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Affirmation: This document does
not contain the social security
number of any person.

**IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA**

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

**NORMAN C. AND KINDY L.
FITZWATER'S WITNESS LIST,
SUMMARY OF TESTIMONY, AND
EXHIBIT LIST**

COMES NOW, water right holders Norman C. and Kindy L. Fitzwater ("Fitzwater"), by and through their counsel, Laura A. Schroeder and Therese A. Ure of Schroeder Law Offices, P.C., pursuant to the State Engineer's January 10, 2019 Notice of Hearing on Objections, and submits: 1) the following list of witnesses with a brief summary of their testimony; 2) exhibit list; and 3) copies of documentary evidence attached hereto. Fitzwater may call any or all of the following witnesses and utilize any or all of the following exhibits in this proceeding.

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Witness List and Summary:

- 1) Norman C. Fitzwater**
P.O. Box 15
1 Fitzwater Springs Road
Eureka, NV 89316

Norman C. Fitzwater is an owner of certain real property located in Eureka County, Nevada and appurtenant water right of use Permit 1937 (Certificate 43) holding a priority date of January 25, 1911. Mr. Fitzwater may provide testimony as to the property and water use, history and development and his experience utilizing the water under Permit 1937 (Certificate 43). Mr. Fitzwater may provide testimony on irrigation practices, stockwater use and domestic use at his property. Mr. Fitzwater may provide testimony to support his predecessors' prior use of water in the early 1900's prior to 1926.

- 2) Kindy L. Fitzwater**
P.O. Box 15
1 Fitzwater Springs Road
Eureka, NV 89316

Kindy L. Fitzwater is an owner of certain real property located in Eureka County, Nevada and appurtenant water right of use Permit 1937 (Certificate 43). Mrs. Fitzwater may provide testimony as to the property and water use, history and development and her experience utilizing the water under Permit 1937 (Certificate 43). Mrs. Fitzwater may provide testimony on irrigation practices, stockwater use and domestic use at her property. Mrs. Fitzwater may provide testimony to support her predecessors' prior use of water in the early 1900's prior to 1926.

- 3) Thomas L. Belaustegui**

Thomas L. Belaustegui is a predecessor to Norman C. and Kindy L. Fitzwater, was a prior owner of certain real property located in Eureka County, Nevada and appurtenant water right of use Permit 1937 (Certificate 43). Mr. Belaustegui may testify as to works completed at the spring source point of diversion and historical use of water under Permit 1937 (Certificate 43).



4) Jake Tibbitts

Natural Resources Manager
Eureka County Department of Natural Resources
P.O. Box 682
Eureka, NV 89316

Jake Tibbitts may testify as to his 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, attached as Exhibit A to Eureka County's Objections to BLM's Public Water Reserves in Preliminary Order of Determination (11/7/2018). Mr. Tibbitts may be asked to testify as to the data collection methodology utilized and subsequent findings pertaining to the source identified in BLM R-04249 (Coreales Spring), the site description, spring flow, appropriation of prior rights on the source and findings concerning application of State Engineer Ruling 5729 and BLM PWR Checklist criteria. Mr. Tibbitts has been qualified by the State Engineer as an expert in the areas of geographic information science, remote sensing and natural resource management.

5) Dale Bugenig

Dale C. Bugenig Consulting Hydrogeologist, LLC
12290 Westridge Dr.
Reno, NV 89511

Dale Bugenig may be asked to testify regarding his field investigation resulting in the 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, attached as Exhibit A to Eureka County's Objections to BLM's Public Water Reserves in Preliminary Order of Determination (11/7/2018). Mr. Bugenig may be asked to testify as to the data collection methodology utilized and subsequent findings pertaining to the source identified in BLM R-04249 (Coreales Spring), the site description, spring flow and analysis made concerning water availability. Mr. Bugenig has been qualified as an expert in the areas of hydrogeology and groundwater modeling by the State Engineer.



6) All additional witnesses listed by Eureka County and Bureau of Land Management in its list of witnesses and exhibits.

7) Fitzwater reserves the right to call additional witnesses as may be identified resulting from the testimony or exhibits disclosed by Eureka County, BLM or any other party to the adjudication, and rebuttal or impeaching witnesses as may be required at the hearing.

Exhibit List and Copies:

Pursuant to the instructions provided in the Notice of Hearing on Objections, Fitzwater has labeled its exhibits with the prefix "FITZWATER." Exhibits identified in this list at Attachment A hereto are being provided to the State Engineer's office in hard copy. An electronic copy of Fitzwater's exhibit list and one scanned copy of the exhibits is included herewith.

Fitzwater reserves the right to introduce records as follows:

1. From the State Engineer's files and records;
2. Additional exhibits that may be identified as a result of testimony or exhibits disclosed by Eureka County or BLM; and
3. Rebuttal or impeachment exhibits as may be determined relevant at the hearing.

DATED this 1st day of February, 2019.

SCHROEDER LAW OFFICES, P.C.



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ATTACHMENT A

Fitzwater's Exhibit List

Exhibit Number	Description
FITZWATER_001	1894 GLO Survey Plat Map
FITZWATER_002	1893 GLO Survey Notes T20N R54E (Excerpted)
FITZWATER_003	1906 Resurvey Plat Map
FITZWATER_004	1906 GLO Survey Notes T20N R54E
FITZWATER_005	1911 NDWR Application & Permit 1937
FITZWATER_006	1911 NDWR Water Use Affidavit: Unappropriated Water
FITZWATER_007	1911 Deed from Mattei to Minoletti, Book 17 Page 95
FITZWATER_008	1911 NDWR Water Use Affidavit: Labor and Improvements
FITZWATER_009	1912 NDWR Application Map
FITZWATER_010	1912 NDWR Proof of Beneficial Use
FITZWATER_011	1912 NDWR Certificate 43
FITZWATER_012	8/17/1912 Water Location - County Recording of Certificate 43
FITZWATER_013	NDWR Permit 1937: Misc. Correspondence from File
FITZWATER_014	11/02/2018 - Fitzwater Objections to Preliminary Order of Determination to Diamond Valley Adjudication
FITZWATER_015	11/7/2018 - Eureka County's Objection to BLM's Public Water Reserves in Preliminary Order of Determination (Excerpted)
FITZWATER_016	RS 2339, RS 2477, RS 2340
FITZWATER_017	Demonstrative Maps of Pipeline Path



Exhibit Number	Description
FITZWATER_018	Photographs of Spring Development, Reservoir, and Ditches
FITZWATER_019	1914 USA Patent to Minoletti 394049 (3/20/1914)
FITZWATER_020	NDWR file for BLM PWR R04249

