

In the Supreme Court of Nevada

THE STATE OF NEVADA STATE ENGINEER; THE
STATE OF NEVADA DEPARTMENT OF
CONSERVATION AND NATURAL RESOURCES,
DIVISION OF WATER RESOURCES; AND KOBEH
VALLEY RANCH, LLC, A NEVADA LIMITED
LIABILITY COMPANY,

Appellants,

vs.

EUREKA COUNTY, A POLITICAL SUBDIVISION OF
THE STATE OF NEVADA; KENNETH F. BENSON, AN
INDIVIDUAL; DIAMOND CATTLE COMPANY, LLC,
A NEVADA LIMITED LIABILITY COMPANY; AND
MICHEL AND MARGARET ANN ETCHEVERRY
FAMILY, LP, A NEVADA REGISTERED FOREIGN
LIMITED PARTNERSHIP,

Respondents.

Electronically Filed
Oct 04 2016 08:38 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPELLANT'S REPLY APPENDIX
VOLUME I of I
(KVR RA 1-17)

District Court Case No.'s CV-1108-155, CV-1108-156, CV-1108-157, CV-1112-164,
CV-1112-165, CV1202-170, and CV-1207-178

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CERTIFICATE OF APPENDIX – NRAP 30(g)(1)

In compliance with NRAP 30(g)(1), I hereby certify that this Appellate's Reply Appendix consists of true and correct copies of the papers in the District Court file under Case No. 0904-122.

DATED this 30th day of September, 2016.

By: /s/ David H. Rigdon

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and NRS 533.450, I hereby certify that I am an employee of TAGGART & TAGGART, LTD., and that on this date I served, or caused to be served, a true and correct copy of the foregoing, as follows:

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DATED this 30th day of September, 2016.

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STATE OF NEVADA

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF WATER RESOURCES

In the Matter of Application Nos.:

70181, 70819, 70820, 70821, 70822, 70823,
70824, 70825, 70826, 70827, 72695, 72696,
72697, 72698, 73545, 73546, 73547, 73538,
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76004, 76005, 76006, 76007, 76008, 76009,
76364, 76365, 76483, 76484, 76485, 76486,
76744, 76745, 76746, 76802, 76803, 76804,
76805, 76989 and 76990 to appropriate the
public waters of an underground source
within Kobeh Valley Hydrographic Basin
(#139), Diamond Valley Hydrographic Basin
(#153) and Pine Valley Hydrographic Basin
(#053).

VOLUME III - TRANSCRIPT OF PROCEEDINGS

PUBLIC HEARING

WEDNESDAY, OCTOBER 15, 2008

CARSON CITY, NEVADA

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JASON KING, Deputy State
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KELVIN HICKENBOTTOM, Deputy
State Engineer
RICK FELLING, Chief
Hydrogeologist

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1 water rights were filed for, ranches and water rights
2 acquired in good faith?

3 A. Yes, they were.

4 Q. Do you know how much tonnage per day will be run
5 on average through the mill?

6 A. The plan is to process approximately 60,000 tons
7 of ore per day.

8 Q. On a world scale, how large will the Mount Hope
9 project be?

10 A. It would be one of the world's largest molybdenum
11 mines.

12 Q. Will there be byproduct mineral if you know
13 developed from the mine?

14 A. We don't believe so at this time. It's really
15 almost a pure molybdenum ore body.

16 Q. Do you again affirm that finances are available
17 or will be obtained necessary to carry out and construct the
18 mine and mill?

19 A. Yes.

20 Q. When the mine gets into production, certainly
21 certain taxes and levies will be paid by the mine; is that
22 correct?

23 A. Yes.

24 Q. Could you state the approximate figure on sales
25 taxes paid to date by the applicant?

1 A. We've paid to date approximately \$1.7 million in
2 sales taxes.

3 Q. Would you estimate sales taxes that will be paid
4 in the future?

5 A. In the first ten years, including the
6 construction period, our estimate is about \$90 million in
7 sales taxes.

8 Q. Do you know how that would be distributed?

9 A. It's our understanding approximately a third of
10 that would go to the county and a third of it goes to the
11 school district.

12 Q. The Eureka County School District?

13 A. That's our belief.

14 Q. Could you please give an estimate if you can of
15 the net proceeds of mines taxes that would be paid during the
16 life of the mine?

17 A. Using today's molybdenum price of about \$30 a
18 pound, the first ten years we estimate the Nevada net
19 proceeds tax will be about \$450 million.

20 Q. How is that distributed?

21 A. It's our understanding approximately half of that
22 goes to the county.

23 Q. So that would mean approximately \$45 million per
24 year in taxes, net proceeds of mines taxes would be paid?

25 A. Yes.

1 Q. And that figure is based upon the current value
2 of approximately \$30 per pound for molybdenum?

3 A. Yes.

4 Q. The price could of course go up?

5 A. Yes.

6 Q. And of course it could go down. Could you affirm
7 that as chief financial officer for General Moly this mining
8 venture is filed for and proceeding in good faith?

9 A. Yes.

10 Q. Would you affirm as chief financial officer that
11 the mining company, General Moly, together with its partner,
12 POSCO, have the financial ability to carry out the mining?

13 A. I believe so, yes.

14 MR. De LIPKAU: That's all the questions I have.

15 HEARING OFFICER WILSON: Who would like to go
16 first on cross; Mr. Miller again?

17 **CROSS-EXAMINATION**

18 BY MR. MILLER:

19 Q. Are you familiar with the actual assets that were
20 contributed to Kobeh Valley Ranches for the purchase of the
21 water rights in Kobeh Valley and that are the subject of
22 these applications?

23 A. It's all of our water, any water rights that the
24 company had went into Kobeh Valley.

25 Q. Do you know how much the company paid for those

1 water rights, the water rights that are the subject of these
2 applications?

3 A. We've spent approximately on land and water \$10
4 million.

5 Q. And those funds came from General Moly; is that
6 correct?

7 A. Yes.

8 Q. Were those funds the basis for the lease
9 agreement with Kobeh Valley Ranches for the use of the water
10 during the life of the mine?

11 A. I'm not sure I understand your question.

12 Q. I'm trying to understand how the \$10 million came
13 into possession of Kobeh Valley Ranches for the acquisition
14 of the property. Was it a gift?

15 MR. De LIPKAU: Excuse me. I'm going to have to
16 object to the question. The money didn't go to Kobeh Valley,
17 the money did not go into the possession of Kobeh Valley
18 Ranches, LLC.

19 HEARING OFFICER WILSON: Mr. Chaput, can you
20 explain? I think the key question is how did Kobeh Valley
21 Ranch buy the water rights. Where did their financing come
22 from? Can you answer that?

23 THE WITNESS: Their financing came from General
24 Moly.

25 ///

1 mining properties. I believe this -- pardon me, I should
2 correct myself. They had interests in a couple of other
3 small molybdenum properties.

4 Q. But it's been different types of ore?

5 A. And some other, gold and copper projects.

6 Q. Do you work with benefit cost ratios at all?

7 A. Not specifically.

8 Q. You talked about what the ore sells for, \$30 a
9 pound and what it costs to produce. If you just use those
10 stated numbers you would get a benefit cost ratio of five or
11 something like that.

12 A. Okay.

13 Q. You don't have any idea what a benefit cost ratio
14 might be for this project as projected over 44 years?

15 A. No, not specifically, no.

16 Q. And it may just be me, but this organizational
17 structure that you have really seems different to me from
18 what I'm used to dealing with with the other mines in the
19 state.

20 Is that kind of standard practice with Idaho
21 General and General Moly? Is that how your other endeavors
22 are done? You kind of dissect it and put it in these other
23 LLCs? And if that is true, in a very short summary, what is
24 the benefit of that?

25 A. Simply if you look at financing the Mount Hope

1 STATE OF NEVADA,)
2) ss.
3 CARSON CITY.)


4 I, MARY E. CAMERON, Official Court Reporter for the
5 State of Nevada, Department of Conservation and Natural
6 Resources, Division of Water Resources, do hereby certify:

7 That on Wednesday, the 15th day of October, 2008, I
8 was present at 901 South Stewart Street, Second Floor, Carson
9 City, Nevada, for the purpose of reporting in verbatim
10 stenotype notes the within-entitled public hearing;

11 That the foregoing transcript, consisting of pages
12 404 through 652, inclusive, includes a full, true and correct
13 transcription of my stenotype notes of said public hearing.

14 Dated at Carson City, Nevada, this 3RD day
15 of November, 2008.

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25


MARY E. CAMERON, CCR, RPR
Nevada CCR #98

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DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

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(#139), Diamond Valley Hydrographic Basin
(#153) and Pine Valley Hydrographic Basin
(#053).

VOLUME IV - TRANSCRIPT OF PROCEEDINGS

PUBLIC HEARING

THURSDAY, OCTOBER 16, 2008

CARSON CITY, NEVADA

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1 agricultural producers in Diamond Valley?

2 A. Not from any of the protestants, no. The answer
3 to that question would be no.

4 MR. MILLER: Thank you. I have no further
5 questions.

6 HEARING OFFICER WILSON: Mr. Benesch?

7 **CROSS-EXAMINATION**

8 BY MR. BENESCH:

9 Q. You offered some testimony on some benefits if
10 the mine goes into full production. I was wondering if you
11 could elaborate a little on how mining proceeds are taxed in
12 Nevada.

13 A. Sure. Mining is one of the three industries in
14 the state that has an industry-specific tax. It's called net
15 proceeds of minerals. The other two industries are gaming
16 and banking.

17 The mining one is part of the State constitution.
18 It is a property tax where you take subject to eight or nine
19 statutory exemptions the price when a product is sold on a
20 given day, the commodity that you're mining, in this case it
21 would be molybdenum, based on what the market price is that
22 day.

23 You subtract those costs which if I can
24 generalize are basically the cost to dig it up and the cost
25 to process it, and the net of that is taxed at the property

1 tax rate of a five full percent, not 35 percent like property
2 is in the rest of the state, a full five percent, the maximum
3 constitutional rate. That's the net proceeds of mining tax
4 itself.

5 Now, the industry also pays all the other taxes
6 that any other business in the state does, employee head tax,
7 sales tax, property tax on whatever they buy for equipment,
8 materials, supplies, all that other sort of thing.

9 The average right now, and the industry is mostly
10 gold as everybody knows, right now the average state and
11 local taxes per employee in the state of Nevada paid by the
12 industry is just a little less than \$14,000 an employee,
13 which when you compare it with other industries in the state
14 is about triple the next closest one, which happens to be the
15 gaming industry.

16 That information is all available in the economic
17 report that the association provides every year. They've
18 just come out a couple months ago with that economic report.

19 Now, so that nobody leaves the room confused,
20 most of that is based on precious metals, not molybdenum. So
21 molybdenum will be a new experience for the Tax Department in
22 terms of that, but in terms of those things like average
23 wages in the industry, a little north of \$70,000 an employee
24 annually, 800 construction jobs expected in Eureka County
25 during the buildup of the mine, 500 ongoing jobs, the

1 attendant consultants and suppliers that come with an
2 operation of that size is a significant impact in terms of
3 probably anywhere in rural Nevada.

4 But the last fact that I would give you, and if
5 you need something more specific, is the net proceeds of
6 minerals represents the only material instance that I'm aware
7 of in the tax structure of the state where the rurals are
8 exporting money to the urban centers with the statistic that
9 48 percent of the net proceeds on minerals paid goes into the
10 State general fund.

11 So my colleagues on the money committees in the
12 legislature, if they're putting the money where the people
13 are, 48 percent of that tax base ends up in the State general
14 fund.

15 Q. So you indicated it's taxed on the net proceeds.
16 How would you compare that to the taxation on gaming?

17 A. Gaming is gross proceeds subject to some
18 exemptions that they get, chips for high rollers, stuff like
19 that. But the comparison is an interesting one that you
20 should bring it up because when you look at the average wage
21 in that industry and the taxes paid per employee, they are
22 nowhere in the neighborhood of what the statistics from the
23 Department of Employment, Training and Rehabilitation
24 indicate the mining industry is. But they are different
25 structures.

1 Q. You also mentioned what the product sells for on
2 any given day. How would one determine what that amount
3 would be?

4 A. I can tell you how they do it for gold. I won't
5 speak for Mr. DiCianno's department.

6 Q. I'm trying to figure out how they do it for
7 molybdenum. It's kind of tough to find out that information.

8 A. Well, I would only refer you to Mr. DiCianno and
9 ask what their plans are. I do know there's a mine in Ely,
10 the Quadra folks run a molybdenum mine in conjunction with
11 their copper stuff, so I would assume that Mr. DiCianno's
12 people know how to tax the molybdenum that comes out of the
13 Ruth project in White Pine County.

14 I can tell you, for example, on the gold there is
15 a set market that publishes a price everyday, and I don't
16 recall the name of it, but when you keep your books, if you
17 sell it on Tuesday, the 12th of October, the price that was
18 reported that day is the price that will be attributed to
19 your commodity.

20 MR. BENESCH: Thank you. No further questions.

21 HEARING OFFICER WILSON: Ms. Peterson?

22 **CROSS-EXAMINATION**

23 BY MS. PETERSON:

24 Q. Senator Amodei, my name is Karen Peterson from
25 the Allison MacKenzie law firm.

1 STATE OF NEVADA,)
2) ss.
3 CARSON CITY.)


4 I, MARY E. CAMERON, Official Court Reporter for the
5 State of Nevada, Department of Conservation and Natural
6 Resources, Division of Water Resources, do hereby certify:

7 That on Thursday, the 16th day of October, 2008, I
8 was present at 901 South Stewart Street, Second Floor, Carson
9 City, Nevada, for the purpose of reporting in verbatim
10 stenotype notes the within-entitled public hearing;

11 That the foregoing transcript, consisting of pages
12 654 through 889, inclusive, includes a full, true and correct
13 transcription of my stenotype notes of said public hearing.

14 Dated at Carson City, Nevada, this 3RD day
15 of November, 2008.

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MARY E. CAMERON, CCR, RPR
Nevada CCR #98