 3M is being prepared and will be submitted to the NSE in accordance with the requirements of the Ruling.

The 3M provides for a process by which adverse impacts may be identified and ultimately mitigated, should they occur. It is intended to provide the necessary data to assess the response of the aquifer(s) to pumping groundwater, provide an early warning capability, and provide safeguards for responsible management of water and water dependent resources. One pertinent requirement of the 3M includes extensive monitoring of groundwater and surface water in Kobeh, Pine, Antelope and Diamond Valleys. In addition, the 3M calls for committees, whose members will be comprised of stakeholders that share an interest in the Diamond Valley Flow System, to actively participate in the 3M and provide transparency to all water rights holders to examine monitoring data, review reports and findings, and participate in protecting the overall health of the basins.

State records indicate you have three groundwater rights in the Kobeh Valley alluvial basin. We also understand you have a domestic well at your 9 Bars Ranch in Kobeh Valley. We have on several occasions discussed with you your concerns about our plans to develop the Mt. Hope mine. We understand that you generally agree with the studies that indicate your water resources will not be adversely affected but are understandably concerned about the impacts to your water rights should impacts occur. While we are not required by the Engineer or the laws in the spirit of good will, we are offering you an individual mitigation plan that specifically attempts to address your concerns.

We offer you the mitigation plans shown as ATTACHMENT A to this letter. Please give this offer your careful consideration and let us know by 9 September 2011 if you approve and accept the offer. We are willing to discuss and consider any aspects of the offer with you. If you accept the offer, we will require that you sign a letter of acceptance.

Sincerely,

Patrick Rogers
Patrick Rogers
Director, Environmental and Permitting
General Motors

Enclosure (signed and initialed)

ATTACHMENT A

Proposed Mitigation:

1) The mitigation scope includes:

a) Domestic Well (one well)

- i) Monitor and report depth to water of well annually
- ii) Replace or deepen the well and lower the pump if it is adversely impacted
- iii) Pay for incremental operating costs of domestic well
 - (1) Estimate incremental operating costs of well attributed to drawdown
 - (2) Compensate with cash payment for additional pumping costs

b) Groundwater sources

- i) Install solar operated groundwater pumps at each well location
- ii) Or, at Etcheverry's option, refurbish the windmills and deepen wells in these locations
- iii) Pay for replacement, operating and maintenance costs of the solar operated pumps while mine is in operation
- iv) Upon mine closure, compensate with a cash payment for replacement, operating and maintenance costs

c) Surface water sources

- i) Meadows
 - (1) Implement a long-term monitoring program to measure flows in the meadows area
 - (2) All monitoring locations will be mutually agreed and data will be provided to Etcheverry annually

- (3) If monitoring indicates that mine operations results in decreased flow, GMI will provide replacement water by installation of a groundwater well and a power source
- 2) Other non-permitted water sources in the mountain blocks
- a) Etcheverry will be provided routine reports of the monitoring conducted in accordance with the 3M to be approved by the State Engineer
 - b) If monitoring indicates that mine operations resulted in decreased flow, GMI would provide replacement water by the installation of guzzlers or some other method

NATURAL RESOURCES

Report on Activities: Natural Resources Manager, Jake Tibbitts, attended the annual meeting of the Public Lands Council in Park City, Utah, September 7th-9th; participated in the Mt. Hope conference call on September 13th; attended the Eureka County Conservation District meeting on September 14th; and attended the Natural Resources Advisory Commission meeting the evening of September 14th.

Upcoming Meetings: Mr. Tibbitts has been invited to participate on a Public Lands Panel at the NACO Conference in Fallon on September 22nd. Other upcoming meetings include a Wildlife Advisory Board meeting the evening of September 19th; a Mt. Hope conference call on September 27th; and a Crescent Valley Firewise meeting on September 28th.

CANVASS RESULTS OF THE 2011 SPECIAL ELECTION

Review Abstract & Canvass Election Results: An abstract of the vote for the 2011 Special Election for the Nevada District 2, US Congressional seat, was presented by Clerk & Treasurer, Jackie Berg. Eureka County has 921 active voters, 152 inactive voters, and had a 40.28% turnout for the Special Election, which was higher than most counties across the State. The abstract provided statistics of early voters, absentee voters, and turnout on Election Day. The successful candidate, Republican Mark Amodei, received 73.71% of the vote in Eureka County. Commissioner Ithurralde motioned to accept the abstract of the voting results for the September 13, 2011, Special Election; Commissioner Page seconded the motion; motion carried 3-0.

CLERK & TREASURER

Treasurer's Report: Clerk & Treasurer, Jackie Berg, submitted the Treasurer's Report for August 2011, with an ending balance of \$62,539,068.09. Ms. Berg noted that Raymond James, one of the investment managers, had extensive trade activity during the month of August. Most of the trades involved step-up investments which will show a loss if sold before the maturation date. This loss is experienced on the sell date and, therefore, is reflected in the month they are sold. But the overall investments realized a profit because of the interest earned over the life of the investment.

APPROVAL OF MINUTES

July 20, 2011: Commissioner Ithurralde motioned to approve the minutes of the July 20, 2011, Commission meeting; Commissioner Page seconded the motion; motion carried 3-0.

CORRESPONDENCE

Correspondence was received from: Mary Garcia; Jacqualeene Campbell; Eureka Livestock, LLC; District Attorney, Ted Beutel; Crescent Valley Town Advisory Board; Lumos & Associates, Tom Young; Reyman Bros. Construction; Cashman Equipment; Nevada Assoc. of Counties; Elko District BLM-Echo newsletter; Nevada Health Centers, Inc.; Nevada Rural Housing Authority; Nevada Div. of Environmental Protection; Nevada POOL/PACT; Nevada Dept. of Taxation (3); Nevada Dept. of Administration; Public Utilities Commission of Nevada; NDOT Centerline

newsletter; Nevada Connections newsletter; Nevada's Economy newsletter; Western Counties Alliance; National Assoc. of Counties (3); and US Fish & Wildlife Service.

EUREKA COUNTY FAIR BOARD

Budget Update for 2011 Eureka County Fair: Fair Board members, Brandi Anderson and Kay Hollaway-McCuin were in attendance to discuss the budget for the Eureka County Fair. The members stated that the Fair and the new activities this year were very successful and they have received a lot of good feedback. They reviewed the revenues received for the different events and sale of the program books. This was the first year the program books and premium books were published separately and it worked out very well.

Recorder & Auditor, Mike Rebaleati provided an expense report. The total budget was \$132,370.00 with \$125,000.00 budgeted for services and supplies. \$132,245.00 has been expended to date for services and supplies and includes all but a few minor bills. Revenues were budgeted at \$38,000.00, but actual receipts were \$51,672.00. The Fair Board members explained there was some misunderstanding regarding the budget and they felt this was due to their board being made up of mainly new members and receiving little or no direction. They mistakenly assumed the expendable monies for the Fair were the budget allocation plus revenues. Mr. Rebaleati stated that at the October 6th meeting, he will itemize the expenditures in more detail and request a budget augmentation from the general fund.

Authorization for Members to Attend Upcoming Convention: Cindy Gallagher, Fair Board Vice-Chair, placed this item on the agenda, but was unable to attend the meeting. Commissioner Ithurralde motioned to table this item until more information could be provided; Commissioner Page seconded the motion; motion carried 3-0.

NEVADA RURAL HOUSING AUTHORITY *(Note: A portion of this agenda item was continued in the afternoon).*

Review Single Family Documents for Eureka Canyon Subdivision: Chairman Fiorenzi asked Jack White, JL White & Associates, to go over the most recent changes incorporated into the single family documents. Mike Rebaleati interjected that he just reviewed the draft Resolution authorizing the grant to NRHA and it reflected an overall figure up to \$18 million, but the maximum amount presented during the public hearings was \$16 million. District Attorney, Ted Beutel, clarified that the \$18 million figure included the road work and off-site utilities that the County was doing for the subdivision.

Further examination of the single family documents revealed that some of the blanks, especially those concerning dollar amounts, had not been filled in. Mr. Beutel advised against approving incomplete documents and suggested that exact dollar amounts be identified and published in the agenda before moving forward with approval. Mr. White made a phone call to NRHA's legal counsel to find out why the County had not received the latest revised documents with the updated budget and maps. It was confirmed that an email had been sent out, but not all parties had received it. Everyone agreed approval of the single family documents would be tabled to October 6th to allow the blanks to be filled in. The Board and Mr. White continued to review other recent changes to the agreements.

Interim Agreement: District Attorney, Ted Beutel, requested clarification on the \$1.3 million in the new Interim Agreement, since the maximum agreed upon amount for the single family portion of the project was \$1,297,081.00. Mr. White explained that the new amount was calculated on actual draws; the increase of approximately \$3,000.00 reflected unexpected interest. Estimated interest in the original budget was based on scheduled draws, but the interest due was based on when the funding actually occurred.

Mr. Beutel had serious concerns about making an agreement and then not honoring the amount in that agreement. Mr. White offered to transfer the additional funds to the advance payments, increasing that figure rather than the amount in the Interim Agreement. The Interim

Agreement will remain at \$1,297,081.00 and the additional funding amount will be increased to \$631,420.00. The Board agreed this was a more acceptable solution.

Mr. Beutel raised another technical issue. The previous Interim Agreement ends September 19th and the new Interim Agreement doesn't contemplate interest for the multifamily funding. If escrow does not close on schedule, this could create a period where no interest is accrued. Chairman Fiorenzi signed escrow documents on September 15th. The Board felt comfortable that escrow would close on time or very soon thereafter and agreed to go forward with the Interim Agreement. Commissioner Ithurralde motioned to approve the new Interim Agreement with the corrected figure of \$1,297,081.00 and the additional funds figure of \$631,420.00 for a total budget of interim funding for the project of \$1,928,501.00 through October 20, 2011, and authorized the Chairman to sign the agreement outside of the meeting once the corrections have been made; Commissioner Page seconded the motion; motion carried 3-0.

Covenants, Conditions, & Restrictions (CC&Rs): Mr. White reiterated that the CC&Rs are to be in place by the November 21st Commission meeting, and a Housing Core Group meeting will be scheduled within 30 days to go over the draft CC&Rs before the November meeting.

RECESS FOR LUNCH

The Board recessed for lunch from 12:06 to 1:00 p.m.

EUREKA COUNTY PLANNING COMMISSION

Parcel Map for Larry & Benita Jones - APNs 002-027-22 & 002-027-23: Ellen Rand, Chairwoman of the Planning Commission, stated the Planning Commission reviewed and approved the parcel map for Larry & Benita Jones at their September 1st meeting. Larry Jones explained that he plans on putting another modular home on his property in Crescent Valley, but the bank will not finance two mobile homes on one lot. The parcel map was submitted to alter the lot lines so that each home will be located on its own lot. Commissioner Ithurralde motioned to approve the parcel map submitted by Larry & Benita Jones to adjust the lot lines on APN 002-027-22 and APN 002-027-23, as approved by the Planning Commission on September 1st; Commissioner Page seconded the motion; motion carried 3-0.

BID AWARD

EXISTING SPRINGS WATER COLLECTION SYSTEM, PHASE 1: REHABILITATION PROJECT

Bid Award: Mr. Damele reported that he and Mike Bennett, Lumos & Associates, reviewed the five bids received earlier in the day. They recommended awarding the bid to the low bidder, Mesquite General Contracting. Commissioner Ithurralde motioned to award the bid for the Existing Springs Water Collection System, Phase 1: Rehabilitation Project, to Mesquite General Contracting, Inc., in the amount of \$541,715.50; Commissioner Page seconded the motion; motion carried 3-0.

MT. HOPE PROJECT 3M PLAN

Public Comment on Draft 3M Plan: Chairman Fiorenzi noted that staff would provide a review of the draft 3M Plan with the changes incorporated from discussion at the September 6th meeting. Public comment will be allowed before and after the review. Several letters were received regarding this item and were read into the record at this point.

EUREKA COUNTY COMMISSION

Thank you for your decision to appeal the State Water Engineer's ruling to grant the water rights to General Moly. We hold water rights in Diamond Valley as well as Antelope Valley. Antelope Valley is considered an unappropriated basin, which borders Kobeh Valley to the south. The basin boundary is Highway 50, which in my

uneducated opinion would not divide water aquifers. This basin is in Eureka County, but is not addressed in the water models. I feel in this ruling, however, the State Engineer has given us a say in our own destiny by requiring a 3M Plan between the county and the mine. At this point I would implore you not to rush into a plan that will not be enforceable, or worth the paper it's written on, at the pressure of the mine. In past dealings with General Moly, this seems to be their basic operating procedure. The future of generations of Eureka County citizens is in your hands. Thank you for your time today and the enormous amount of time, money and energy you have continued to put into this process.

Ruth Martin
Vickie Buchanan
Kevin Buchanan
Beau Buchanan

September 19, 2011

September 19, 2011

To: Eureka County Commissioners
Re: 3M Plan for General Moly Mine

Dear Sirs:

I am writing this letter to your office in hopes that my concerns will be recognized. As a property owner and tax payer in Eureka County, I have several issues that I feel need to be addressed in regards to the proposed 3M Plan.

As the 3M Plan is currently written it would be difficult to enforce. There are no trigger points. The funds mentioned are not secure or bonded, there will be a negative impact on Diamond Valley water and land, and it does not provide for enforcement until negative impacts are recognized. It seems to me that if there are not trigger points, it would be difficult to mitigate. It seems to me that with the current agreement with General Moly under review, there is no need to get in a hurry to finalize a 3M Plan. We should take the time and review other 3M Plans before finalizing this one. We need to make sure that it will assure Management, Mitigation, and Monitoring as it pertains to Diamond Valley. We have a beautiful county and we need to ensure its future even after the mine is gone. General Moly needs to settle with Diamond Valley growers on an amount and basis that is agreeable to both parties. Diamond Valley growers were here long before the mine, and they will be here long after. The County Commissioners need to remember that while negotiating with General Moly.

Thank you for considering my thoughts.

Howard Bull, Sr.

Eureka County Commission
Eureka, NV 89316

Richard Kephart
DBA: R Farms
Eureka, NV 89316

Dear Sirs:

As a resident in Diamond Valley for the past 42 years, and a farmer, I want to commend the Commissioners for the decision to appeal the State Engineer's decision to award water rights to General Moly Mining.

Also, I want to encourage the Commissioners to move forward slowly with the 3M plan and ensure there are triggers included in the plan, if the plan is implemented, that [it] permits litigation for damages that may befall our Diamond Valley farming community.

Sincerely,

/s/ Richard Kephart

Richard Kephart, Owner and Operator
K-Farms

Jerry Anderson
P.O. Box 3
Eureka, Nevada 89516

September 19, 2011

Eureka County Commissioners
Eureka, Nevada

To the County Commissioners of Eureka, Nevada

For regards of the 3M plan, I feel that it should be delayed and there should be further studies made on the plan. Farmers on the new organization should be included on the study.

Sincerely,

Jerry Anderson

TO: Eureka County Commissioners
FROM: Kenneth F. Benson
RE: Comments to Agenda Items
1) Mr. Hope's 3M Plan and 2) State Engineer Ruling #6127
DATE: September 19, 2011

1) 3M Plan

The following comments relate to the September 19, 2011 Eureka County Board of Commissioners agenda item captioned "4 (1-30) Nevada State Engineer Ruling 6127" subsection item #1 relating to action regarding 3M plan.

For the record my name is Kenneth F. Benson.

It is my belief the Eureka County Board of Commissioners are trapping themselves and their constituents in a reckless and suicidal pursuit of a fatal flaw logic sequence in attempting to negotiate with Eureka Moly on a proposed 3M agreement at this time.

The premise of my argument is that there is a logical, ethical, and most likely legally actionable disconnect between the very contemplation of a proposed structure and endgame enforcement of the 3M document in face of the fact that

the commissioners have previously executed formal objection to the subject Ruling 6127 and, in fact, have petitioned the District Court for judicial review of the entirety of Ruling 6127.

In this context, the appropriate course of action should be to let the scenario of the legal protocol of the Petition Process prevail in the orderly progression of the District Court's jurisdiction in this matter. As things stand right now, the District Court holds all the cards of legal supremacy in the adjudication of this entire matter, unless the Commissioners foolishly prostitute the strength and focus of the several issues of conflict they have with said Ruling 6127. Negotiations regarding a 3M plan are spurious and premature at this time.

In separate presentation, Schroeder Law Offices, P.C. has delineated no fewer than 30 deficiencies in the current context of a contemplated mitigation outline. Other parties have advanced further observations related to the inadequacy of the present state of Negotiations as well.

In the "big picture" overview, it is my opinion that the State Engineer, as expressed in Ruling 6127, failed to exercise all of the legally described parameters of his jurisdiction relating to his administration of the water of the State of Nevada.

Nevada Statute and historical case law mandate that the State engineer DENY applications that infringe upon established water rights of senior certificated interests. There are numerous instances in the totality of the many applications addressed in Ruling 6127 that maliciously violate the rights of senior interests and cry out for DENIAL yet the State Engineer elbowed his way to the totality of Eureka Moly's (KVR) numerous applications.

In the assumption and eventual presence of the extent of the proposed volumes of diversions granted by the State Engineer, no reference or instruction was offered as to CURTAILMENT of such subsequent pumping activity that would present itself as clearly detrimental to identified senior stakeholders or to the innate status of the water resource itself - that is to say the perennial yield and storage characteristics of the ground waters in Koeber and Diamond Valleys. Again the State Engineer abandoned and repudiated from his discretionary and authoritative powers to CURTAIL pumping activities granted within ruling 6127 should they in fact come to inordinately debilitate senior interests.

With appropriate deference to the State Engineer's clearly defined authority and duty with respect to Denial and Curtailment, there does remain legitimate advocacy for the concept of Mitigation. In my opinion, Mitigation is relegated to the subservient mechanism of deference in instances of Failure By the State Engineer to adequately and appropriately protect the water resources of the State of Nevada through judicious execution of Denial and Curtailment. In such cases where an order of the State Engineer has clearly missed the mark, and the subsequent dynamic behavioral response of an aquifer or flow system that has been subjected to an abusive pumping rate, mitigation becomes a legitimate instrument to address the consequences of such an over draft.

Unfortunately the 3M plan under discussion today totally lacks legitimacy in addressing the scope of State Engineer Ruling 6127. The Plan, in its present form, should be REJECTED.

2) Nevada State Engineer Ruling 6127

Upon disposition of agenda item captioned (1:30) Nevada State Engineer Ruling item #3, there remains consideration of action item #4 captioned "moving forward with appeal of Nevada State Engineer Ruling 6127."

To that premise:

I strongly recommend and support that the Eureka Board of County Commissioners continue to move forward with all avenues of appeal to the Nevada State Engineer Ruling 6127.

If we have to go to the Supreme Court of the State of Nevada for Ratification and Affirmation of the appropriate structure and sequence of Denial, Curtailment, and Mitigation, then that is what we should do.

Respectfully submitted for your consideration,

/s/ Kenneth F. Benson
Kenneth F. Benson

*Diamond Natural Resources Protection & Conservation Association
Water Committee Chairman*

09/19/2011

Eureka County Commissioners
Re: Support for Eureka County Irrigators

Dear County Commissioners,

I would like to take a minute to thank you guys for the hard work and dedication you have put forth in working on the 3M plan. The first draft was a good start but needed many changes to be of real value. I want to encourage you to continue to take your time so that all the important issues can be adequately addressed. The main issues being adequate security, trigger points for mitigation and the right people on the WAC. I feel, as does DNRPCA's legal counsel, that it will take 5-6 months to get the 3M plan written correctly so that it will be a good and workable legal document.

One thing that I have a concern over is the fact that the county commissioners are working so hard and fast right now on the 3M plan when you are in the process of appealing the state engineers ruling 6127 that states that there needs to be a 3M plan worked on by Eureka County and GMO. Maybe you need to step back and see where the appeal goes first. That would also give everybody more time to gather information that will be helpful in developing a better 3M plan.

One more concern that I have, as do the irrigators in Diamond Valley, is the issue of General Moly settling with the irrigators. The county commissioners have stated in the past that this is one of the requirements for settlement with the county. I hope that it is still a requirement and we would like to hear from you guys that it still is important that the Kober Valley ranchers' and the DM farmers' concerns are addressed before any appeal is dropped.

The Eureka County Commissioners, Lemmy, Mike and Jim, along with District Attorney Ted Bentel and Natural Resources Manager Jake Rabbits and Dale Bagging, have made a huge commitment to make sure that this issue is done right for the present and the future. I want to thank you for your efforts and encourage you to remain steadfast in your commitment. If you stay committed to what you have always been committed to, this will get done right.

If I or anyone else on the DNRPCA board can be of any assistance please feel free to call on us. We are all committed to help get this thing done right.

Thanks again

Mark Moly
Mark Moly

September 19, 2011

For the record, my name is John Echeagaray. I am a Diamond Valley water user. First, I would like to thank the Eureka County Commissioners for working to protect Eureka County's most precious natural resources, our water. I feel they have tried to do the right thing and have worked hard at it.

Having said that, I have some real concerns about what will happen in our future. First, I feel that appealing this ruling is the right thing to do and because of this appeal, I feel there is no hurry to approve any kind of 3M plan at this time. Second, if a 3M plan is going to go forward, I believe there should be real teeth, trigger points, and adequate security along the way to protect our natural resource, water, in the far out future and for other generations, as well as ours.