

IN THE SUPREME COURT OF THE STATE OF NEVADA

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DIAMOND NATURAL RESOURCES
PROTECTION & CONSERVATION
ASSOCIATION; J&T FARMS, LLC;
GALLAGHER FARMS LLC; JEFF LOMMORI;
M&C HAY; CONLEY LAND & LIVESTOCK,
LLC; JAMES ETCHEVERRY; NICK
ETCHEVERRY; TIM HALPIN; SANDI HALPIN;
DIAMOND VALLEY HAY COMPANY, INC.;
MARK MOYLE FARMS LLC; D.F. & E.M.
PALMORE FAMILY TRUST; WILLIAM H.
NORTON; PATRICIA NORTON;
SESTANOVICH HAY & CATTLE, LLC; JERRY
ANDERSON; BILL BAUMAN; AND DARLA
BAUMAN,

Case No. 81224 Electronically Filed
Jun 11 2020 11:20 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Appellants/Cross-Respondents,

vs.

TIM WILSON, P.E. NEVADA STATE
ENGINEER, DIVISION OF WATER
RESOURCES, DEPARTMENT OF
CONSERVATION AND NATURAL
RESOURCES; EUREKA COUNTY; DIAMOND
VALLEY RANCH, LLC; AMERICAN FIRST
FEDERAL, INC.; BERG PROPERTIES
CALIFORNIA, LLC; BLANCO RANCH, LLC;
BETH MILLS, TRUSTEE MARSHALL FAMILY
TRUST; TIMOTHY LEE BAILEY;
CONSTANCE MARIE BAILEY; FRED BAILEY;
CAROLYN BAILEY; SADLER RANCH, LLC;
IRA R. RENNER; AND MONTIRA RENNER,

Respondents/Cross-Appellants.

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**UNOPPOSED MOTION TO MODIFY CAPTION
AND REDESIGNATE PARTIES**

Pursuant to NRAP 28.1(b), Appellants DIAMOND NATURAL RESOURCES PROTECTION & CONSERVATION ASSOCIATION; J&T FARMS, LLC; GALLAGHER FARMS LLC; JEFF LOMMORI; M&C HAY; CONLEY LAND & LIVESTOCK, LLC; JAMES ETCHEVERRY; NICK ETCHEVERRY; TIM HALPIN; SANDI HALPIN; DIAMOND VALLEY HAY COMPANY, INC.; MARK MOYLE FARMS LLC; D.F. & E.M. PALMORE FAMILY TRUST; WILLIAM H. NORTON; PATRICIA NORTON; SESTANOVICH HAY & CATTLE, LLC; JERRY ANDERSON; BILL BAUMAN; AND DARLA BAUMAN (collectively, “DNRPCA Appellants”) and Respondents TIM WILSON, P.E., NEVADA STATE ENGINEER AND DIVISION OF WATER RESOURCES (collectively, “the State Engineer”) and Respondent EUREKA COUNTY respectfully move the Court for an order that modifies the caption and re-designates the parties to accurately reflect the Appellants and Respondents in this case. This motion is supported by the following memorandum of points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

On January 11, 2019 the State Engineer entered Order 1302 approving the Diamond Valley Groundwater Management Plan (“GMP”). On February 11, 2019

Respondents (Petitioners below) IRA R. & MONTIRA RENNER (“Renner”), SADLER RANCH, LLC (“Sadler”), TIMOTHY LEE BAILEY, CONSTANCE MARIA BAILEY, FRED BAILEY AND CAROLYN BAILEY (collectively, “the Baileys”) filed Notices of Appeal and Petitions for Review of State Engineer Order 1302 in the Seventh Judicial District Court. After briefing and oral arguments, the district court entered its Findings of Fact, Conclusions of Law, and Order Granting Petitions for Judicial Review (“Order”) on April 27, 2020. Notice of entry of the Order was filed on April 29, 2020.

On May 14, 2020, the DNRPCA Appellants filed a Notice of Appeal of the Order, which was docketed in this Court as Case No. 81224. Separately, the State Engineer filed a Notice of Appeal on May 15, 2020, and Eureka County filed a Notice of Appeal on May 21, 2020. The Court docketed the State Engineer’s and Eureka County’s appeals as “cross appeals” in this case and identifies the State Engineer and Eureka County as “cross appellants.” Because the DNRPCA Appellants, the State Engineer and Eureka County are on the same side of this case, they request that they all be designated as “Appellants” and that Renner, Sadler and the Baileys be designated “Respondents.”¹ Undersigned counsel

¹ Diamond Valley Ranch, LLC; American First Federal, Inc.; Berg Properties California, LLC; Blanco Ranch, LLC; and Beth Mills, Trustee Marshall Family Trust intervened in the district court but did not file briefs or provide argument for or against Order 1302. Since they did not file notices of appeal to this Court, they are more appropriately considered Respondents in this appeal. They did not

conferred with counsel for Renner, Sadler and the Baileys, and they do not oppose this motion.

II. ARGUMENT

NRAP 28.1(b) provides: “The party who files a notice of appeal first is the appellant for all purposes... [The Court’s] designations may be modified by the parties’ agreement or by court order.”

Here, the DNRPCA Appellants, the State Engineer and Eureka County all appeal the same April 27, 2020 Findings of Fact, Conclusions of Law, Order Granting Petitions for Judicial Review of the district court (“the District Court Order”). The DNRPCA Appellants, the State Engineer and Eureka County were co-Respondents in the underlying action before the district court, seek reversal of the District Court Order, and support being designated “Appellants” in this case. Because the District Court Order ruled in favor of Renner, Sadler Ranch and the Baileys, and they seek affirmance of the District Court Order, they are properly designated “Respondents.” No party filed a cross appeal of the District Court Order.

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respond to undersigned counsel’s inquiry regarding whether they will oppose this motion, although their lack of participation in the district court likely prevents them from participating in this appeal. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981).

III. CONCLUSION

For the foregoing reasons, the DNRPCA Appellants, the State Engineer and Eureka County respectfully request that the Court designate them “Appellants” and designate Renner, Sadler and the Baileys “Respondents.”

Date: June 11, 2020

Date: June 11, 2020

/s/ Debbie Leonard

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Date: June 11, 2020

/s/ James N. Bolotin

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Leonard Law, PC, and that on June 11, 2020, a copy of the foregoing document was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (E-Flex). Participants in the case who are registered with E-Flex as users will be served by the EFlex system. All others will be served by first-class mail.

/s/ Tricia Trevino
An employee of Leonard Law, PC