

**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.)

**NOTICE OF HEARING
ON OBJECTIONS**

**I.
INTRODUCTION**

Pursuant to Nevada Revised Statute (NRS) § 533.150, the State Engineer hereby sets a public administrative hearing on the Objections to the Preliminary Order of Determination *In the Matter of the Determination of the Relative Rights in and to all Waters, Both Surface and Underground, Located Within Diamond Valley, (10-153), Eureka and Elko Counties, Nevada.*

Objections to the Preliminary Order of Determination were filed by the following claimants:

1. Arc Dome Partners, LLC
2. The Bailey Family Trust
3. James and Vera Baumann
4. Robert F. and Karen A. Beck, Trustees of the Beck Family Trust Dated 4-19-2005
5. Beck Properties
6. Chad and Rosie Bliss
7. The Bureau of Land Management (BLM)
8. Eureka County (regarding Eureka County claims)
9. Eureka County (regarding PWR claims)
10. Norman and Kindy Fitzwater
11. Kobeh Valley Ranch, LLC
12. Mark Moyle Farms, LLC
13. Ira and Montira Renner
14. Sadler Ranch, LLC
15. Solarljjos, LLC
16. Daniel Venturacci

**II.
HEARING DATE, LOCATION AND SCHEDULE**

Pursuant to the Informational Statement dated June 15, 2017, the hearing is hereby scheduled from **February 11 through 15, February 19 through 22, and February 25 through March 1, 2019.** **The hearing will run from 8:30 to 4:30 daily at the Division of Water Resources, Tahoe Hearing Room, 901 South Stewart, Second Floor, Carson City, Nevada.**

The hearing will proceed according to the following schedule grouped generally by location of claims in the basin, including the west side, the east side and the southern part of Diamond Valley. The hearing schedule is set forth below, where the time allotted for the claimant's presentation is determined by the State Engineer's review of the scope and complexity of each claimant's objection:

| West Side (February 11–15) | Representative, if any | Hearing Date(s) (2019) | Time Allotted |
|-----------------------------------|--|-----------------------------------|-------------------------|
| The Bailey Family Trust | Gordon DePaoli, Esq. | February 11 | 1/2 day |
| Ira and Montira Renner | Paul Taggart, Esq. and Timothy O'Connor, Esq. | February 11–15 | 4 1/2 days ¹ |
| Kobeh Valley Ranch, LLC | Paul Taggart, Esq. and Evan Champa, Esq. | February 11–15 | |
| Sadler Ranch, LLC | Paul Taggart, Esq. and David Rigdon, Esq. | February 11–15 | |

| East Side (February 19–22)² | Representative, if any | Hearing Date(s) (2019) | Time Allotted |
|---|--|-----------------------------------|----------------------|
| Mark Moyle Farms, LLC | Debbie Leonard, Esq. | February 19–20 | 2 days |
| Beck Properties | | February 19–20 | |
| Arc Dome, LLC | | February 19–20 | |
| The Beck Family Trust | | February 19–20 | |
| James and Vera Baumann | Therese Ure, Esq. | February 21 | 1/2 day |
| Norman and Kindy Fitzwater | | February 21 | |
| Daniel Venturacci | Paul Taggart, Esq. and David Rigdon, Esq. | February 21–22 | 1 1/2 days |

| Southern Part (February 25–March 1) | Representative, if any | Hearing Date(s) (2019) | Time Allotted |
|--|-------------------------------|-----------------------------------|----------------------|
| Chad and Rosie Bliss | Ross de Lipkau, Esq. | February 25 | 1 day |
| James and Vera Baumann | Therese Ure, Esq. | February 25 | |
| Eureka County | Karen Peterson, Esq. | February 26–28 | 3 days |
| Eureka County PWR | Karen Peterson, Esq. | February 26–28 | |
| BLM | | February 26–28 | |
| Solarljós, LLC | Alex Flangas, Esq. | March 1 | 1 day |

If a claimant lodged an objection to another claimant's proof of appropriation, the claimant whose proof of appropriation is being challenged may appear at the former's designated date and time for the purposes of cross-examination, but such cross-examination is limited to the testimony being given in support of the objection to the latter's proof of appropriation.

¹ As these three parties are represented by the same counsel, counsel has leave to determine the order and timing for presentations for these claimants.

² Monday, February 18, 2019, is a designated state holiday.

III. WAIVER OF APPEARANCE AT HEARING

Pursuant to NRS § 533.150(1) a claimant may waive his appearance at a hearing and request that the objection and any supporting materials be submitted for consideration without a hearing. In the event you wish to waive your appearance at the hearing, you must inform the hearing officers, Kristen Geddes and Malcolm Wilson, by e-mail at *kgeddes@water.nv.gov* and *mjwilson@water.nv.gov*, no later than **Wednesday, January 23, 2019**, that you do not intend to appear at the hearing.

IV. EVIDENCE AND WITNESSES

Nevada Revised Statute § 533.150(4) requires that the evidence in the proceedings must be confined to the subjects enumerated in the objections and the preliminary order of determination. Subject to the requirements of NRS § 533.150(4), claimants are hereby ordered to serve on the State Engineer in Carson City, Nevada:

1. A witness list no later than **Friday, February 1, 2019**, that includes a reasonably detailed summary of the testimony of each witness. If a witness is not identified as testifying regarding a certain topic, the witness may not be allowed to testify as to unidentified topics.
2. **One copy** of any documentary evidence intended to be introduced no later than **Friday, February 1, 2019**. If a witness was identified as intending to provide expert testimony, the evidentiary exchange shall include a written report prepared and signed by the witness, which shall contain a complete statement of all opinions to be expressed and the basis and reasons for those opinions, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or in support of the opinions and a statement of qualifications of the witness.
 - a. Exhibits should be identified by claimant name and exhibit number. For example, The Bailey Family Trust Exhibit Number 1, should be identified as BAILEY_001.
 - b. EXCEPTION: If a claimant submitted materials in support of the objection that substantially complies with the requirements of Paragraph 2(a) (e.g., supporting materials were marked as attached exhibits and/or numbered or bates numbered pages) the party is not required to re-file the same exhibits for purposes of the hearing. If you require additional guidance on this issue please contact the Hearing Section.
3. In addition to hard copies of the lists, summaries and evidence to be served on the State Engineer, **the parties are hereby ordered to also file a computer disk or thumb drive that includes: (1) the exhibit list in Microsoft Excel format; and (2) one scanned copy of all exhibits in PDF 200 x 200 dpi format.**
4. The Office of the State Engineer will post all witness and exhibit lists and proposed exhibits on the State Engineer's website at <http://water.nv.gov/hearings>, prior to the commencement of the hearing.
5. Please be advised that the State Engineer intends to offer the following documents under the State Engineer's exhibits:

- a. Notice of Order for Taking Proofs (SE_001)
- b. Correspondence denying Additional Extension of Time for Proofs (SE_002)
- c. Informational Statement (SE_003)
- d. Notice of Hearing (SE_004)
- e. Preliminary Order of Determination (SE_005)

V.

EXHIBITS AND COMPUTER EQUIPMENT

1. Nevada Administrative Code § 533.290 requires that exhibits introduced into evidence must be in a readily reproducible form, on paper that is 8½” x 11” or foldable to that size.
2. The submission of exhibits submitted on computer compact disks or any other media, other than paper that is 8½” x 11” or foldable to that size, will be considered on a case-by-case basis. Computer presentations, such as power-point slides, must be copied on paper that is 8½” x 11” and may be offered into evidence.
3. For the presentation of excerpts from large documents, the State Engineer will allow the submission of excerpts, but upon request, the person or entity serving such document must make the entire document available to a requesting party. If excerpts from a larger document are served and the person upon whom it is served requests to have the entire document in either a hard copy or in a PDF format on a computer compact disk, the person serving said document has 10 days from the date of receipt of the request to place the requested copy in the U.S. Mail or actually provide it to the requestor.
4. Any document, report or other evidence that any participant intends to refer to must be provided as an exhibit during the administrative hearing.
5. The use of any computer, projector or other type of equipment in the hearing room must be arranged at least one week in advance of the hearing with Hearing Section.

VI.

COST OF REPORTING

As provided in NRS § 533.150, the hearing will be reported by a certified court reporter. An original and one copy of the transcript of the proceedings must be filed with the State Engineer. The parties filing objections will bear equally the court reporter's appearance fee, travel expenses, reporting and transcribing the portion of the transcript consisting of comments by the State Engineer and the public. In addition, the parties filing objections shall bear a pro rata the cost of the portion of the transcript taken up by their own case.

VII.

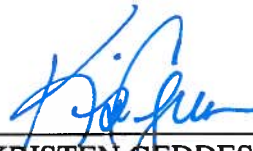
ATTENDANCE AND REPRESENTATION

You or your designated representative should plan to attend the hearing for the purposes of presenting evidence or testimony in support of your position concerning the protested applications. Legal counsel not licensed to practice law in the State of Nevada, are required to comply with Nevada Supreme Court Rule 42. The Verified Application to Associate form that must be filed with the Nevada State Bar can be found on the Nevada Division of Water Resources website at <http://water.nv.gov> Forms Tab - Miscellaneous Forms. Nevada Supreme Court Rule 43 provides an exception for lawyers employed by, or representing the United States Government.

VII.

REASONABLE ACCOMMODATIONS

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the hearing. If special arrangements for the hearing are necessary, please notify the Hearing Section at the Nevada Division of Water Resources, 901 South Stewart, Suite 2002, Carson City, Nevada, 89701, or by calling (775) 684-2800.



KRISTEN GEDDES
Chief, Hearings Section

Dated this 10th day of

January, 2019.

SERVICE LIST

Notice of Hearing on Objections to the Preliminary Order of Determination *In the Matter of the Determination of the Relative Rights in and to all Waters, Both Surface and Underground, Located Within Diamond Valley, (10-153), Eureka and Elko Counties, Nevada.*

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