

EUREKA COUNTY BOARD OF COMMISSIONERS

September 12, 2018

STATE OF NEVADA)
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COUNTY OF EUREKA)

CALL TO ORDER

The Board of Eureka County Commissioners met pursuant to law on September 12, 2018. Present were Chairman J.J. Goicoechea; Vice Chairman Michael Sharkozy; Commissioner Fred Etchegaray; District Attorney, Ted Beutel; and Commissioner Clerk, Jackie Berg. The meeting was called to order at 9:30 a.m. and began with the Pledge of Allegiance. The interactive video conferencing system was connected and utilized between Crescent Valley and Eureka for the entire meeting.

APPROVAL OF AGENDA

Commissioner Etchegaray motioned to approve the agenda as posted; Commissioner Sharkozy seconded the motion; motion carried 3-0.

PUBLIC COMMENT

Chairman Goicoechea called for public comments; there were none.

COMMISSIONERS

Settlement Agreement: The Board was provided with a proposed Settlement Agreement between Eureka County, Diamond Natural Resources Protection & Conservation Association, Kobeh Valley Ranch LLC, Eureka Moly LLC, and General Moly Inc. regarding applications for water appropriations and water protests. The agenda noted that copies of the proposed Settlement Agreement were available to the public prior to the meeting upon request.

Chairman Goicoechea stated that the Settlement Agreement was related to a hearing in the Office of the State Engineer in Carson City that started on September 11th. He and Vice Chairman Sharkozy attended the first day.

The Settlement Agreement had been signed by all *other* parties on September 10th: General Moly, Inc., Kobeh Valley Ranch LLC, Eureka Moly LLC, and Diamond Natural Resources Protection & Conservation Association (DNRPCA). The Chairman thanked District Attorney, Ted Beutel, and Natural Resources Manager, Jake Tibbitts, for working long and extended hours on this Settlement Agreement over the past couple of weeks.

Chairman Goicoechea provided a brief synopsis of what was contained in the agreement and what would take place if Eureka County agreed to sign. All parties will drop their respective protests in exchange for some substantial benefits (*for full details, the Settlement Agreement is included and made a part of these minutes*). He felt it was a “big win” for the residents of Eureka County that Mt. Hope Mine Project water will be conveyed at the end of the mine life to either Eureka County, DNRPCA, or an entity of choice, to be used for the benefit of Diamond Valley and possibly Kobeh Valley. The agreement provides additional funding to the Eureka Producers’ Cooperative for activities related to a Groundwater Management Plan, which General Moly agrees to publicly support. The County will also have the opportunity to benefit from General Moly’s infrastructure. Chairman Goicoechea added that the County did not want to turn a blind eye to other parties still involved in this case who could potentially see impacts, so the agreement includes mitigation language that protects those parties over and above the 3M Plan, which will be reinstated.

District Attorney Beutel requested that the signed agreement, if approved, be recorded, be included verbatim as part of the minutes, and be distributed to a list that he had provided prior to the meeting (State Engineer, Hearing Officer, other involved parties, and legal representatives).

Commissioner Etchegaray motioned to approve and sign the Settlement Agreement between Eureka County, Diamond Natural Resources Protection & Conservation Association, Kobeh Valley Ranch LLC, Eureka Moly LLC, and General Moly Inc. concerning applications and related protests before the Nevada State Engineer, and that the agreement be distributed as requested, recorded with the County Recorder, and included as part of the minutes. Commissioner Sharkozy seconded the motion. Motion carried 3-0. The agreement was recorded September 12, 2018, with the Eureka County Recorder as document number 2018-236054.

The Settlement Agreement follows:

IN THE OFFICE OF THE NEVADA STATE ENGINEER

IN THE MATTER OF MOLY APPLICATIONS)	
TO CHANGE 85575, 85577, 85579, 85581,)	
85582, 85583, 85584, 85585, 85586, 85588,)	STIPULATION,
85589, 85591, 85592, 85593, 85594, 85596,)	SETTLEMENT
85597, 85598, 85599, 85603, 85604, 86149,)	AGREEMENT AND
86150, 86151, 86152, 86153, 86157, 86158,)	WITHDRAWAL OF
86159, 86160, 86161, and EUREKA COUNTY)	<u>PROTESTS</u>
APPLICATION 83948 TO APPROPRIATE.)	

This Stipulation, Settlement Agreement, and Withdrawal of Protests (“Agreement”) is made this 12th day of September, 2018 (“Effective Date”).

The Agreement is by and between Eureka County, a political subdivision of the State of Nevada (“EUREKA”), Diamond Natural Resources Protection & Conservation Association, a Nevada non-profit corporation (“DNRPCA”), and Kobeh Valley Ranch LLC, a Nevada limited liability company, Eureka Moly, LLC, a Delaware limited liability company, and General Moly, Inc., a Delaware corporation (collectively “MOLY”).

The Agreement resolves the water applications to change and appropriate listed above, and makes reference to the Nevada State Engineer (“State Engineer”), the Eureka Producers’ Cooperative, a Nevada non-profit coop corporation (“EPC”), the agreement August 18, 2010 between Eureka Moly, LLC and the EPC (“the August 18, 2010 Agreement”), the proposed Diamond Valley Groundwater Management Plan now before the State Engineer (“GMP”), and the Monitoring, Management, and Mitigation Plan approved as a condition for State Engineer’s Ruling 6127 (“3M PLAN”).

“The parties” in this Agreement refers to EUREKA, DNRPCA, and MOLY.

For good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

I. TERMS & CONDITIONS

- A. MOLY filed applications to change water already appropriated and applications to appropriate water for its Mt. Hope Mine Project. EUREKA and DNRPCA protested these applications, and listed above are MOLY’s applications to change.

- B. EUREKA filed an application listed above to appropriate water for a project to alleviate over-pumping of water in Diamond Valley. MOLY and Ross E. de Lipkau on behalf of MOLY protested this application, which is in the same hydrographic basin as the majority of MOLY's applications for the Mt. Hope Mine Project.
- C. The parties have resolved all matters regarding these applications and how water may be diverted if approved by the State Engineer.
- D. MOLY shall consider this Agreement for formal approval and signature by close of business September 10, 2018. DNRPCA shall consider this Agreement for formal approval and signature during a meeting scheduled the evening of September 10, 2018. EUREKA shall consider this Agreement for formal approval and signature during a meeting scheduled September 12, 2018. The Parties agree the Effective Date of this Agreement shall be September 12, 2018, but certain aspects of this Agreement, described below, go into effect September 11, 2018, provided both MOLY and DNRPCA have already formally approved and signed this Agreement.
- E. September 11, 2018, a hearing begins before the State Engineer on MOLY's applications to change. Should MOLY and DNRPCA execute this Agreement on September 10, 2018, EUREKA and DNRPCA agree to reserve their opening statements and not proceed with cross examination of any witnesses during the hearing September 11, 2018, and whatever portion of the hearing occurs September 12, 2018, before EUREKA's meeting to consider this Agreement. The Parties agree to request the hearing September 12, 2018 to begin no earlier than 10:00 a.m. Once the Agreement has been executed by all the Parties, EUREKA and DNRPCA, and all their representatives and agents on their behalf, agree to no longer participate in the hearing and to request of the State Engineer withdrawal of all their respective Exhibits submitted for this hearing from the Office of the State Engineer.
- F. If some but not all the Parties formally execute this Agreement on the timetable described above, no part of this Agreement (unless otherwise stated) has force or effect, and the Parties are free to participate in the hearing beginning September 11, 2018 in any way they see fit.
- G. If all the Parties formally execute this Agreement on the timetable described above, but the applications to change water for MOLY's Mt. Hope Mine Project are not approved by the State Engineer, and MOLY's applications to appropriate as described in this Agreement (see below) are also not approved, no part of this Agreement (unless otherwise stated) has force or effect.

II. PROTEST AND APPEAL

- A. The Parties agree to submit to the State Engineer on September 12, 2018 their withdrawal of their protests to the applications listed in the heading of this Agreement, and the applications listed in paragraph D below.
- B. EUREKA and DNRPCA agree to not participate in any way, following their requests to withdraw their protests, in the hearing which begins September 11, 2018 to approve MOLY's applications to change.
- C. MOLY agrees not to participate in any way following their request to withdraw their protests, in the hearing (if one is set) to approve EUREKA's application to

appropriate water. The Parties agree not to request the State Engineer to act on EUREKA's application until after the State Engineer acts on MOLY's applications to change.

- D. MOLY also has applications to appropriate water for the Mt. Hope Mine Project which are not the subject of the September 11, 2018 hearing. The Parties agree that upon MOLY's approval to commence construction of the Project MOLY shall withdraw applications to appropriate 85573, 85574, 85576, 85578, 85580, 85587, 85590, 85595, 85600, 85601, and 85602, and MOLY agrees not to file any new applications to appropriate water in the Kobeh Valley Hydrographic Basin. Once MOLY commences construction, MOLY agrees to withdraw any pending applications and relinquish any appropriations above the 11,300 afa needed for the Mt. Hope Mine Project.
- E. MOLY reserves the opportunity to pursue the applications to appropriate in Paragraph D, above, if the applications to change do not result in MOLY having authority to use the water under the applications to change for the Mt. Hope Mine Project. This Agreement allows MOLY to pursue up to 11,300 afa for its Mt. Hope Mine Project and EUREKA and DNRPCA agree not to interfere with MOLY's ability to pursue this duty for the Mt. Hope Mine Project.
- F. The Parties agree not to file an appeal, or in any way request a court to reconsider the State Engineer's approval of another party's applications, but the Parties reserve the right to contest any determination the State Engineer makes on their own applications.
- G. The Parties further agree the directors, officers and agents of their respective organizations shall agree to be bound and not file an appeal, or in any way request a Court to reconsider the State Engineer's approval of another party's applications.

III. SHARING OF INFRASTRUCTURE AND WATER

- A. MOLY agrees to assist and cooperate with EUREKA to allow EUREKA at EUREKA's cost to connect to the electrical power infrastructure for the Mt. Hope Mine Project and utilize rights of way for the Mt. Hope Mine Project for EUREKA's infrastructure, subject to any necessary review and approval by appropriate state and federal agencies.
- B. MOLY also agrees when MOLY in its own discretion determines it will not interfere with mining operations to allow DNRPCA and EUREKA, or an as yet unnamed affiliated third party, to utilize water appropriated for the Mt. Hope Mine Project to be used to lessen the effects of groundwater pumping in Diamond Valley, subject to any necessary review and approval by appropriate state and federal agencies.
- C. At the end of the Mt. Hope Mine Project's active mining life, MOLY agrees to convey the water appropriations used during the Project (minus a reasonable amount for continuing post closure reclamation activity) to DNRPCA or EUREKA, or to some as yet unnamed affiliated third party, for the purpose of lessening the effects of groundwater pumping in Diamond Valley. DNRPCA and EUREKA may also agree with MOLY to retain a portion of this water for future use in the hydrographic basin of origin.

IV. 3M PLAN IMPLEMENTATION AND FUNDING

- A. The Parties will jointly request the NSE to reinstate the previously approved 3M PLAN (approved as a condition for State Engineer's Ruling 6127), and the 3M PLAN shall be reactivated and fully implemented, and EUREKA and MOLY shall engage in good faith discussions to consider changes to it to make the 3M PLAN more efficient. MOLY agrees to fully implement any necessary augmentation/mitigation for the Mt. Hope Mine Project regardless of the mix of water applications approved up to 11,300 afa.
- B. MOLY agrees that a change in the intent of or reduction in the financial assurances of the previously approved 3M PLAN will not be one of the changes considered by the Parties.
- C. Regardless of any 3M PLAN, MOLY will implement the augmentation/mitigation and monitoring proposed in MOLY's various reports submitted to the State Engineer (i.e., recommendations of Dr. Sterrett and Dr. Stone) upon approval by the State Engineer.
- D. The State Engineer retains full authority to administer any water rights under Nevada law, and this Agreement is not intended to remove that authority from him.

V. EPC FUNDING

- A. As part of the consideration for this Agreement, and the obligations EUREKA and DNRPCA bind themselves to, MOLY guarantees funding through Eureka Moly, LLC to the August 18, 2010 Agreement with EPC in an amount equal to \$5.6 Million Dollars on the timetable described here. This funding from MOLY through Eureka Moly, LLC may be used for activities under any GMP approved by the State Engineer for Diamond Valley.
- B. MOLY shall pay through Eureka Moly, LLC \$50,000 to EPC upon approval of this Agreement by the Parties, the withdrawal of protests by EUREKA and DNRPCA, and the request made by EUREKA and DNRPCA to withdraw their respective exhibits from the Office of the State Engineer.
- C. MOLY shall pay through Eureka Moly, LLC an additional \$50,000 to EPC upon expiration of the deadline for EUREKA and DNRPCA to file an appeal or any other type of court challenge to the State Engineer's anticipated issuance of permits to MOLY for the Mt. Hope Mine Project, but in no event beyond 60 days after the permits are issued.
- D. MOLY shall pay through Eureka Moly, LLC the \$2 Million Dollars to EPC upon MOLY's receipt of full financing, as set forth in the August 18, 2010 Agreement schedule.
- E. MOLY shall pay through Eureka Moly, LLC a total of \$1.75 Million Dollars to EPC upon MOLY's receipt of payment for its first production from the Mt. Hope Mine Project or upon commencement of production plus no more than 150 days, as set forth in the August 18, 2010 Agreement schedule.

- F. MOLY shall pay through Eureka Moly, LLC a total of \$1.75 Million Dollars to EPC upon the one year anniversary of the payment made in accordance with paragraph E, above, as set forth in the August 18, 2010 Agreement schedule.
- G. EPC, not a party to this Agreement, has the absolute right to reject these modified payment terms and this increase in funding.

VI. GMP SUPPORT

- A. As requested by DNRPCA, MOLY shall provide public support for the GMP and its approval by the State Engineer. A MOLY representative shall be present at a hearing scheduled by the State Engineer on the GMP and make a public statement of support for the GMP.
- B. MOLY shall not assist any party, financially or otherwise, that opposes or is adversarial to approval or implementation of the GMP.

VII. STATE ENGINEER AUTHORITY

- A. The Parties will request the State Engineer be a party to and issue permit terms for the approved applications for the Mt. Hope Mine Project and EUREKA's application consistent with this Agreement.
- B. The Parties commit to this Agreement even if the State Engineer refuses to enter into or issue permit terms consistent with this Agreement.
- C. The State Engineer retains full authority over any permits he may issue. Nothing in this Agreement limits or is intended to limit that authority, including this paragraph.
- D. To the extent this Agreement sets forth matters that are not under the exclusive jurisdiction and authority of the State Engineer, those provisions are fully enforceable by the Parties. By way of example, but not limitation, if MOLY does not pay the sums required by this Agreement, a private cause of action exists for the Parties for enforcement.

VIII. MISCELLANEOUS

- A. EUREKA and DNRPCA agree not to challenge the pending Supplemental Environmental Impact Statement ("SEIS") and related Record of Decision ("ROD") anticipated to be issued to MOLY by the Bureau of Land Management ("BLM").
- B. EUREKA and DNRPCA's withdrawal of protests and agreement not to challenge the SEIS and ROD are without prejudice to their positions regarding any further approvals or permits for the Mt. Hope Mine Project from governmental agencies. The Parties agree to reasonably cooperate on any future approvals or permits that may be necessary.
- C. The persons who execute this Agreement are authorized to do so by their respective organizations, and by so doing bind their organization to the terms of this Agreement.
- D. This Agreement is binding on the successors and assigns of the Parties.
- E. This Agreement must be governed and interpreted under the laws of Nevada.

General Moly, Inc.

By: Bruce D. Hansen
Name: Bruce D. Hansen
Title: Chief Executive Officer

Kobeh Valley Ranch LLC, by and through its Manager, General Moly, Inc.

By: Bruce D. Hansen
Name: Bruce D. Hansen
Title: Chief Executive Officer

Eureka Moly LLC, by and through its Manager, Nevada Moly, LLC

By: Bruce D. Hansen
Name: Bruce D. Hansen
Title: Chief Executive Officer

Eureka County

By: Shirley D. Coicoechea
Name: Shirley D. Coicoechea
Title: Chairman, Eureka County Commission

Diamond Natural Resources Protection & Conservation Association

By: Mark S. Mayle
Name: Mark S. Mayle
Title: Pres. of Board

COMMISSIONERS (continued)

Consider Cancelling Meeting: The agenda included an item to consider cancelling the September 20th meeting to allow for Commissioners' attendance at the State Engineer hearing. As part of the agreement, Eureka County will withdraw their protests and exhibits and will no longer be attending the hearing. Therefore, no action was required to cancel the regular meeting or to consider an additional meeting.

PUBLIC COMMENT

Chairman Goicoechea opened the floor for public comments; there were none.

ADJOURNMENT

Commissioner Sharkozy motioned to adjourn the meeting; Commissioner Etchegaray seconded the motion; the meeting was adjourned at 9:41 a.m.

Approved by vote of the Board this 20th day of September, 2018.

/s/ J.J. Goicoechea, DVM
J.J. Goicoechea, Chairman

I, Jackie Berg, Commissioner Clerk, attest that these are a true, correct, and duly approved minutes of the September 12th, 2018, meeting of the Board of Eureka County Commissioners.

/s/ Jackie Berg
Jackie Berg, Commissioner Clerk

I, Beverly Conley, Clerk & Treasurer of Eureka County, acknowledge and accept the attached minutes as approved by the Board of Eureka County Commissioners and attested to by the Commissioner Clerk.

/s/ Beverly Conley
Beverly Conley, Clerk & Treasurer