

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

IN THE MATTER OF THE
DETERMINATION OF THE RELATIVE
RIGHTS IN AND TO ALL WATERS, BOTH
SURFACE AND UNDERGROUND,
LOCATED WITHIN THE DIAMOND
VALLEY....

No. 84275

Electronically Filed
Mar 17 2022 10:10 p.m.

DOCKETING Elizabeth N. Brown
CIVIL APPEALS Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Seventh Department 2
County Eureka Judge Gary D. Fairman
District Ct. Case No. 2002009

2. Attorney filing this docketing statement:

Attorney James N. Bolotin, Esq. Telephone 775-684-1231
Firm Office of the Nevada Attorney General
Address 100 North Carson Street
Carson City, Nevada 89701-4717

Client(s) Appellant, the State of Nevada and Adam Sullivan, P.E., State Engineer

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney See attached sheet. Telephone _____
Firm _____
Address _____

Client(s) _____

Attorney _____ Telephone _____
Firm _____
Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input checked="" type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input checked="" type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): <u>NRCP54(b)</u> |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Diamond Natural Resources Protection & Conservation Association, et al. v. Diamond Valley Ranch, LLC, et al., Case No. 81224

Eureka County v. Sadler Ranch, LLC, et al., Case No. 75736

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None, besides ongoing adjudication proceedings at district court.

8. Nature of the action. Briefly describe the nature of the action and the result below:

This is a statutory water adjudication of all waters in Diamond Valley, Nevada, in both Eureka and Elko counties. The adjudication is ongoing in the district court. One claimant, Solarljós, LLC, moved for partial summary judgment as to their claims. The State Engineer's role is unique in these proceedings, and he is not adverse to the parties. The district court granted the motion for partial summary judgment, at least in part, on the basis that it was unopposed by the State Engineer. Solarljós, LLC, then sought, and received, NRCP 54(b) certification of that Order, over the State Engineer's opposition. This appeal of the partial summary judgment, certified as final pursuant to NRCP 54(b), ensued.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

The State Engineer challenges various procedures and standards of review used by the district court in this adjudication. This includes allowing discovery and dispositive motions related to the State Engineer's Order of Determination, the district court's decision granting Solarljós, LLC's motion for partial summary judgment at least in part because it was unopposed and because the evidence filed with the Order of Determination was never made part of the record despite being filed in compliance with NRS 533.165(1), the de novo standard of review at the district court, and other procedures regarding the State Engineer's role, which he views as a special master. The State Engineer also challenges the decision to issue a separate order on partial summary judgment, and certifying it as final under NRCP 54(b), in this statutory adjudication where the law requires a single decree.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Counsel is unaware of any proceedings presently pending before the Court raising the same or similar issues.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☒ An issue of public policy

☒ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: This case involves statutory water adjudications, and the State Engineer's role therein once these cases reach the district court, as well as the standard of review that should be used and other procedures generally. Due to the scarce nature of water in Nevada, and the importance of vested water rights, this case raises an issue of public policy and en banc consideration is necessary (like many other cases involving water).

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This matter is presumptively retained by the Supreme Court pursuant to NRAP 17(a)(8) as an administrative agency appeal involving a water determination.

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? There have been trial proceedings, but not for this appeal

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from October 27, 2021

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served November 5, 2021

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed February 9, 2022

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

Eureka County - Filed notice of appeal February 16, 2022

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)(1) (as to the order granting NRCP 54(b) certification)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|--|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input checked="" type="checkbox"/> Other (specify) <u>NRS 533.200; NRCP 54(b)</u> | |
-

(b) Explain how each authority provides a basis for appeal from the judgment or order:

This is an appeal from a decision granting a motion for partial summary judgment, certified as final pursuant to NRCP 54(b).

Further, in granting partial summary judgment and certifying it pursuant to NRCP 54(b), the district court essentially issued a separate decree as to Solarljós, LLC's claims to vested water rights which would therefore be appealable under NRS 533.200.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

See attached list.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Each party to this case has either brought exceptions, or intervened in exceptions of others, as to the State Engineer's Order of Determination regarding vested water rights in Diamond Valley. The hearings on exceptions are ongoing. The district court granted Solarljós, LLC's motion for partial summary judgment on October 27, 2021.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☐ Yes

☒ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

The district court has not yet issued a decree as to any of the other exceptions to the State Engineer's Order of Determination. Only Solarljós, LLC's claims have been adjudicated.

(b) Specify the parties remaining below:

See attached list. All parties remain below besides Solarljós, LLC.

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☒ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☒ Yes

☐ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

State of Nevada, State Engineer
Name of appellant

James N. Bolotin, Esq.
Name of counsel of record

3/17/2022
Date

s/ James N. Bolotin, Sr. Deputy AG
Signature of counsel of record

Washoe County, Nevada
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 17th day of March, 2022, I served a copy of this completed docketing statement upon all counsel of record:

☒ By personally serving it upon him/her; or

☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Sent via email

Dated this 17th day of March, 2022

s/ Dorene A. Wright
Signature

ATTACHMENT 1

ATTACHMENT 1

LIST OF PARTIES AND COUNSEL

DOCKETING STATEMENT QUESTIONS 3, 22, and 25(b)

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*Attorney for the United States of
America*

ATTACHMENT 2

ATTACHMENT 2

Case No. CV 2002-009

Dept. No. 1



COPY

NO. _____ FILED

FEB 12 2020

By Eureka County Clerk

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF EUREKA

In the Matter of the Determination of the
Relative Rights In and To all Waters,
Both Surface and Underground, Located
Within the Diamond Valley Hydrographic
Basin No. 10-153, Eureka and Elko
Counties, Nevada

NOTICE OF FILING
PURSUANT TO NRS 533.165

The State of Nevada, Department of Conservation and Natural Resources, Division
of Water Resources, and Tim Wilson, P.E., State Engineer, in his capacity as the Nevada
State Engineer, by and through counsel, Nevada Attorney General Aaron D. Ford and
Senior Deputy Attorney General James N. Bolotin, hereby files a copy of the Order of
Determination (see attached DVD), together with the original hearing file (see attached
DVD), and evidence and transcript of testimony (see attached DVD) filed with, or taken
before, the State Engineer pursuant to NRS 533.165.

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DATED this 6th day of February, 2020.

By: 
 JAMES N. BOLOTIN (Bar No. 13829)
 Senior Deputy Attorney General
 State of Nevada
 Office of the Attorney General
 100 North Carson Street
 Carson City, Nevada 89701-4717
 T: (775) 684-1231
 E: jbolotin@ag.nv.gov
Attorney for Nevada State Engineer

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EXHIBIT 1

EXHIBIT 1

***In the Matter of the
Determination of the Relative
Rights In and To All Waters of
DIAMOND VALLEY, Hydrographic Basin
No. 10-153, Elko and Eureka Counties,
Nevada***

DVD 1 of 1

**Order of Determination
Dated 01/31/2020**

EXHIBIT 2

EXHIBIT 2

***In the Matter of the
Determination of the Relative
Rights In and To All Waters of
DIAMOND VALLEY, Hydrographic Basin
No. 10-153, Elko and Eureka Counties,
Nevada***

DVD 1 of 1

***Adjudication Documents
Dated 02/05/2020***

EXHIBIT 3

EXHIBIT 3

Case No.

Dept. No.

**IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF EUREKA**

In the Matter of the Determination of the
Relative Rights In and To all Waters,
Both Surface and Underground, Located
Within the Diamond Valley Hydrographic
Basin No. 10-153, Eureka and Elko
Counties, Nevada

**INDEX TO
ORIGINAL HEARING FILE
AND EVIDENCE AND
TRANSCRIPTS OF TESTIMONY**

Tim Wilson, P.E., State Engineer, in his capacity as the Nevada State Engineer,
Department of Conservation and Natural Resources, Division of Water Resources
(hereafter "State Engineer"), by and through counsel, Nevada Attorney General Aaron D.
Ford and Senior Deputy Attorney General James N. Bolotin, hereby files this Index to
Original Hearing File and Evidence and Transcripts of Testimony.

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DATED this 6th day of February, 2020.

By:

JAMES N. BOLOTIN (Bar No. 13829)
Senior Deputy Attorney General
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INDEX OF ADJUDICATION PROCEEDINGS

DIAMOND VALLEY

In The Matter of The Determination of The Relative Rights In And To All Waters of Diamond Valley Eureka & Elko Counties, Nevada.

I. PETITION

1. Request for Adjudication of the Relative Rights of Big Shipley Hot Springs and Indian Camp Springs in Eureka County, Nevada (Diamond Valley) – 06/11/2014
2. Response to Request for Adjudication of the Relative Rights of Big Shipley Hot Springs and Indian Camp Springs in Eureka County, Nevada (Diamond Valley) – 02/10/2015

II. FIELD INVESTIGATION ASSESS NEED

n/a

III. ORDER GRANTING PETITION

3. Order No. 800 Initiating Proceedings – 10/08/1982
4. Order No. 1263 to Reinstate Proceedings – 08/21/2015

IV. NOTICE OF ORDER

5. Notice of Order 800 (assigned No. 801) and Proceedings to Determine Water Rights Before the State Engineer of the State of Nevada – 10/08/1982
6. Cover letter for the Order No. 800 Initiating Proceedings and Notice of Order No. 801 – 10/08/1982
7. Proof of Service (Certified Mail Receipts) of the Order No. 800 Initiating Proceedings and Notice of Order No. 801
8. Notice of Order No. 1263 to Reinstate Proceedings – 08/21/2015
9. Cover Letter for Order No. 1263 to Reinstate Proceedings and Notice of Order – 08/21/2015
10. Proof of Service (Certified Mail Receipts) of Order No. 1263 to Reinstate Proceedings and Notice of Order

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DIAMOND VALLEY

In The Matter of The Determination of The Relative Rights In And To All Waters of Diamond Valley Eureka & Elko Counties, Nevada.

V. PROOF OF PUBLICATION OF ORDER

11. Proof of Publication of Notice of Order Initiating Proceedings – Oct.–Nov. 1982
12. Proof of Publication of Notice of Order 1263 Reinstating Proceedings [LETTER NOT MAILED TO NEWSPAPER, Email done instead – erroneously published only 2 weeks, see next document for correction.]
13. Email communications regarding the re-publishing of Notice of Order 1263 Reinstating Proceedings due to first only published 2 weeks, requirement at least 1 time a week for 4 consecutive weeks – 09/24/2015–09/30/2015

VI. WAIVER OF NOTICES

n/a

VII. FIELD INVESTIGATION PRIOR TO CLAIMS

n/a

VIII. NOTICE OF COMMENCEMENT

14. Notice of Order No. 802 for Taking Proofs to Determine Water Rights Before the State Engineer – 11/18/1982
15. Notice and Order No. 1266 for Resumption of Taking Proofs dated 10/16/2015, [with revised Evidence of Priority pamphlet] – 10/16/2015

IX. PROOF OF SERVICE

16. Cover Letter for Notice of Order No. 802 for Taking Proofs To Determine Water Rights Before the State Engineer – 11/18/1982
17. Proof of Service (Certified Mail Receipts) of Notice of Order No. 802 for Taking Proofs To Determine Water Rights Before the State Engineer
18. Proof of Service (Certified Mail Receipts) of Notice and Order No. 1266 for Resumption of Taking Proofs dated 10/16/2015

INDEX OF ADJUDICATION PROCEEDINGS

DIAMOND VALLEY

In The Matter of The Determination of The Relative Rights In And To All Waters of Diamond Valley Eureka & Elko Counties, Nevada.

X. PROOF OF PUBLICATION OF COMMENCEMENT

- 19. Proof of Publication – Nov.–Dec. 1982
- 20. Proof of Publication of Notice and Order No. 1266 for Resumption of Taking Proofs dated 10/16/2015 – 11/20/2015 & 11/23/2015

XI. EXTENSION OF TIME

- 21. Request for Extension of Time Granted to 02/10/1985 – 12/23/1983
- 22. Proof of Service (Certified Mail Receipts) of Request for Extension of Time Granted to 02/10/1985
- 23. Request for Extension of Time Granted to 08/12/1985 – 01/25/1985
- 24. Proof of Service (Certified Mail Receipts) of Request for Extension of Time Granted to 08/12/1985
- 25. Request for Extension of Time to File Proofs by BLM – 02/22/2016
- 26. Denial of Request for Extension of Time to File Proofs by BLM – 03/08/2016
- 27. Objection to Request for Extension of Time to File Proofs by BLM – Sadler Ranch through Taggart – 03/15/2016
- 28. Amended Objection to Request for Extension of Time to File Proofs by BLM – Sadler Ranch through Taggart – 03/16/2016
- 29. Informational Statement – 06/15/2017

XII. FINAL DATE OF PERIOD

n/a

XIII. FIELD INVESTIGATION OF ALL CLAIMS

- 30. Field Investigation Report of Sadler Ranch Claims V-02658, V-03289, V-10918, V-10961, V-10967 and V-10968 by Beau Parker and Ken Lucas on 09/12–16/2016 & 09/19–23/2016 – 08/02/2017

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DIAMOND VALLEY

In The Matter of The Determination of The Relative Rights In And To All Waters of Diamond Valley Eureka & Elko Counties, Nevada.

31. Field Investigation Cox Ranch & Willow Field V-02845, V-02846, V-02847, V-10368 by Tony Eng in Sept. 2016 and Spring 2017 – 10/02/2017
32. Field Investigation Rock & Box Canyons, Mau Ranch, V-01110, V-10973, V-01111–V-10972 by Tony Eng 10/03/2017
33. Field Investigation Maggini Ranch & Threemile Canyon Area V-01137, V-01900 & R-04270 – 10/16/2017
34. Field Investigation Thompson Ranch Area V-01114, V-01115, V-10974 by Tony Eng – 10/23/2017
35. Field Investigation Diamond Springs Ranch Sept. 2016 by Beau Parker & Ken Lucas – 11/09/2017
36. Spring & Surface Water Inventory Form – R-04246 – Ken Lucas – 07/25/2017
37. Spring & Surface Water Inventory Form – R-04519 – Beau Parker/Sarah Overton – 06/20/2017
38. Spring & Surface Water Inventory Form – R-04521 – Beau Parker/Sarah Overton – 06/23/2017
39. Spring & Surface Water Inventory Form – R-06947 (V-10891) – Beau Parker/Sarah Overton – 06/21/2017
40. Spring & Surface Water Inventory Form – R-01105 (R-04521) – Beau Parker/Sarah Overton – 06/23/2017
41. Spring & Surface Water Inventory Form – V-01106 – Beau Parker/Sarah Overton – 06/22/2017
42. Spring & Surface Water Inventory Form – V-01327 – Ken Lucas – 07/26/2017
43. Spring & Surface Water Inventory Form – V-01423 – Ken Lucas – 07/25/2017

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DIAMOND VALLEY

In The Matter of The Determination of The Relative Rights In And To All Waters of Diamond Valley Eureka & Elko Counties, Nevada.

44. Spring & Surface Water Inventory Form – V-01521 –
Ken Lucas/Sarah Overton – 09/13/2017
45. Spring & Surface Water Inventory Form – V-02326 –
Ken Lucas/Sarah Overton – 09/12/2017
46. Spring & Surface Water Inventory Form – V-02969 –
Ken Lucas/Sarah Overton – 09/12/2017
47. Spring & Surface Water Inventory Form – V-04147 – Ken Lucas –
07/24/2017
48. Spring & Surface Water Inventory Form – V-04162 –
Beau Parker/Sarah Overton – 06/22/2017
49. Spring & Surface Water Inventory Form – V-09758 –
Ken Lucas/Sarah Overton – 09/13/2017
50. Spring & Surface Water Inventory Form – V-09759 – Ken Lucas –
07/25/2017
51. Spring & Surface Water Inventory Form – V-09763 –
Ken Lucas/Sarah Overton – 09/14/2017
52. Spring & Surface Water Inventory Form – V-09777 – Ken Lucas –
07/25/2017
53. Spring & Surface Water Inventory Form – V-10845 –
Beau Parker/Sarah Overton – 06/23/2017
54. Spring & Surface Water Inventory Form – V-10860 – Ken Lucas –
07/26/2017
55. Spring & Surface Water Inventory Form – V-10873 – Ken Lucas –
07/25/2017
56. Spring & Surface Water Inventory Form – V-10878 –
Ken Lucas/Sarah Overton – 09/12/2017

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In The Matter of The Determination of The Relative Rights In And To All Waters of Diamond Valley Eureka & Elko Counties, Nevada.

57. Spring & Surface Water Inventory Form – V-10889 –
Beau Parker/Sarah Overton – 06/21/2017
58. Spring & Surface Water Inventory Form – V-10890 –
Sarah Overton/Beau Parker – 06/21/2017
59. Spring & Surface Water Inventory Form – V-10891 (R-06947) –
Beau Parker/Sarah Overton – 06/07/2017 & 06/21/2017
60. Spring & Surface Water Inventory Form – V-10894 – Ken Lucas –
07/25/2017
61. Spring & Surface Water Inventory Form – V-10895 – Ken Lucas –
07/25/2017
62. Spring & Surface Water Inventory Form – V-10904 – Ken Lucas –
07/25/2017
63. Spring & Surface Water Inventory Form – V-10919 –
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66. Spring & Surface Water Inventory Form – V-10922 –
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70. Spring & Surface Water Inventory Form – V-10928 –
Sarah Overton/Beau Parker – 06/21/2017
71. Spring & Surface Water Inventory Form – V-10929 –
Sarah Overton/Beau Parker – 06/21/2017
72. Spring & Surface Water Inventory Form – V-10931 –
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73. Spring & Surface Water Inventory Form – V-10932 –
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74. Spring & Surface Water Inventory Form – V-10933 –
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76. Spring & Surface Water Inventory Form – V-10935 –
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77. Spring & Surface Water Inventory Form – V-10936/R-04269 –
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78. Spring & Surface Water Inventory Form – V-10937/R-04267 –
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79. Spring & Surface Water Inventory Form – V-10938 –
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80. Spring & Surface Water Inventory Form – V-10941 –
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83. Spring & Surface Water Inventory Form – V-10944 –
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86. Spring & Surface Water Inventory Form – V-10947 –
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87. Spring & Surface Water Inventory Form – V-10948 –
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88. Spring & Surface Water Inventory Form – V-10950 –
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90. Spring & Surface Water Inventory Form – V-10952 –
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91. Spring & Surface Water Inventory Form – V-10953 –
Sarah Overton/Beau Parker – 06/20/2017
92. Spring & Surface Water Inventory Form – V-10954 –
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93. Spring & Surface Water Inventory Form – V-10955 –
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104. Spring & Surface Water Inventory Form – V-10983 –
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105. Spring & Surface Water Inventory Form – V-11002 –
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106. Field Investigation Kobeh Valley Ranch June 2017 by Beau Parker &
Sarah Overton – 12/28/2017
107. Field Investigation Diamond Valley, Bailey Ranch, V-01104, V-10868,
V-10960 Sept. 2016 – TE 01/29/2018
108. Field Investigation Memorandum to files V-10880, V-10881 and
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- 109. Field Investigation Report Diamond Valley, Simpson Creek & Four Eyed Nick Spring Areas, V-01084, V-01085, V-01086, V-01089, V-01133; V-02893, V-03657; and R-04239 in Apr. & May 2017 – TE 04/18/2018
- 110. Field Investigation Memorandum to file V-02959 on 05/17/2017, Holly Well TE 06/19/2018
- 111. Field Investigation Memorandum to file V-03033 on 05/17/2017, Florio Well TE 06/21/2018
- 112. Field Investigation Memorandum to file V-01068 on 06/13–14/ 2017, Seabury and Lucky Springs TE 06/21/2018

XIV. ABSTRACT OF CLAIMS

- 113. Abstract of Claims 08/31/2018

XV. PRELIMINARY ORDER

- 114. Preliminary Order 08/31/2018

XVI. NOTICE OF SETTING TIME & PLACE

- 115. Notice of Abstract of Proofs of Appropriation and Preliminary Order of Determination; Notice Setting Time and Place for Inspection of Proof of Claims; Notice of Deadline to File Objections; tentative dates for Hearing on Objections. 08/31/2018

XVII. PROOF OF SERVICE OF PRELIMINARY ORDER – FIXING TIME AND PLACE

- 116. Proof of service, signed Certified Mail Receipts; email.

XVIII. OBJECTIONS

- 117. Ruby Hill Mining Company request for notification – 10/29/18
- 118. Beck Properties – 11/01/2018

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- 119. Beck Family Trust dated 04/19/2005 – 11/01/2018
- 120. Arc Dome – 11/01/2018
- 121. Objection – Bailey Family Trust – 11/02/2018
- 122. Objection – Norman C. and Kindy L. Fitzwater – 11/05/2018
- 123. Bliss and Bingham Diamond Valley extension to file objections Letter
KGjm – 11/06/2018
- 124. Objection – Baumann – 11/06/2018
- 125. Objection – BLM – 11/06/2018
- 126. Objections – Mark Moyle Farms, LLC – 11/06/2018
- 127. Eureka County Objection to PWR's – 11/07/2018
- 128. Eureka County – 11/07/2018
- 129. Renner, Ira and Montira – 11/07/2018
- 130. Solarljós, LLC – 11/07/2018
- 131. Kobeh Valley Ranch, LLC – 11/07/2018
- 132. Sadler Ranch, LLC – 11/7/2018
- 133. Venturacci, Daniel – 11/07/2018
- 134. Bliss, Chad and Rosie – 12/13/2018
- 134a. Supplemental Objections to Preliminary Order of Determination
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XIX. NOTICE FOR HEARING OBJECTIONS

n/a

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XX. DAILY DEPOSITS

n/a

XXI. HEARING OF OBJECTIONS

135. Diamond Valley Adjudication Notice of Hearing on Objections – 01/10/2019 KGjm
136. Kobeh Valley Ranch's waiver of its right to hearing (Taggart) – 01/23/19
137. Bailey Family Trust request (DePaoli) to move their hearing one-half day to 03/01/2019 – 01/25/19
138. DePaoli, Gordon – Diamond Valley Hearing on Objections Schedule Change for Bailey Family Trust – 01/31/19
139. Mark Moyle Farms, LLC's withdrawal of Objection to a Portion of the Preliminary Order and participation in the Hearing On Objections – 01/28/19
140. Letter to Stephen Palmer granting re: Request for Extension of Time to File Evidence and Witness Statements due to the federal government shutdown; however, no change will be made to the predetermined timeframe of the hearing – 02/08/2019
141. Revised Schedule [not dates] for Hearing on Objections to the Preliminary Order of Determination, In The Matter of The Determination of The Relative Rights In and To All Water, Both Surface and Underground, Located Within Diamond Valley, Hydrographic Basin No. 10-153, Eureka and Elko Counties, State of Nevada – 02/08/2019
142. James E. and Vera L. Baumann's Withdrawal of Objections to Preliminary Order of Determination Regarding Claims V-04505, V-04506, V-04507, V-04509 and V-04510 – 02/21/2019
143. Notice of Continuing Hearing Date (for BLM) – 03/13/2019

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144. Diamond Valley Order of Determination – 01/31/2020

145. Notice of Order of Determination – 01/31/2020

XXII. FINAL ORDER OF DETERMINATION

n/a

XXIII. PROOF OF SERVICE OF FINAL ORDER OF DETERMINATION

n/a

XXIV. COURT ORDER SETTING TIME & PLACE & PROOF OF SERVICE

n/a

XXV. PROOF OF PUBLICATION OF COURT ORDER SETTING TIME AND PLACE

n/a

XXVI. EXCEPTIONS FILED WITH THE COURT

n/a

XXVII. HEARING WITH COURT

n/a

XXVIII. SERVICE OF FINDINGS, CONCLUSIONS AND DECREE

n/a

XXIX. COST BILLS

146. Cost accounting

XXX. ENTRY OF FINAL DECREE

n/a

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XXXI. CERTIFICATES OR RIGHTS

n/a

XXXII. APPEAL TO THE SUPREME COURT

n/a

XXXIII. FINALITY

n/a

XXXIV. SERVICE LIST(S)

147. Current Service List

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RNNR 3	V-10884
RNNR 4	V-10885
RNNR 5	V-10886
RNNR 6	V-10845
RNNR 7	V-10846
RNNR 8	V-10847
RNNR 9	V-10848
RNNR 10	V-10849
RNNR 11	V-10850
RNNR 12	V-10851
RNNR 13	V-10852
RNNR 14	V-10853
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RNNR 16	V-10855
RNNR 17	Intentionally omitted
RNNR 18	Land Patents to Bailey
RNNR 19	V-02431
RNNR 20	Spring location
RNNR 21	Permit 85131
RNNR 22	Permit 85134
RNNR 23	Permit 85132
RNNR 24	Permit 85133
RNNR 25	Stockwater proof index
RNNR 26	Tax assessment of the property of Eureka
RNNR 27	Abstract of Title – Scott Ranch
RNNR 28	Order affirming final account of Robert Bailey
RNNR 29	Tax assessments, Eureka County 1900
RNNR 30	Tax assessments, Eureka County 1897
RNNR 31	Tax assessments, Eureka County 1894
RNNR 32	Tax assessments, Eureka County 1892
RNNR 33	Tax assessments, Eureka County 1891
RNNR 34	Tax assessments, Eureka County 1888
RNNR 35	John B. Scott Ranch Deed
RNNR 36	John Scott Land Mortgage

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RNNR 37	Tax assessments, Eureka County 1873
RNNR 38	Abstract of Title – Scott Ranch and confirming documents
RNNR 39	Chain of title and confirming documents
RNNR 40	State Engineer office memorandum: V-02432
RNNR 41	Land patent to Mulford
RNNR 42	Water rights maps
RNNR 43	Hydrographic Abstract of Renner water rights in basin 153
RNNR 44	Photos of hay, Aug. 1963
RNNR 45	USGS aerial photos
RNNR 46	Information concerning some inspected proofs of appropriation
RNNR 47	Photo of pump float
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RNNR 49	Photo of Spring 3
RNNR 50	Photos of Spring 6
RNNR 51	George Thiel Expert Report and CV
RNNR 52	Certificate 11890
RNNR 53	Certificate 11891
RNNR 54	Certificate 12333
RNNR 55	Certificate 14026
RNNR 56	Transcript of Interview with J. Flynn
RNNR 57	NDWR Field Investigation Stockwater
RNNR 58	NDWR Field Investigation
RNNR 59	Terry Katzer CV
RNNR 60	Chain of Title Documents
RNNR 61	Renner Objections to Preliminary Order of Determination
RNNR 62	Renner Witness List
RNNR 63	Renner Exhibit List
	SADLER RANCH, LLC
SADL SUPP 1	2013 Transcripts
SADL SUPP 2	2019 Dwight Smith Report
SADL SUPP 3	Sadler Ranch Objections to Preliminary Order of Determination
SADL SUPP 4	1913–1914 Biennial Report of the State Engineer
SADL SUPP 5	2013 Dwight Smith Report
SADL SUPP 6	2013 Dwight Smith Demonstrative

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SADL SUPP 8	Michael Buschelman CV
SADL SUPP 9	Sadler Ranch 2019 Witness List
SADL SUPP 10	Sadler Ranch 2019 Exhibit List
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VENT Exh 002	V-01115
VENT Exh 003	Proof Map V-01114, V-01115
VENT Exh 004	V-02845
VENT Exh 005	V-02846
VENT Exh 006	V-02847
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VENT Exh 013	Proof Map V-10973
VENT Exh 014	V-01111
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VENT Exh 016	Proof Map V-01111
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VENT Exh 019	V-01320
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VENT Exh 022	V-10974
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VENT Exh 111	11462 Contract
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VENT Exh 143	1865 Lander County Assessment of Overland Mail Co
VENT Exh 144	1865 Lander County Assessment of Overland Mail Co
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VENT Exh 146	1867 Lander County Assessment of Wells Fargo and Co, L. Wines, Agent
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VENT Exh 171	1900 Eureka County Assessment of Wm Cox
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VENT Exh 185	T24N, R54E, with patented properties noted thereon
VENT Exh 186	T24N, R54E, Cox and Willow
VENT Exh 187	T24N, R54E, Resurvey, with fence lines and spring locations noted
VENT Exh 188	T23N, R54E
VENT Exh 189	T23N, R54E, with patented properties noted thereon
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VENT Exh 195	07/13/1950 Aerial
VENT Exh 196	09/29/1953 Aerial
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VENT Exh 200	1953–1954 Aerials with boundary overlay
VENT Exh 201	1953–1954 Aerials with water rights map overlay
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VENT Exh 205	1967 Aerials with boundary overlay
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VENT Exh 228	1954 Thompson Map
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VENT Exh 230	1950–1970 Maps of all properties
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EUREKA 003	Curriculum Vitae of Jacob T. Tibbitts
EUREKA 004	Report of Jacob “Jake” Tibbitts entitled Report Supporting Eureka County Objections, In the Matter of Bureau of Land Management Claimed Public Water Reserved in Diamond Valley, Nevada, dated 01/31/2019
EUREKA 005	Curriculum Vitae of Dale C. Bugenig
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EUREKA 007	Bureau of Land Management, Instructional Memorandum NV-90-145, Water Rights Procedures for the State of Nevada, dated 01/17/1990
EUREKA 008	Bureau of Land Management, Instructional Memorandum NV IM-2005-077, BLM Nevada Water Rights Policy, dated 06/30/2005
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EUREKA 011	Bureau of Land Management, Protest of Application 83902 in the Office of the State Engineer of the State of Nevada, filed 07/28/2014
EUREKA 012	Bureau of Land Management, Packet of PWR files provided in response to Apr. 2017 email request from Jake Tibbitts
EUREKA 013	Bureau of Land Management, Shoshone-Eureka Resource Management Plan Environmental Impact Statement, dated 01/27/1984
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EUREKA 015	Bureau of Land Management, Shoshone-Eureka Proposed Resource Management Plan Amendment and Final Environmental Impact Statement, dated 08/28/1987
EUREKA 016	Bureau of Land Management, Shoshone-Eureka Resource Management Plan Amendment Record of Decision, dated 11/06/1987
EUREKA 017	Bureau of Land Management, Water Rights Manual 7250, dated 09/30/2013
EUREKA 018	Central Nevada Regional Water Authority. 03/31/17 Meeting. Retrieved from https://cnrwa.com/wp-content/uploads/bsk-pdf-manager/2019/01/CNRWA-meeting-minutes-March-31-2017.pdf
EUREKA 019	Cook, Christopher J. (BLM Mount Lewis Field Office Manager). Letter to J.J. Goicoechea regarding BLM protest of Application 83902, dated 09/12/2014
EUREKA 020	Plats and Indices for Each PWR Associated Township and Range. General Land Office Plats and BLM Master Title Plats with Historical Indices. Retrieved and consolidated from https://glorerecords.blm.gov/LandCatalog/Catalog and https://www.nv.blm.gov/LandRecords/index.php
EUREKA 021	Order of Withdrawal. Public Water Reserve No. 29, Nevada No. 1. 1915
EUREKA 022	Public Land Order. No. 2669, Nevada 051863, 057049. FR 62-4623. 05/10/1962
EUREKA 023	Simpson, Jo (BLM Office of Communication Chief). Letter to Luther K. (Luke) Wise regarding use of Public Water Reserves for wild horses, dated 10/29/2001

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EUREKA 024	Stipulation for Withdrawal of Protests between General Moly Inc. and Bureau of Land Management, dated 08/06/2008.
EUREKA 025	Tibbitts, Jake, "Re: Follow-ups from CNRWA presentation last Friday, 03/31/17." Message to Ronald (Rudy) Evenson, dated 04/25/2017. Email.
EUREKA 026	Tibbitts, Jake, "Re: PWR Checklist for filings in Diamond Valley." Message to Douglas Furtado and Jon Sherve, dated 04/25/2017. Email
EUREKA 027	Todd, Marci L. (BLM Acting State Director). Letter to Jake Tibbitts regarding Public Water Reserves, dated 06/12/2017
EUREKA 028	Ruling 5729, dated 04/27/2007
EUREKA 029	Eureka County's Objections to Preliminary Order of Determination, filed 11/07/2018, with Exhibit A
EUREKA 030	Affidavit of Robert O. Anderson, P.E., W.R.S., C.F.M., filed 11/07/2018
EUREKA 031	Eureka County's Objections to BLM's Public Water Reserves in Preliminary Order of Determination, filed 11/07/2018
EUREKA 032	Affidavit of Jake Tibbitts, filed 11/07/2018
EUREKA 033	Field Investigative Report and Analysis of the BLM's Public Water Reserves in the Preliminary Order of Determination in Support of Eureka County's Objections
EUREKA 034	Eureka County's Proofs of Claims V-04501, V-04503, V-04504, V-04505, V-04506, V-04507, V-04508, V-04509 and V-004510 and associated information submitted in this proceeding. Eureka County is not resubmitting the same information for purposes of the hearing unless requested to do so by the State Engineer
EUREKA 035	BLM Claim of Public Water Reserve R-04243
EUREKA 036	Eureka County Witness and Exhibit List
EUREKA 037	Affidavit of Leonard Fiorenzi
EUREKA 038	Affidavit of Ronald Damale
EUREKA 039	Proof of Appropriation V-01137
EUREKA 040	Claim R-04233
EUREKA 041	Claim R-04270
EUREKA 042	Claim R-04238
EUREKA 043	Claim R-04255

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DIAMOND VALLEY

**In The Matter of The Determination of The Relative Rights In And To All Waters of
Diamond Valley Eureka & Elko Counties, Nevada.**

	BLM
BLM 001	General Land Office Records
BLM 002	Master Title Plats and Historical Indexes
BLM 003	Documents in support of R-04249
BLM 004	Documents in support of R-04250
BLM 005	Documents in support of R-04251
BLM 006	Documents in support of R-04253 and R-04254
BLM 007	Documents in support of R-04255
BLM 008	Documents in support of R-04256
BLM 009	Documents in support of R-04257
BLM 010	Documents in support of R-04258
BLM 011	Documents in support of R-04260 and R-04261
BLM 012	Documents in support of R-04262
BLM 013	Documents in support of R-04270
BLM 014	Documents in support of R-04233
BLM 015	Documents in support of R-04238
BLM 016	Documents in support of R-04243
BLM 017	Documents in support of R-04244
BLM 018	Documents in support of R-04271
BLM 019	Documents in support of R-04277
BLM 020	Documents in support of R-04520
BLM 021	Documents in support of R-04239
BLM 022	Documents in support of R-04263 and R-04264
BLM 023	Documents in support of R-04237
BLM 024	BLM Glossary of Terms
BLM 025	List of PWRs rejected for being fully appropriated
BLM 026	US Hwy 50 Right-of-Way Information
BLM 027	BLM Cadastral Report
BLM 028	Spreadsheet Summarizing Eureka County Objections
BLM 029	Spreadsheet – 2016 Battle Mountain, Diamond Valley, Basin 153, Public Water Reserves
BLM 030	Peterson Resume
BLM 031	Peterson Expert Report
BLM 032	Burdick Memo regarding vested claims
BLM 033	Bailey Family Trust Grazing Permit Information
BLM 034	Baumann Family Trust Grazing Permit Information
BLM 035	Dan Venturacci Grazing Permit Information

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BLM 036	Peter J. and Gladys P. Goicoechea Grazing Permit Information
BLM 037	2 Bit Ranch LLC Grazing Permit Information
BLM 038	Arc Dome LLC Grazing Permit Information
BLM 039	Bar D Land and Livestock LLC Grazing Permit Information
BLM 040	Diamond Cattle Co. Grazing Permit Information
BLM 041	High Country Ranches LLC Grazing Permit Information
BLM 042	Ira and Montira Renner Grazing Permit Information
BLM 043	Kobeh Valley Ranch LLC Grazing Permit Information
BLM 044	Sadler Ranch LLC Grazing Permit Information
BLM 045	BLM-NV Water Rights Policy IM-2014-044
BLM 046	BLM witness and exhibit list
BLM 047	BLM Objection to Preliminary Order of Determination
BLM 048	R-04238 corrected maps (topographic and aerial)
	SOLARLJOS, LLC
SOLARJOS 001	Attachment "A" to Proof of Appropriation of Water for Diamond Mine and the Town of Prospect, Eureka County, Nevada [000001-000133]
	Objection of Solarlj. LLC and Gullsil, LLC to the Preliminary Order of Determination dated 08/30/2018, in the Matter of the Determination of the Relative Rights In and To All Waters of Diamond Valley, Hydrographic Basin No. 10-153, Elko and Eureka Counties, Nevada [000134-000153]
	Harrub Well historic map [000154]
	SRK Map of Prospect Well 1, Prospect Well 2, and Einar Spring [000155-000159]
	Barbi Harmon Testimony (Summary) [000160-000161]
	Harmon supporting documents (letters, BLM and State Historic Preservation Office [000162-000172]
	Harmon map [000173]
	Harmon photos [000174-000177]
SOLARJOS 002	Field Investigation
SOLARJOS 003	Solarlj. Witness and Exhibit List
	BAILEY FAMILY TRUST
BAILEY 001	Grant Deed dated 01/11/2018, from Bailey Family Trust to Wilfred Bailey and Carolyn Bailey

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**In The Matter of The Determination of The Relative Rights In And To All Waters of
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BAILEY 002	Grant Deed dated 02/20/2018, from Wilfred Bailey and Carolyn Bailey to Wilfred Bailey and Carolyn Bailey as Trustees of the Wilfred and Carolyn Bailey Family Trust dated 02/20/2018
BAILEY 003	Affidavit of Wilfred Rand Bailey dated 05/20/2016
BAILEY 004	Excerpts of Testimony of Wilfred Bailey, In the Matter of Applications 81719, 81720, 81825, 82268, 82570, 82571, 82572 and 82573, from Vol. IV of Transcript of Proceedings 11/21/2013
BAILEY 005	Declaration of Wilfred Rand Bailey, dated 01/21/2019
BAILEY 006	Map of Township No. 23 North of Range No. 52 East, Mount Diablo Meridian dated 11/04/1879
BAILEY 007	Map of Township No. 24 North of Range No. 52 East, Mount Diablo Meridian dated 11/04/1879
BAILEY 008	Map of Township No. 24 North of Range No. 53 East, Mount Diablo Meridian dated 10/22/1879
BAILEY 009	Map of Township No. 23 North of Range No. 52 East, Mount Diablo Meridian, dated 03/05/1894
BAILEY 010	Resume of Reed Cozens, PE, WRS, Resource Concepts, Inc.
BAILEY 011	Report of Reed Cozens, PE, WRS, Resource Concepts, Inc. dated 01/31/2019
BAILEY 012	Photograph of pond area around former spring site
BAILEY 013	Geohydrologic data report 1982
BAILEY 014	1912 map with notations by witness Reed Cozens
BAILEY 015	Oversize map with notations by witness Fred Bailey
BAILEY 016	Bailey witness and exhibits list
TRANSCRIPTS OF PUBLIC HEARINGS	
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VOL. 2	Public Hearing held 02/12/2019
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VOL. 12	Public Hearing held 03/01/2019
VOL. 13	Public Hearing held 03/28/2019
VOL. 14	Public Hearing held 03/29/2019

ATTACHMENT 3

ATTACHMENT 3

Case No.: CV-2002009

Dept. No.: 2

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF EUREKA

IN THE MATTER OF THE
DETERMINATION OF THE RELATIVE
RIGHTS IN AND TO ALL WATERS,
BOTH SURFACE AND UNDERGROUND,
LOCATED WITHIN THE DIAMOND
VALLEY HYDROGRAPHIC BASIN NO.
10-153, EUREKA AND ELKO COUNTIES,
NEVADA

**NOTICE OF ENTRY OF CORRECTED
ORDER GRANTING SOLARLJOS
LLC'S MOTION FOR PARTIAL
SUMMARY JUDGMENT
AND
NOTICE VACATING/CONTINUING
STATUS HEARING CURRENTLY SET
FOR NOVEMBER 9, 2021**

TO: ALL PARTIES AND THEIR ATTORNEYS HEREIN:

PLEASE TAKE NOTICE that a Corrected Order Granting Solarljios, LLC's Motion for Partial Summary Judgment was entered in the above-referenced case on the 27th day of October, 2021. A true and correct copy of the Order is attached as "**Exhibit 1.**"

Vacating/Continuing status hearing currently set for November 9, 2021: Solarljios had previously requested, and the Court granted, a request to vacate the evidentiary hearing following entry of the original summary judgment order. *Nothing has changed in that regard*; following the entry of the Corrected Order, there is still no need for an evidentiary hearing on Solarljios' exception.

However, Solarljios had previously requested the Court allow the parties to conduct a zoom conference on November 9, 2021 instead to address an anticipated request by Solarljios for NRC

1 54(b) certification, at which time other interested parties would be allowed to participate. **That**
2 **status conference/hearing has now been vacated and will be reset following this Notice of**
3 **Entry of Order.** Solarljós will be filing a request for NRCP 54(b) certification of the *Corrected*
4 Order, and the date for hearing on that request will be set following confirmation of availability of
5 the Court to hear the request.

6 **AFFIRMATION:** Pursuant to NRS 239B.030, the undersigned hereby affirms that this
7 document does not contain the personal information or social security number of any person.

8 DATED: November 5, 2021.

KAEMPFFER CROWELL

9 
10 _____

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am employed by the law firm of Kaempfer
Crowell, and that on this 19th day of October, 2021, I served a true and correct copy of the
foregoing document **NOTICE OF ENTRY OF CORRECTED ORDER GRANTING
SOLARLJOS LLC'S MOTION FOR PARTIAL SUMMARY JUDGMENT
AND NOTICE OF VACATING/CONTINUING STATUS HEARING ON NOVEMBER 9,
2021** via email, addressed to the following:

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1 *Baumann; Arc Dome Partners, LLC, Robert*
2 *F. Beck and Karen A. Beck, Trustees of the*
3 *Beck Family Trust dated 4-19-2005 and Beck*
4 *Properties; Norman and Kindy Fitzwater*

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Attorney for the United States of America

8 **Courtesy Copy Via U.S.P.S. Mail:**

9 Hon. Gary D. Fairman
10 Dept. 2
11 PO Box 151629
12 Ely, NV 89315

13 DATED November 5, 2021

14 
15 Sharon Stice
16 An employee of Kaempfer Crowell
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EXHIBIT INDEX

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EXHIBIT 1

EXHIBIT 1

RECEIVED

OCT 27 2021

Eureka County Clerk

KAMMERER CROWELL
50 West Liberty Street, Suite 700
Reno, Nevada 89501

Case No.: CV-2002009

Dept. No.: 2

NO. _____ FILED

OCT 27 2021

By Eureka County Clerk
P. Mahoney

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF EUREKA

IN THE MATTER OF THE
DETERMINATION OF THE RELATIVE
RIGHTS IN AND TO ALL WATERS,
BOTH SURFACE AND UNDERGROUND,
LOCATED WITHIN THE DIAMOND
VALLEY HYDROGRAPHIC BASIN NO.
10-153, EUREKA AND ELKO COUNTIES,
NEVADA

**CORRECTED ORDER GRANTING
SOLARLJOS, LLC'S MOTION FOR
PARTIAL SUMMARY JUDGMENT**

THIS MATTER comes before the Court on a Motion for Partial Summary Judgment filed by Solarljjos, LLC (hereinafter "Petitioner" or "Solarljjos") on September 3, 2021. Any written opposition was due on or before September 17, 2021. However, no oppositions were filed to Solarljjos' Motion for Partial Summary Judgment and Solarljjos submitted the Motion for this Court's review and decision. Therefore, there is good cause appearing for this Court to grant Solarljjos' Motion for Partial Summary Judgment in its entirety:

I. FINDINGS OF FACT

This Court, having read the moving papers, pleadings, exhibits, and other documentation
HEREBY FINDS THE FOLLOWING:

1. This matter arises as one of the required statutory processes of a "vested rights adjudication" conducted under NRS 533.087 through 533.265.

2. The State Engineer's office began the process of taking "proofs" of vested rights

1 for the purpose of performing an adjudication of the Diamond Valley Hydrographic Basin, No
2 10-153, nearly 40 years ago, back in 1982 when that office issued Order 800, the *Order*
3 *Initiating Proceedings*, pursuant to NRS 533.090(2) and Order 801, the *Notice of Order and*
4 *Proceedings*, which was published and served on land owners in the basin as required by NRS
5 533.095. Several years of extension later, nothing had occurred to move that process along, and
6 in 2015 the State Engineer issued Order 1263, a *Notice of Order and Proceedings to Determine*
7 *Water Rights, both Surface and Underground*, in the matter of the determination of relative
8 rights in and to all waters in the Diamond Valley Hydrographic Basin (10-153), Elko and
9 Eureka Counties, Nevada. That Order effectively "reinitiated" Order 801 (one of the orders
10 previously issued in 1982), and then on October 16, 2015, the State Engineer issued Order 1266,
11 a *Notice of Order for Taking Proofs to Determine Water Rights*, which directed all interested
12 parties who felt they had a claim to vested water rights in Diamond Valley to file their "Proofs"
13 on or before May 31, 2016.

14 3. Solarljos was one of the parties who filed Proofs of vested water rights with the
15 State Engineer as part of that proceeding in May of 2016, filing Claim Nos. V-10880, V-10881,
16 and V-01882. Those Proofs were based on the use of water for a mining operation associated
17 with the old mining town of Prospect, which had operated near the turn of the century prior to
18 1900. The Proofs included documentation showing the existence of the mining operation,
19 descriptions of the mining operation by the Solicitor General following annual visits to the mine
20 site and the town, ledger entries demonstrating the existence of water pumps as part of the
21 equipment utilized by the mining operation, Eureka County assessment records referencing the
22 water system for the mine and the "Harrub Well" in that valuation, and a few photographs
23 depicting locations of hand-dug wells in that vicinity.
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4. When the State Engineer concluded the period for submission of the taking of Proofs, he analyzed those submissions and issued the Preliminary Order on August 30, 2018. The Preliminary Order stated the findings of the State Engineer regarding the submitted Proofs of vested water right claims for all of those persons and companies who had submitted Proofs by the May 31, 2016 deadline. The Preliminary Order stated which of the Proofs would be approved and how much of an allocation of water was proven as having been used (vested), and the State Engineer also indicated whether he found the water right proven up to be a surface right or groundwater right in the case of Solarljós. The State Engineer also denied some Proofs of claim outright, and those claimants therefore received no vested water.

5. In that section of the Preliminary Order addressing the claims made by Solarljós, the State Engineer approved Proof V-10880 for allocation of .472 cfs (cubic feet per second) of vested water rights to Solarljós for “mining an milling from January 1 through December 31” from the Einar Spring, which is a surface source. That diversion rate allocation for a mining and milling right is equivalent to an annual total duty of 342.71 acre feet annually (“AFA”). In making that determination, the Preliminary Order at pages 273 and 274 discussed at length the documentary proof supplied by SRK and Solarljós to support the claim, and spoke supportively of that proof, stating:

The waters from Clark Spring were captured and put into a pipeline to the former town of Ruby Hill, according to the maps drawn by Hague, which were surveyed in 1880. ... Several historical sources refer to Prospect being developed about 1885 with a population of about 50 people with a post office being established in 1893, but do not elaborate on much else. The smelter was not constructed until 1908 along with several boarding houses. The water pipeline from Clark Spring was probably severed in the early 1880’s to serve the needs of the Prospect town site or the water from adjacent springs within the complex were utilized. This suggests that the needs for water prior to 1880 was minimal. Support documentation mentioned the water for boilers and mining operations were supplied with water from springs utilizing a Knowles steam pump and a

1 Cameron steam pump whose operating capacity at normal speeds would be
2 approximately 200 gpm (0.45 cfs) combined. These necessary pieces of
3 machinery probably arrived in the area prior to the town of Prospect being
4 developed. The documentation filed in support of the proof and information
5 gleaned from the public domain would put the date of first beneficial use of the
6 water post-1880, based on the Hague map, and prior to the development of the
7 town of Prospect prior to 1885. Based on the filed support documentation, field
8 investigation by the Office of the State Engineer and information obtained from
9 sources in the public domain, the State Engineer find [sic] a basis the diversion of
10 0.472 cfs of water from Einar Spring source for mining and milling from January
11 1 through December 31 with a priority date of 1880. The State Engineer also finds
12 a basis for the diversion of water for domestic use from January 1 through
13 December 31.

14 6. However, despite granting Solarljøs a .472 cfs vested claim for the Einar Spring,
15 the Preliminary Order then denied Solarljøs' vested claims V-10881 and V-10882, but did so
16 entirely on the basis that those claims were applications for "groundwater." In making those
17 denials, the State Engineer found only that Solarljøs' Proofs failed to demonstrate that
18 groundwater wells rather than springs, were the source of water described and for which
19 Solarljøs provided evidence.

20 7. However, there was no discussion in the Preliminary Order of limiting the
21 *amount* of water granted to Solarljøs based on the type of mining operation, the size of the
22 pumps, the way in the mining operation was operated (or would have been operated), or the
23 approximate amount of water that such a mining operation and town as Prospect would have
24 used given Solarljøs' Proofs. Instead, the State Engineer denied Proofs V-10881 and V-10882
on the sole basis that the points of diversion for those claims did not bear the necessary
characteristics to be considered historic "wells." Indeed, in denying V-10882 the State Engineer
also made the determination that the point of diversion was the same Einar Spring as was
approved for Claim No. V-10880, and that there was no "well" at any location to support a

1 separate underground source.

2 8. The result of the Preliminary Order, consequently, was that Solarljøs was
3 allocated vested rights in the amount of .472 cfs (342.71 AFA), but those vested water rights
4 were limited to a single surface right source rather than also being groundwater rights with wells
5 as their points of diversion. Thus, the State did find that Solarljøs had made sufficient proof of
6 the use of that amount of water to justify the award of the vested claim (Solarljøs sought
7 approval for .471 cfs).

8 9. The only thing the State disagreed with Solarljøs about was the limited source of
9 the water, with the State finding that the source was solely a surface spring and not also the
10 historic, hand-dug groundwater wells identified in V-10881 and V-10882.

11 10. Solarljøs properly filed an objection to the Preliminary Order within the time
12 required for filing objections under NRS 533.145 after the Preliminary Order was opened to
13 public inspection as required by that statute.¹ Solarljøs' objection to the Preliminary Order was
14 entirely based on the only finding made in the Preliminary Order that was adverse to the
15 position put forth by Solarljøs, which was the State Engineer's finding that the sole source of
16 the vested water used was the Einar Spring and that the groundwater well diversion locations
17 identified by Solarljøs were not actually hand-dug "wells."

18 11. At the hearing on its objection, Solarljøs presented arguments and evidence
19 directed only to that point: evidence and arguments designed to demonstrate that the locations
20 of these other points of diversion of water identified were actually hand-dug wells, that the
21 County's assessment records noted one source as the "Harrub Well," and that a noted
22 archeologist who had worked on the cultural analysis of Solarljøs' property in connection with

23 _____
24 ¹ As indicated above, Solarljøs had previously filed a Petition for Judicial Review of the Final
Order, but upon filing its Objection in this case Solarljøs' counsel stipulated to stay that other
case, CV2003-010, pending final determination of this matter.

1 the completion of Solarljos' environmental assessment necessary to satisfy BLM permitting
2 requirements had concluded that the points of diversion sites were in fact hand-dug wells that
3 might actually require preservation by Solarljos as part of the cultural assessment and work on
4 the property. The intent of that proof at the hearing was to establish Solarljos right to a vested
5 groundwater claim as well as a surface water claim. The amount of the vested claim was not at
6 issue.

7 12. On January 31, 2020, the current State Engineer issued the Final Order after
8 consideration of the various objections that had been filed and presented during the hearings
9 conducted in early 2019. In the Final Order, the State Engineer accepted the additional
10 arguments presented by Solarljos at the objection hearing when the State concluded that there
11 were grounds to find that vested Proofs V-10881 and V-10882 were, in fact, groundwater
12 sources (hand-dug wells) rather than surface springs.

13 13. However, the State Engineer's impromptu revisit of the analysis regarding the
14 entire vested rights claim/proof filed by Solarljos and previously accepted as a "basis" for the
15 finding of .472 cfs for mining and milling.

16 14. The Final Order's determination of a new reduction of water was made with no
17 proof of facts or evidence in the record, yet made entirely new findings of fact, without any
18 prior notice, that substantially depleted the prior allocation of water that had been granted to
19 Solarljos in the Preliminary Order.

20 15. The Final Order suddenly and without notice of any kind to Solarljos creates an
21 entirely different scenario of "possible" use of water by the prior mining operation and reduced
22 the allocation of vested water from the prior allocation to less than 4% of what was previously
23 approved, giving Solarljos only 13.2 AFA.

24 16. In making this determination, the State Engineer hypothesized about several

1 scenarios that would have been "more likely" as to the mining operation, and made statements
2 about the amount of water that 100 men living in a bunkhouse and working at the mine would
3 have used.

4 17. However, Solarljos was not given any notice or opportunity to be heard
5 regarding the State Engineer's analysis and conclusion regarding the comingled water amount
6 allocated to Solarljos based on its vested rights claims.

7 18. Further, nearly all of these "findings" were made without citation to any sources
8 whatsoever regarding historical factual proof or even treatises or reference materials discussing
9 mining operations in the area or how they were operated. As such, they were baseless and
10 speculative, and unduly prejudicial to Solarljos.

11 19. Solarljos filed an "exception" to the Final Order of Determination pursuant to
12 NRS 533.170, and this Court is tasked with resolving those exceptions as to all vested claimants
13 who filed exceptions.

14 20. Solarljos' exception is considered in the nature of a petition for judicial review
15 on the *record* created before the State Engineer consisting of (a) the filing of Solarljos' "proofs"
16 of its vested rights claims, as required under NRS 533.087 and 533.125, and (b) the evidence
17 submitted during the hearing on Objections to the Preliminary Order of Determination, as is
18 required by NRS 533.145 and 533.150.²

19 21. The State Engineer failed to provide any evidence to support his decision to

20 ² This Court notes that Solarljos also filed a Petition for Judicial Review pursuant to NRS
21 533.450 in Case No. CV2003-010 within 30 days of the Final Order because Solarljos was
22 "aggrieved" by the Final Order of the State Engineer, and NRS 533.450 states that it applies to
23 "any order or decision of the State Engineer" and does not expressly exclude orders issued under
24 adjudication of vested rights proceedings. However, Solarljos and the State entered into a
stipulation to stay that action pending the outcome of this proceeding and confirming that
Solarljos simply wanted to make sure its rights were preserved to appeal that part of the Final
Order to which Solarljos objected to a district court in *some* proceeding – one time, before a
court. (The Stipulation notes that Solarljos is not attempting to get two bites at the appeal
"apple.")

1 revisit in the Final Order his prior determination regarding the amount of water wo which
2 Solarljøs is entitled under its vested rights claims.

3 22. In his Preliminary Order, the State Engineer determined Solarljøs vested claim to
4 be a mining and milling use from January 1 to December 31 of .472 cfs. Solarljøs raised no
5 objection to the .472 cfs determination.

6 23. Based on the findings and conclusions set forth in the State Engineer's
7 Preliminary Order, Solarljøs' narrow and sole objection was the State Engineer's determination
8 as to the source of that water, The State Engineer decided that Solarljøs had failed to prove that
9 the source was groundwater and that the points of diversion for V-10881 and V-10882 were
10 hand-dug wells. Consequently, all of the evidence presented and discussed at the hearing on that
11 limited objection was directed entirely and completely to Solarljøs' proof that the source of the
12 water was, in fact, groundwater wells.

13 24. Because no objection was raised as to the .472 cfs allocation of water, there was
14 no basis or allowed reason for the State to revise its prior allocation of the amount of water
15 determined to be provided to Solarljøs under its original proof of vested rights claim. 25. The
16 three proofs of claim and other supporting documentation submitted by Solarljøs shows that it
17 made claim to the same water as emanating from a spring and from groundwater, because the
18 source of the water was a site referenced as "Einar Spring" and another as "the Harrub Well."

19 25. Solarljøs was not requesting more water in its Objection to the Preliminary
20 Order, but rather recognition that the source of its water was both a groundwater well and a site
21 that had been identified as a "spring" (surface right).

22 **II. CONCLUSIONS OF LAW**

23 This Court hereby makes the following conclusions of law based on the material
24 undisputed facts outlined above, the evidence submitted, and the record.

1 **A. Summary Judgment**

2 Rule 56 of the Nevada Rules of Civil Procedure ("NRC") state that "[t]he court shall
3 grant summary judgment if the movant shows there is no genuine dispute as to any material fact
4 and the movant is entitled to judgment as a matter of law." NRC 56(c); *Wood v. Safeway, Inc.*,
5 121 Nev. 724, 729 (2005). "A genuine issue of material fact is one where the evidence is such
6 that a reasonable [finder of fact] could return a verdict for the non-moving party." *Lee v. GNLV*,
7 22 P.3d 209, 211-12 (2001) (citations omitted). The party opposing summary judgment may not
8 rely "on gossamer threads of whimsy, speculation and conjecture . . . [and] the non-moving party
9 . . . must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a
10 genuine factual issue" to support his or her claim at trial or defeat a motion for summary
11 judgment. *Wood* at 731 (internal quotes and citations omitted); *Thomas v. Bokelman*, 86 Nev. 10,
12 14, 462 P.2d 1020, 1023 (1970) (citations omitted).

13 A burden-shifting scheme is used in determining summary judgment, where "[t]he party
14 moving for summary judgment bears the initial burden of production to show the absence of a
15 genuine issue of material fact." *Cuzze v. Univ. and Comm. College Sys. of Nev.*, 123 Nev. 598,
16 602, 172 P.2d 131, 135 (2007). "The manner in which each party must satisfy its burden of
17 production depends on which party will bear the burden of persuasion on the challenged claim at
18 trial." *Id.*

19 If "the moving party [bears] the burden of persuasion, that party must present evidence
20 that would entitle it to a judgment as a matter of law in the absence of contrary evidence." *Id.* "If
21 such a showing is made, then the party opposing summary judgment assumes a burden of
22 production to show the existence of a genuine issue of material fact." *Id.* "But if the nonmoving
23 party will bear the burden of persuasion at trial, the party moving for summary judgment may
24 satisfy the burden of production by either (1) submitting evidence that negates an essential

1 element of the nonmoving party's claim, or (2) pointing out ... that there is an absence of
2 evidence to support the nonmoving party's case." *Id.* (internal quotations omitted).

3 Further, regarding motions for summary judgment on claims untethered to factual
4 support, the Nevada Supreme Court recently emphasized that:

5 [W]here an action is brought with practically no evidentiary basis to support it,
6 summary judgment can be a valuable tool to discourage protracted and
7 meritless litigation of factually insufficient claims. In dispensing with
8 frivolous actions through summary judgment, courts promote the important
9 policy objectives of sound judicial economy and enhance the judiciary's
10 capacity to effectively and efficiently adjudicate legitimate claims.

11 *Boesiger v. Desert Appraisals, LLC*, 135 Nev. 192, 198, 444 P.3d 436, 441 (2019).

12 **B. Legal Analysis and Conclusions**

13 **1. The State Engineer Violated Solarljos' Right To Due Process.**

14 Based on the material undisputed facts outlined above, this Court finds as a matter of
15 law that The State Engineer did not provide sufficient or adequate notice regarding its allocation
16 of commingled vested water right usage in the Final Order of Determination, thus depriving
17 Solarljos of its right to due process.

18 NRS 533.150(4) states that the evidence taken in a proceeding conducted in accordance
19 with an objection to a Preliminary Order of adjudication of vested rights "must be confined to
20 the subjects enumerated in the objections and the preliminary order of determination." Due
21 process forbids any governmental agency, including the State Engineer, from using evidence in
22 any way that forecloses an opportunity for a vested water right claimant from being heard. *See*
23 *Eureka Cnty. v. State Eng'r*, 131 Nev. 846, 855, 359 P.3d 1114, 1120 (2015) (citing *Bowman*
24 *Transp., Inc. v. Arkansas-Best Freight Sys., Inc.*, 419 U.S. 281, 288, 288 n. 4, 95 S.Ct. 438, 42
L.Ed.2d 447 (1974); *see also Eureka Cnty. v. Seventh Judicial Dist. Court (Sadler Ranch)*, 134
Nev. 275, 279, 417 P.3d 1121, 1124 (2018) ("In Nevada, water rights are regarded and

1 protected as real property.”) (internal quotations and citations omitted).

2 Moreover, it has been held by the Nevada Supreme Court that where the State Engineer
3 issues an order “without providing notice or a hearing—[it is] an omission that, in the context of
4 established water rights, would unquestionably be fatal.” *Wilson v. Pahrump Fair Water, LLC*,
5 137 Nev. Adv. Op. 2, 418 P.3d 853, 858 (2021). This necessarily means that an opportunity to
6 challenge the State Engineer’s determination must be afforded to a claimant such as Solarljøs
7 before it enters its final order – which is precisely what the State Engineer failed to do here.

8 The record shows, and this Court finds, that Solarljøs filed Proofs of vested water rights
9 with the State Engineer as part of the proceeding in May 2016. These claims were filed for
10 vested water rights under Claim Nos. V-10880, V-10881 and V-01882. After analyzing the
11 claims and submissions of evidence and proof, the State Engineer entered its Preliminary Order,
12 where it *approved* Proof V-10880 for allocation of .472 cfs of vested water rights to Solarljøs
13 (which is the equivalent of 341.71 AFA). The evidence presented and attached to these claims
14 presented by Solarljøs was also uncontroverted that claims V-10881 and V-10882 were
15 “comingled” with the source and usage of V-10880. This was not disputed by anyone, including
16 the State Engineer in its Preliminary Order.

17 However, the State Engineer limited the approval to a surface water right from the Einar
18 Spring *rather than* approving that allocation as a groundwater right and the Preliminary Order
19 denied Solarljøs’ vested claims V-10881 and V-10882 on the basis that they were applications
20 for “groundwater.” As such, the State Engineer’s denial in this regard was made solely on the
21 basis that the sources of water identified appeared to be surface sources rather than groundwater
22 wells. As a result, Solarljøs objected to the Preliminary Order solely because it believed that it
23 had already demonstrated that the water was from a groundwater source and that the State
24 should have found the source to be groundwater rather than surface springs. The record shows

1 that further discussion conducted at the hearing on the objection merely emphasized that point,
2 focusing entirely on the source of water – not the mining operation itself or the nature of the use
3 involved, because those factors had apparently been presented to the satisfaction of the State
4 Engineer as demonstrated by the discussion in the Preliminary Order and the finding in favor of
5 Solarljós to award a diversion of .472 cfs (341.71 AFA). No discussion was had at the hearing
6 on the objection of Solarljós – by the State³-- regarding the amount of water used by the old
7 mining operation, because there was nothing in the Preliminary Order suggesting that the State
8 Engineer's office was concerned about the amount of water it had approved under Solarljós'
9 claims for vested water (the .472 cfs/ 341.71 AFA).

10 However, after the March 19, 2019 hearing (which only focused on the singular issue
11 regarding the source of water) the State Engineer entered its Final Order on January 31, 2020,
12 where it reversed its prior decision regarding the source, agreeing with Solarlos that claims V-
13 10881 and V-10882 were ground water sources, and that it was comingled for the total
14 diversion rate of .472 cfs (341.71 AFA) of water. But, the State Engineer also found, for the
15 first time, that Solarljós' allocated usage was "a total combined duty of 13.2 afa from all
16 sources." No party, including Solarljós, was involved in an objection proceeding that would
17 have allowed Solarljós to present evidence that went beyond what was presented in the subjects
18 "enumerated in the objections and preliminary order." Further, there was not a single piece of
19 evidence presented at the hearing on Solarljós' objection that would support the myriad of
20 findings made by the State in the Final Order – suddenly and without notice to Solarljós –
21 regarding an entirely revised review of the Prospect mining operation that the State now
22 "believes" occurred on the site in an entirely different fashion than it previously concluded had
23

24 ³ However, Solarljós' retained hydrologist, Tim Donahoe confirmed that the water usage approved by the state at .472 cfs was equivalent to 212 gallons per minute (i.e., 341.72 AFA) and is not unusual groundwater usage for a mining operation.

1 occurred when it granted Solarljøs the allocation of .472 cfs of water use (341.71 AFA) during
2 the initial Proof review. However, no witnesses, expert or percipient, testified at the hearing
3 contrary to what had been presented in the earlier Proof and no documentation was presented
4 showing that Solarljøs' Proof of use was being challenged or would be subject to challenge as to
5 the amount of water used.

6 Notwithstanding, the record shows the State Engineer still apparently found a basis for
7 the .472 cfs (341.71 AFA) water usage for all three claims in the Final Order, contradicting its
8 unsupported assumption for a total duty of 13.2 AFA which does not apply to a mining
9 operation. The State Engineer unilaterally included its additional "finding" that not only
10 contradicted itself in both the Preliminary and Final Orders, but also to the principles of
11 calculating water usage with respect to historic mining operations. Therefore, this Court agrees
12 with Solarljøs that the State Engineer's finding that the total duty of water usage allocated to
13 Solarljøs is 13.2 AFA was arbitrary and unsupported and, based on the foregoing, was also a
14 violation of Solarljøs' right to due process.

15 **B. The State Engineer's Final Order Regarding The Allocation of 13.2 AFA to**
16 **Solarljøs Was Not Supported By Substantial Evidence And Therefore,**
Solarljøs Is Entitled To Summary Judgment as a Matter of Law

17 A party aggrieved by an order or decision of the State Engineer is entitled to have the
18 same reviewed in the nature of an appeal. NRS 533.450(1). This proceeding is, essentially, on
19 the record and is in the nature of an appeal and therefore, the State Engineer's Final Order for
20 Determination must include "findings in sufficient detail to permit judicial review" and "must
21 clearly resolve all crucial issues presented." *Revert v. Ray*, 95 Nev. 782, 787, 603 P.2d 262,
22 264-265 (1975).

23 In order to determine that the State Engineer's findings and order are valid, this Court
24 must determine whether substantial evidence exists in the record to support the State Engineer's

1 decision. *Id.*; see also *State Engineer v. Morris*, 107 Nev. 699, 701, 819 P.2d 203, 205 (1991)
2 *Pyramid Lake Paiute Tribe of Indians v. Ricci*, 126 Nev. 521, 525, 245 P.3d 1145, 1147-48
3 (2010); and *Eureka Cnty. v. State Eng'r*, 131 Nev. 846, 853, 359 P.3d 1114, 1118-19 (2015);
4 and *Wilson v. Pahrump, LLC*, 137 Nev. Adv. Op. 2, 481 P.3d 853, 858 (2021) (stating that “the
5 State Engineer’s decision must be supported by substantial record evidence.”) (citing to *King v.*
6 *St. Clair*, 134 Nev. 137, 139, 414 P.3d 314, 316 (2008) (stating that “factual findings of the
7 State Engineer should only be overturned if they are not supported by substantial evidence.”).
8 “Substantial evidence is that which a reasonable mind might accept as adequate to support a
9 conclusion.” *Pyramid Lake Paiute Tribe of Indians, supra*. (internal quotations and citations
10 omitted).

11 Moreover, this Court must also determine whether the State Engineer’s order (or any
12 part of its decision(s)) was arbitrary, capricious, an abuse of discretion, or whether it was
13 otherwise affected by prejudicial legal error. *Pyramid Lake Paiute Tribe of Indians v. Washoe*
14 *Cnty.*, 112 Nev. 743, 751, 918 P.2d 697, 702 (1996).

15 Finally, in reviewing an administrative decision by the State, this Court is required to
16 “decide pure legal questions without deference to an agency determination” and therefore,
17 applies a *de novo* standard of review to questions of law. See, *Felton v. Douglas Cnty.*, 134 Nev.
18 34, 35, 410 P.3d 991, 993-994 (2018), see also *Pyramid Lake Paiute Tribe of Indians v. Ricci*,
19 126 Nev. at 525, 245 P.3d at 147-48 (stating that “[w]ith respect to questions of law, however,
20 the State Engineer’s ruling is persuasive but not controlling . . . [and t]herefore, we review
21 purely legal questions without deference to the State Engineer’s ruling.”)(internal citations
22 omitted).

23 In its Final Order, the State Engineer agreed with Solarljós and found a basis for the total
24 diversion rate of .472 cfs (341.71 AFA) of water from the underground sourced associated with

1 claims V-10881, V-10882, and the Einar Spring source under claim V-10880 for mining and
2 milling from January 1 through December 31 with a priority date of 1879, as well as for the
3 diversion of water for domestic use from January 1 through December 31. However, the State
4 Engineer inexplicably added the following sentence to the findings for each claim: "This water,
5 being comingled with water from Claims . . . will have a total combined duty of 13.2 afa from
6 all sources." But, the State Engineer failed to provide any evidence, let alone any substantial
7 evidence required to support this finding. Because there is no evidence in the record to support
8 the finding by the State Engineer, this finding was no more than a mere assumption on the State
9 Engineer's part.

10 Moreover and notwithstanding, this Court agrees with Solarljøs that there could never
11 have been a factual basis to make those findings because NRS 533.150(4) would have precluded
12 the introduction of such new evidence entirely outside of the Preliminary Order and outside of
13 the "subjects" of Solarljøs' objection – which had only to do with the source of water and not
14 the amount of the water allocated under the Proofs. This Court agrees that if the State Engineer
15 had alerted the parties to the possibility that the mining operation itself was in question, or that
16 the amount of water being approved was still in question, NRS 533.150(4) would have
17 precluded the introduction of evidence directed to that issue following the issuance of the
18 Preliminary Order. That Preliminary Order, in Nevada's statutory scheme, carries significant
19 precedential weight; unless there is an objection posed, it essentially becomes the final
20 determination of the State Engineer, and that is why there are such stringent statutory limits
21 imposed on those who want to object to the finding made in preliminary orders of adjudication.
22 See NRS 533.145 through 533.160.

23 However, the Final Order suddenly and without notice of any kind to Solarljøs creates
24 an entirely different scenario of "possible" use of water by the prior mining operation, and

1 arbitrarily reduced the allocation of vested water from the prior allocation to less than 4% of
2 what was previously approved, giving Solarljos only 13.2 AFA. In making this determination,
3 the State Engineer hypothesized about several scenarios that would have been "more likely" as
4 to the mining operation, and made statements about the amount of water that 100 men living in
5 a bunkhouse and working at the mine would have used. However, nearly all of these "findings"
6 were made without citation to any sources whatsoever regarding historical factual proof or even
7 treatises or reference materials discussing mining operations in the area or how they were
8 operated. As such, the State Engineer failed to provide any evidence whatsoever, let alone
9 "substantial evidence" required to support its finding that Solarljos' allocation of water usage is
10 only 13.2 AFA, and therefore, its finding must be overturned and Solarljos is entitled to
11 summary judgment as a matter of law.

12 **NOW, THEREFORE, GOOD CAUSE APPEARING,**

13 **IT IS HEREBY ORDERED, ADJUDGED and DECREED** that Solarljos' motion for
14 summary judgment is GRANTED in its entirety and the State Engineer's finding that Solarljos'
15 allocation of commingled water right usage is 13.2 AFA is OVERTURNED.

16 **IT IS HEREBY FURTHER ORDERED ADJUDGED and DECREED** that
17 Solarljos' allocation of commingled water right usage is 472 cfs, or 341.71 AFA as previously
18 found in the State Engineer's Preliminary Order, which previously accepted by Solarljos.

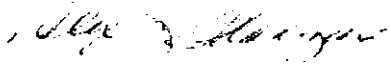
19 DATED: *OCTOBER 27, 2021*

20 
21 _____
DISTRICT COURT JUDGE

1 Respectfully Submitted

2 DATED: October 25, 2021.

3
4 KAEMPFER CROWELL

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SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



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OCT 27 2021

Eureka County Clerk

26

1 Case No. CV-2002009

2 Dept No. 2

NO. _____ FILED

OCT 27 2021

3 By Eureka County Clerk
4 [Signature]

5
6 IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
7
8 NEVADA, IN AND FOR THE COUNTY OF EUREKA

9 * * * * *

10 IN THE MATTER OF THE
11 DETERMINATION OF THE RELATIVE
12 RIGHTS IN AND TO ALL WATERS,
13 BOTH SURFACE AND UNDERGROUND,
14 LOCATED WITHIN THE DIAMOND
15 VALLEY HYDROGRAPHIC BASIN NO.
16 10-153, EUREKA AND ELKO COUNTIES,
17 NEVADA

CERTIFICATE OF SERVICE

18 The undersigned being an employee of the Eureka County Clerk's Office, hereby
19 certifies that on the 27th day of October, 2021, I personally delivered a true and
20 correct copy of the following:

***Corrected Order Granting Solarljios, LLC's Motion For Partial Summary
Judgment***
addressed to:

Paul Taggart, Esq.
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Timothy D. O'Connor, Esq.
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In the following manner:

- | | | | |
|--------------------------|---|-------------------------------------|---------------------------|
| <input type="checkbox"/> | regular U.S. mail | <input type="checkbox"/> | overnight UPS |
| <input type="checkbox"/> | certified U.S. mail | <input type="checkbox"/> | overnight Federal Express |
| <input type="checkbox"/> | priority U.S. mail | <input checked="" type="checkbox"/> | via email |
| <input type="checkbox"/> | hand delivery | | |
| <input type="checkbox"/> | copy placed in agency box located in the Eureka County Clerk's Office | | |

A handwritten signature in black ink, appearing to read "B. Mahoney", is written over a horizontal line.

ATTACHMENT 4

ATTACHMENT 4

Case No.: CV-2002009

Dept. No.: 2

NO. _____ FILED

JAN 27 2022

By Eureka County Clerk
B. Mahoney

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF EUREKA

IN THE MATTER OF THE
DETERMINATION OF THE RELATIVE
RIGHTS IN AND TO ALL WATERS,
BOTH SURFACE AND UNDERGROUND,
LOCATED WITHIN THE DIAMOND
VALLEY HYDROGRAPHIC BASIN NO.
10-153, EUREKA AND ELKO COUNTIES,
NEVADA

**NOTICE OF ENTRY OF ORDER
GRANTING SOLARLJOS LLC'S
MOTION FOR CERTIFICATION OF
JUDGMENT ON SOLARLJOS LLC'S
EXCEPTION IN THIS ADJUDICATION
PROCEEDING**

TO: ALL PARTIES AND THEIR ATTORNEYS HEREIN:

PLEASE TAKE NOTICE that an Order Granting Solarljios LLC's Motion for Certification of Judgment on Solarljios LLC's Exception in this Adjudication Proceeding was entered in the above-referenced case on the 21st day of January, 2022. A true and correct copy of the Order is attached as "Exhibit 1."

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JAN 27 2022

Eureka County Clerk

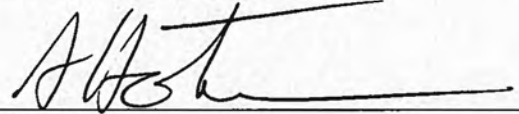
KAEMPFER

CROWELL

1 **AFFIRMATION:** Pursuant to NRS 239B.030, the undersigned hereby affirms that this
2 document does not contain the personal information or social security number of any person.

3 DATED: January 24, 2022.

KAEMPFFER CROWELL

4 

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13 *Attorneys for Solarljios, LLC*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am employed by the law firm of Kaempfer Crowell, and that on this 24th day of January, 2022, I served a true and correct copy of the foregoing document **ORDER GRANTING SOLARLJOS LLC'S MOTION FOR CERTIFICATION OF JUDGMENT ON SOLARLJOS LLC'S EXCEPTION IN THIS ADJUDICATION PROCEEDING** via email, addressed to the following:

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2 *Properties; Norman and Kindy Fitzwater*

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Attorney for the United States of America

7 **Courtesy Copy Via U.S.P.S. Mail:**

8 Hon. Gary D. Fairman
9 Dept. 2
10 PO Box 151629
11 Ely, NV 89315

12 DATED January 24, 2022



Sharon Stice
An employee of Kaempfer Crowell

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EXHIBIT INDEX

EXHIBIT	DESCRIPTION	PAGES
1	Order Granting Solarljøs LLC's Motion for Certification of Judgment on Solarljøs LLC's Exception in this Adjudication Proceeding	8

EXHIBIT 1

EXHIBIT 1

Case No. CV-2002009

Dept No. 2

NO FILED

JAN 21 2022

Eureka County Clerk
By *B. Mahoney*

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF EUREKA

IN THE MATTER OF THE
DETERMINATION OF THE RELATIVE
RIGHTS IN AND TO ALL WATERS,
BOTH SURFACE AND UNDERGROUND,
LOCATED WITHIN THE DIAMOND
VALLEY HYDROGRAPHIC BASIN NO.
10-153, EUREKA AND ELKO COUNTIES,
NEVADA

**ORDER GRANTING SOLARLIJOS,
LLC'S MOTION FOR CERTIFICATION
OF JUDGMENT ON SOLARLIJOS
LLC'S EXCEPTION IN THIS
ADJUDICATION PROCEEDING**

BACKGROUND

On October 27, 2021, the court entered a corrected order granting Solarljios, LLC's motion for partial summary judgment. The motion for partial summary judgment was unopposed. No parties intervened or were granted intervention in the Solarljios notice of exceptions. On November 16, 2021, Solarljios, LLC ("Solarljios") filed a notice of hearing on Solarljios, LLC's request/motion for certification of summary judgment pursuant to NRCP 54(b), and request/motion for certification of judgment on Solarljios LLC's exception in this adjudication proceeding ("Solarljios' rule 54(b) motion"). On December 3, 2021, the State Engineer filed State Engineer's response to Solarljios LLC's request/motion for certification of summary judgment pursuant to NRCP 54(b) ("State Engineer's rule 54(b) response"). On December 3, 2021, Ira R. Renner and Montira Renner and Daniel Venturacci and Amanda Venturacci each filed a response to Solarljios' rule 54(b) motion ("Renner/Venturacci's rule 54(b) responses"). Sadler Ranch, LLC and MW Cattle, LLC

SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



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JAN 21 2022



1 filed a joinder to Renner/Venturacci's rule 54(b) responses ("Sadler Ranch/MW Cattle's
2 joinder") on December 3, 2021. On December 7, 2021, Solarljøs filed Solarljøs, LLC's
3 reply to the State Engineer's rule 54(b) response ("Solarljøs' reply"). No other parties
4 filed any written opposition or response to Solarljøs' rule 54(b) motion.¹ A virtual hearing
5 was held on the record on December 7, 2021, at which counsel for all of the parties
6 appeared with the exception of Terese A. Ure-Stix, Ross E. deLipkau, and David L.
7 Negri.² The court heard oral argument from all counsel appearing and took the matter
8 under advisement.

9 DISCUSSION

10 The court's procedure for the Diamond Valley vested rights adjudication provided
11 that each party who had filed a notice of exception to the State Engineer's final order of
12 determination ("OD") entered January 31, 2020, would be heard and considered
13 separately. Several of the exceptions have already been heard by the court. Solarljøs'
14 notice of exceptions hearing had been scheduled for November 9-11, 2021, but was
15 vacated upon the court's entering partial summary judgment in its favor. Solarljøs' notice
16 of exceptions challenged the difference in the amount of water it was allocated by the
17 State Engineer in its preliminary order from that amount it allocated in the OD. Solarljøs
18 is not involved as a litigant in any other exceptions. Solarljøs is a small family-owned
19 mining operation. Solarljøs asserts there is no just reason for the court to delay 54(b)
20 certification since the effect of the court's corrected order granting partial summary
21 judgment removed Solarljøs as a party from the pending case adjudication, as well as
22 removed its claim from this pending action. Solarljøs further argues that it will suffer

23 ¹ At the oral argument Karen Peterson, representing Eureka County orally opposed Solarljøs' rule 54(b)
24 motion.

25 ² The court notes that James E. Baumann and Vera L. Baumann, Arc Dome Partners, LLC, Robert F.
26 Beck and Karen Beck, trustees of the Beck Family Trust dated April 19, 2005, Beck Properties, Norman
and Kandy Fitzwater, and the USA filed no pleadings regarding Solarljøs' rule 54(b) motion and their
counsels' appearance was not expected nor required by the court.



1 harm if it is forced to wait until the court enters a singular decree encompassing a decision
2 on all of the filed notices of exceptions because its ability to obtain financing for its mining
3 project would be hampered as well as the importance of having its vested rights claims
4 reach finality as to title and quantity of water thus making the water resource available
5 sooner to its mining operation. Solarljós also states that the court's order granting partial
6 summary judgment in its favor will not adversely affect any other parties' claims to vested
7 rights in the remaining exceptions in this adjudication.

8 In response, the State Engineer first cites that the plain language of Nevada's
9 water statutes and case law "require a single decree on the water system being
10 adjudicated."³ In support, the State Engineer relies on NRS 533.185(1) that states,
11 "After the hearing the court shall enter a decree affirming or modifying the order of the
12 State Engineer." The State Engineer maintains that a singular decree is required
13 encompassing all exceptions to the OD, regardless of whether a hearing is held on an
14 exception because NRS 533.200 provides for appeals to be taken from a decree. The
15 State Engineer concludes that since all exceptions have not been heard by the court and
16 a singular decree has not been entered encompassing all exceptions, the case status is
17 not ripe for appeal.⁴ The State Engineer's analysis is based on the Nevada Supreme
18 Court holding in *In Re Waters of Humboldt River Stream System*⁵ where the Court
19 rejected an appeal from a water rights adjudication case because the decree had not yet
20 been entered.⁶ Second, the State Engineer contends that since the other exceptions in
21 the adjudication are so closely related, if the Nevada Supreme Court must decide issues
22 in the pending cases remaining in the district court in order for the Supreme Court to
23 decide any issues in Solarljós' case, then there can be no finding that there is no just

24 ³ State Engineer's rule 54(b) resp. at 2.

25 ⁴ *Id.* at 4.

26 ⁵ 54 Nev. 115, 7P.2d 813, 814 (1932).

⁶ State Engineer rule 54(b) resp. at 4.



1 reason for delay and a district court certification under those facts would be an abuse of
2 discretion.⁷ Third, the State Engineer asserts that Solarljøs' reliance on *In re Estate of*
3 *Sarge*,⁸ is misplaced as it involved an appeal of consolidated cases which this water
4 system adjudication is not as this is one case with multiple parties and exceptions.⁹

5 Solarljøs responds that in 1932 when *In Re Waters of Humboldt River Stream*
6 *System* was decided no certification procedure was available since neither the Federal
7 Rules of Civil Procedure nor the Nevada Rules of Civil Procedure were in place, the latter
8 being enacted in 1951. Renners' counsel, Tamara Thiel, pointed out at the hearing that
9 the 2019 revisions to rule 54 allow district court certification of a judgment if the judgment
10 not only eliminated one or more parties, but also when one or more but fewer than all
11 claims are resolved.¹⁰ Prior to the 2019 amendment, rule 54(b) only provided for
12 certification of a judgment if it eliminated one or more of the parties, but not claims. The
13 procedure in a water rights case is the same as in other civil cases.¹¹ The State Engineer
14 cites no specific issue in Solarljøs' claims similar to the other notices of exceptions making
15 certification premature if granted by this Court. The court disagrees that the notices of
16 exceptions are so closely related that allowing certification under 54(b) in this case would
17 potentially compel the Nevada Supreme Court to decide the law of the case for the other
18 pending notices of exceptions.¹² In Solarljøs' case, this Court overturned the State
19 Engineer's OD as to an underground source because the State Engineer based his
20 decision on evidence that was never made part of the record.¹³ No party filed an

21 ⁷ *Id.* at 5, citing *Hallicrafters Co. v. Moore*, 102 Nev. 526, 528, 728 P.2d 411, 442-43 (internal citations
22 omitted) (1986).

23 ⁸ 134 Nev. 866, 432 P.3d 718 (2018).

24 ⁹ State Engineer's rule 54(b) response at 6.

25 ¹⁰ NRCP 54(b); See Advisory Committee note -- 2019 Amendment.

26 ¹¹ *Jackson v. Groenendgke*, 132 Nev. 296, 300, 369 P.3d 362, 365 (2016). See NRS 533.020 and NRS
533.170.

¹² State Engr. rule 54 resp. at pg. 7.

¹³ Corrected order granting mot. for sum. judg. at 4-7, 10-16.



1 exception or was otherwise granted intervention in Solarljios' case,¹⁴ nor has Solarljios
2 intervened in any other notices of exceptions. Further, this adjudication is more akin to
3 consolidated cases retaining their separate identity for the purpose of appeal as was held
4 in *In re Estate of Sarge*.¹⁵ The court's corrected order granting partial summary judgment
5 resolved all of Solarljios' exception issues. The court finds there are no claims with respect
6 to the other notices of exceptions that are so closely related to Solarljios' issue that the
7 Nevada Supreme Court must necessarily decide issues pending in the other cases in the
8 district court in order to decide the issues appealed, if any, in Solarljios' case.¹⁶ In this
9 regard, the court finds that no piece meal litigation would occur if certification were granted
10 to Solarljios.¹⁷

11 Solarljios claims the potential prejudice to its ability to get financing and carry on its
12 mining operations by delaying certification substantially outweighs any prejudice to any
13 other party, thus supporting certification.¹⁸ The State Engineer maintains that there is
14 no controlling law that prejudice is the primary consideration for the court.¹⁹ The court
15 agrees with the State Engineer and Solarljios that the court must find that there is "no just
16 reason for delay" to grant a motion for certification.²⁰ Upon consideration of the prejudice
17 to Solarljios and the prejudice to the remaining parties who have filed notices of
18 exceptions, the court finds the prejudice to Solarljios outweighs the prejudices to the

19 ¹⁴ Eureka County sought intervention in all pending adjudication cases and was allowed to intervene in
20 some cases not including the Solarljios case. Order granting Eureka County's motion to intervene
21 entered March 16, 2021, at 1, 11. Eureka County never filed a petition for writ of mandamus challenging
22 this order. See *Aetna Life & Casualty Ins. Co. v. Rowen*, 107 Nev. 362-363, 812 P.2d 350 (1991). *SIIS*
23 *v. District Court*, 111 Nev. 58, 30, 888 P.2d 911 (1995).

24 ¹⁵ *In re Estate of Sarge*, at 870-871.

25 ¹⁶ Mr. DePaoli, representing the Baileys, orally argued at the hearing that how the State Engineer
26 interpreted and applied the relation back doctrine would be common to all cases. This issue is not
present in Solarljios' notice of exceptions.

¹⁷ See *Wiman v. Rafaely*, No. 82763 Supreme Court of Nevada, 489 P.3d 917 (2021) (cited for its
persuasive value).

¹⁸ Solarljios' request/mot. for cert. at pg. 4-6; Solarljios' reply at pg. 9-11.

¹⁹ State Engr's rule 54 resp. at pg. 6.

²⁰ *Id.*, Rule 54(b).



1 remaining parties and that there is no just reason for delaying certification.²¹

2 Good cause appearing,

3 IT IS HEREBY ORDERED that Solarljos, LLC's request/motion for certification of
4 summary judgment pursuant to NRCP 54(b) and request/motion for certification of
5 judgment on Solarljos LLC's exception in this adjudication proceeding is GRANTED.

6 IT IS HEREBY FURTHER ORDERED that the court certifies as a final judgment
7 the corrected order granting Solarljos' LLC's motion for partial summary judgment entered
8 October 27, 2021.

9 DATED this 21st day of January, 2022.

10 
11 DISTRICT JUDGE

22
23
24
25 ²¹ NRCP 54(b); *Mallin v. Farmers Ins. Exchange*, 106 Nev. 606, 611, 797 P.2d 978 (1990) reversed on
26 other grounds, *In re of Estate of Sarge*, at 870.

Case No. CV-2002009

Dept No. 2

NO FILED

JAN 21 2022

Eureka County Clerk
By: *[Signature]*

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF EUREKA

IN THE MATTER OF THE
DETERMINATION OF THE RELATIVE
RIGHTS IN AND TO ALL WATERS,
BOTH SURFACE AND UNDERGROUND,
LOCATED WITHIN THE DIAMOND
VALLEY HYDROGRAPHIC BASIN NO.
10-153, EUREKA AND ELKO COUNTIES,
NEVADA

CERTIFICATE OF SERVICE

The undersigned being an employee of the Eureka County Clerk's Office, hereby
certifies that on the 21st day of January, 2022, I personally delivered a true and
correct copy of the following:

***Order Granting Solarljfos, LLC's Motion For Certification Of Judgment On
Solarljfos LLC's Exception In This Adjudication Proceeding***
addressed to:

Paul Taggart, Esq.
David H. Rigdon, Esq.
Timothy D. O'Connor, Esq.
Tamara Thiel, Esq.
Paul@legaltnt.com
Tim@legaltnt.com
David@legaltnt.com
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James N. Bolotin, Esq.
Ian Carr, Esq.
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SEVENTH JUDICIAL DISTRICT COURT
GARY D. FAIRMAN
DISTRICT JUDGE
DEPARTMENT 2
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA



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JAN 21 2022

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In the following manner:

- | | | | |
|--------------------------|---|-------------------------------------|---------------------------|
| <input type="checkbox"/> | regular U.S. mail | <input type="checkbox"/> | overnight UPS |
| <input type="checkbox"/> | certified U.S. mail | <input type="checkbox"/> | overnight Federal Express |
| <input type="checkbox"/> | priority U.S. mail | <input checked="" type="checkbox"/> | via email |
| <input type="checkbox"/> | hand delivery | | |
| <input type="checkbox"/> | copy placed in agency box located in the Eureka County Clerk's Office | | |

A handwritten signature, likely "D. Mahoney", is written over a horizontal line.