

January 8, 2016

**VIA US Mail**

Judge Laura Scott, Special Master Application  
Matheson Courthouse  
450 South State Street  
P.O. Box 1860  
Salt Lake City, Utah 84114-1860

**Janelle Eurick Bauer**  
ATTORNEY AT LAW

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Salt Lake City, Utah  
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Salt Lake City, Utah  
84111

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**Re: Special Master Application by Janelle Eurick Bauer of  
Ray Quinney & Nebeker, P.C.**

Dear Judge Scott:

Thank you for considering my application to act as the court-appointed Master to oversee contested matters in the Utah Lake and Jordan River General Adjudication (civil number 360057298). This letter outlines my experience and interest in this matter, potential conflicts of interest and proposes a billing structure for your consideration.

**Professional Background and Experience**

I received a degree in environmental studies and political science from the University of Utah in 1997, becoming one of the first graduates in environmental studies at the University. That degree required numerous geography and earth sciences classes, forming the basis of my now broad understanding of the hydrology and geography of the Wasatch Front. In law school at Lewis and Clark College, I received an environmental certificate, taking classes on a variety of environmental subjects, including water law and public lands. During law school, I interned for Utah Rivers Council and performed extensive research and analysis on the effects of the Central Utah Project on Utah's rivers. Now, at Ray Quinney & Nebeker ("RQ&N"), I am member of the Firm's Environmental Law Section and have specialized in water law for over 11 years, becoming knowledgeable in all aspects of Utah water law, including litigation and transactional work for the Firm's clients. This experience includes:

- Updating title to water rights and working with the State Engineer's office to resolve complex chain of title issues;
- Investigating title to water rights;

- Investigating the validity and amount of water available under diligence claims and applications to appropriate through researching applicable decrees and water rights files;
- Preparing water inventories and tracking due dates and filing deadlines for large water rights holders;
- Preparing and filing exchange applications;
- Preparing, filing and processing change applications;
- Preparing protests and representing clients before the State Engineer in hearings on those protests;
- Assisting in preparation of Proof of Beneficial Use applications;
- Representation of clients before the State Engineer in administrative hearings regarding their applications;
- Filing appeals of administrative decisions to district court;
- Preparing water user claim forms;
- Filing objections in general adjudications;
- Working with clients, the Utah Attorney General's office and the State Engineer's office to resolve objections in a general adjudication.

As a recent example of this experience, in December 2015, I filed nearly forty Reports of Conveyance for firm clients, including extensively researching title to those water rights and investigating the validity of the rights. I also negotiated a water purchase agreement with a large mining corporation for a firm client and will be filing several change applications in conjunction with the buyer to complete the transaction. Furthermore, I counseled three firm clients with regard to the general determination process, assisting one with filing a water user claim, investigating a potential water right holding for another and counseling the third to withdraw its objection from the Bear River General Adjudication because the client's concerns had been addressed through additional on-site investigation of upstream water rights by a consultant hired by my firm.

I have diverse experience in litigation that will inform my work as Special Master. After law school, I served as the Staff Attorney at the ACLU of Utah where I litigated and managed numerous high profile civil rights cases. Often in this position, I served as the middleperson between governmental agencies and private citizens to beneficially resolve emotionally-charged, complex civil rights issues. I also spent countless hours investigating the factual scenarios presented in incoming civil rights complaints to determine if any civil rights violations had occurred.

During my tenure at RQ&N, I have worked on a wide variety of litigation matters. I have appeared in numerous judicial district courts throughout Utah, the United States District Court for the District of Utah and have drafted appellate briefs filed in the Ninth, Tenth and Eleventh Circuits. Many of these cases have involved complex environmental and regulatory issues. For instance, my partner and I brought a National Environmental Policy Act lawsuit to challenge two federal Department of Transportation projects in the same case. This litigation required review of and citation to thousands of pages of scientific and technical documents during briefing and oral arguments.

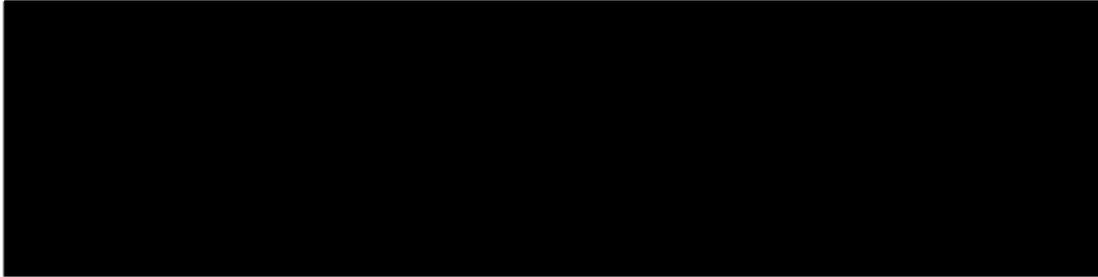
I believe my technical expertise in water law issues, legal experience and understanding of the principles involved in the general adjudication process will allow me to assist the Court with the outstanding objections in this case. I am not adverse to controversy or high profile litigation and have a proven track record when it comes to handling these types of cases. My team will effectively and efficiently establish a system to investigate the current objections in the proceeding, begin settlement conferences, investigate factual disputes and schedule regular status conferences to keep the parties expeditiously moving toward resolution of the remaining claims. My diverse client base, involving government agencies, non-profit organizations, farmers, homeowners and industry clients will also serve to ensure neutrality and allow me to impartially consider all aspects of the issues raised in the numerous objections remaining to be resolved.

#### **Attorney Staffing**

If selected, I intend to staff the case with associate attorney Calvin Winder and paralegal Kari Herron. Mr. Winder is a 2012 graduate of Duke University School of Law. Since joining RQ&N, he has worked on several large pieces of litigation. He is also familiar with Utah and Nevada water law issues. Ms. Herron is a litigation paralegal and has assisted in over 15 trials throughout her career, including trial preparation, creating trial notebooks, identifying and organizing exhibits, coordination witness schedules, maintaining trial calendars and communicating effectively with opposing counsel. My resume, along with Mr. Winder's are attached hereto.

In addition, Jeffrey Appel, a shareholder at RQ&N, has a wealth of knowledge with regard to Utah water law and specifically, the complicated issues involved in this case that have arisen over the past 35 years in the Utah Lake and Jordan River Basin. Mr. Appel would be available, on an as-needed basis, should the Court desire, to assist in this case. Mr. Appel's resume is available upon request.

Proposed Billing Structure



Potential Conflicts of Interest

On January 4, 2016, our Firm's General Counsel requested that all attorneys provide a list of any potential conflicts of interest RQ&N has with this potential appointment. At this time, I am not aware of any conflicts. Should a conflict arise after reviewing the list of the parties to the objections in this matter, I agree to immediately inform the Court of the issue.

Thank you again for your consideration of my application. If appointed, I look forward to working with you on this matter.

Yours Truly,

RAY QUINNEY & NEBEKER P.C.

  
Janelle Eurick Bauer



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Salt Lake City, Utah 84111  
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### **CAREER SUMMARY**

I am a litigation attorney and shareholder at a highly-respected 100+ attorney law firm and have more than 15 years of specialized expertise in various areas of water, environmental, public lands, civil rights and natural resources law, including litigation in federal court, state court, and administrative proceedings. I am named a "Rising Star" in Environmental Law in Mountain States Super Lawyers (2013-2015) and was voted as an "AV Preeminent" attorney by Martindale-Hubbell (2013-2015), which is the highest rating awarded to attorneys for professional competence and ethics. My practice covers diverse areas of law including Utah and Western water law transactions and administrative litigation, National Environmental Policy Act litigation, responding to general criminal and civil governmental investigations and compliance audits, Clean Water Act permitting and compliance, Migratory Bird Treaty Act compliance, hazardous waste compliance and permitting, mining transactions and permitting review, Utah public records and Federal Freedom of Information Act requests, preparing leases and contracts for real estate transactions, Endangered Species Act compliance work, administrative compliance and enforcement representation before the Utah Division of Alcoholic Beverage Control, and general regulatory compliance for a variety of governmental, farming, developers and industry clients. Prior to joining my current firm, I was the Staff Attorney for the American Civil Liberties Union of Utah, where I represented various civil liberties clients in high profile civil rights cases, including preparing for the 2002 Winter Olympics held in Salt Lake City, Utah. In that capacity, I coordinated meetings and met with high ranking governmental officials including the Mayor of Salt Lake City and public safety command representatives from the Salt Lake Olympic Organizing Committee and various Federal and State law enforcement agencies to successfully execute constitutionally compliant first amendment protest areas for mass gatherings during the Olympics.

### **RELEVANT PROFESSIONAL EXPERIENCE**

#### **Litigation, Water and Environmental Attorney, Ray Quinney & Nebeker, P.C.**

*36 South State Street, Suite 1400, Salt Lake City, Utah 84111*

01/2010 to Present (Shareholder)

07/2004 to 01/2010 (Associate)

Law firm partner and shareholder practicing litigation, environmental and water law at 100+ attorney law firm ranked by Chambers USA Guide at the highest "Band 1" level of firms practicing Commercial Litigation. Extensive litigation and transactional experience in several specialized areas of law such as:

- Utah, Nevada and Idaho water law transactions, administrative hearings and litigation;

- National Environmental Policy Act litigation and compliance work;
- Representation of companies in response to governmental investigations and compliance issues, including preparation of corporate audits, policies and procedures;
- Division of Alcoholic Beverage Control work on licensing, compliance and enforcement defense for licensees;
- Clean Water Act Consent Decree negotiation and response to governmental investigations;
- Reclamation Reform Act compliance;
- Federal Insecticide, Fungicide, and Rodenticide Act compliance and negotiation of Consent Decrees;
- Representation of several governmental entities including drafting and reviewing proposed ordinances;
- Resource Conservation and Recovery Act compliance work and certification from McCoy and Associates;
- Real estate transaction involving Superfund/CERCLA clean up properties;
- Freedom of Information Act requests and administrative appeals;
- Utah Governmental Access and Management Act requests and administrative appeals;
- Federal public land laws, including National Forest Management Act and Federal Land Policy Management Act;
- False Claims Act and Qui Tam litigation;
- Federal Tort Claims Act;
- Endangered Species Act compliance and permitting review;
- Migratory Bird Treaty Act compliance;
- Energy development projects including renewable energy solar project funding and due diligence work;
- Jurisdictional research and litigation regarding Indian territory;
- Constitutional takings litigation and trial work;
- Environmental nuisance and tort litigation;

Experience with application of litigation skills includes, without limitation:

- Representation of clients at administrative and State and Federal Court hearings, including presenting oral arguments;
- Preparing complicated documents of all types, including responses to governmental requests for information, administrative appeal briefs, opening briefs, motions for summary judgment, motions for preliminary injunctions, discovery related motions, consent decrees, and settlement agreements;
- Researching interpretations of statutes and rules using modern technological tools;
- Developing arguments addressing highly complex legal and factual issues;
- Developing courteous working relationships with State employees, Federal counsel and regulators;
- Taking and defending depositions and thoroughly preparing witnesses for deposition;
- Engaging in all types of civil discovery and managing electronic discovery;

- Developing proactive, forward-looking case resolution and/or litigation strategies, including non-traditional approaches to resolution of conflicts;
- Developing novel legal arguments and factual theories;
- Counseling clients at all stages of litigation concerning strategy, budgeting, and hard decisions regarding the real life repercussions of the legal process;
- Leading and mentoring paralegals, staff and associates on cases;
- Monitoring legislative and regulatory developments concerning emerging issues in environmental and water law.

Relevant skills also include experience with standard litigation practices and familiarity with the Utah and Federal Rules of Civil Procedure, Utah and Federal Rules of Evidence, Utah and Federal Administrative Procedures Act, Code of Federal Regulations, Utah and Federal Rules of Appellate Procedure, and varying standards of proof and standards of review applicable to different legal proceedings.

**Staff Attorney, American Civil Liberties Union of Utah**

*355 N. 300 W., Salt Lake City, Utah 84103*

06/2000 to 11/2003

I was hired by the ACLU during law school after completing a summer internship to assist the organization in preparing for a variety of First Amendment issues surrounding Salt Lake City's hosting of the 2002 Winter Olympics. During my time at the ACLU I gained valuable leadership experience and created contacts with numerous high ranking governmental officials. This professional experience included:

- Performing all aspects of litigation including discovery, depositions and oral arguments for a variety of high profile civil rights cases;
- Prepared briefs for the Utah Supreme Court, Utah Court of Appeals, and Tenth Circuit Court of Appeals;
- Supervised numerous legal interns and volunteer attorneys;
- Worked with high ranking state, federal and local government and law enforcement officials;
- Led and organized over 50 volunteers for the 2002 Winter Olympics as well as creating a civil rights database for protesters during the Olympics;
- Significant experience with all aspects of equal protection and First Amendment free speech issues including drafting and revising ordinances for local government agencies and litigation.
- Spokesperson for ACLU litigation issues gaining extensive experience issuing press releases, conducting on camera and newspaper interviews.
- Registered lobbyist attending and speaking at numerous legislative hearings and public forums with regard to national security laws and civil rights issues.
- Created document retention policies and procedures for the ACLU of Utah office.

**Member and Vice President, Board of Directors, Utah Environmental Congress**

*1817 S. Main Street, Salt Lake City, Utah 84115*

*2004-2013*

Active member of the Board of Directors managing day to day operations of this small but successful conservation organization including:

- Staffing and interviewing for staff members and attorney positions;
- Making difficult human resources decisions including hiring and firing staff;
- Overseeing small budget and reviewing organization's expenditures;
- Overseeing National Forest litigation and appeals, including representing the organization on a pro bono basis;
- Organizing and executing several successful fundraising events each year;
- Drafted non disclosure agreements, employee handbook, and office policies and procedures.

**INTERNSHIPS AND CLERKSHIPS**

**Law Clerk, Pacific Environmental Advocacy Center**

*Portland, Oregon*

08/1999 to 05/2000

Researched and drafted legal memoranda on cases concerning the ESA, NFMA, public lands and water rights; Researched and drafted legal memoranda concerning violations of the CWA for appellate litigation concerning the lower four Snake River dams.

**Law Clerk, American Civil Liberties Union of Utah**

*Salt Lake City, Utah*

Summer 1999

Assisted legal director with research and writing on several high profile civil rights cases including work on Main Street Plaza free speech case and several gay/straight alliance cases.

**Legal Research Volunteer, Utah Rivers Council**

*Salt Lake City, Utah*

Summer 1998

Researched Utah water issues; general office volunteer for mailings, and writing projects.

**Law Clerk, Southern Utah Wilderness Alliance**

*Salt Lake City, Utah*

Summer 1998

Assisted in legal review for several EIS's prepared by the BLM affecting SUWA's proposed wilderness bill. Received Lewis and Clark Law School's Public Interest Law Project grant for work at SUWA.

## BAR MEMBERSHIP AND ADMISSIONS

Utah State Bar, Active Member in Good Standing  
Utah Supreme Court  
United States District Court for the District of Utah  
United States Court of Appeals, Tenth Circuit  
United States Court of Appeals, Ninth Circuit

## EDUCATION

### **Northwestern School of Law of Lewis and Clark College Class of 2000, Juris Doctor**

- Honors Legal Analysis and Writing
- Public Interest Law Project Grant Recipient
- Environmental Certificate (Top 25% in Environmental Coursework)
- Environmental Law Caucus
- Animal Law Journal, Associate Editor

### **University of Utah Class of 1997, B.S. in Environmental Studies and Political Science**

- Dean's List
- Phi Alpha Delta Pre Law Fraternity
- Barrick Gold Corp. full ride scholarship
- One of two of the first graduates at the University in the Environmental Studies degree program

## SELECTED REPORTED CASES

In re I.M.L v. State of Utah, 61 P.3d 1038 (Utah 2002)

Represented a high school student, who was charged with criminal libel for creating an Internet web site on which he displayed disparaging comments about his teachers, classmates, and principal, moved to dismiss the complaint, challenging the criminal libel statute on constitutional grounds. The Supreme Court held that Utah's criminal libel statute is overbroad and unconstitutional.

United States of America, ex rel. Lemmon v. Envirocare of Utah, 614 F.3d 1163 (10th Cir. 2010)

Represented relators against government contractor in a qui tam claims under the False Claims Act (FCA), alleging that contractor repeatedly violated its contractual and regulatory obligations by improperly disposing of hazardous waste and falsely representing to the government that it had fulfilled its obligations. The United States District Court for the District of Utah dismissed the action. The Court of Appeals reversed and held the allegations stated implied false certification claim under the FCA; statements in payment requests satisfied false statement required for express false certification claim; and allegations satisfied pleading with particularity requirement.

## RELEVANT COMMUNITY SERVICE AND ASSOCIATIONS

Member Utah State Bar Women Lawyers Division

Member, Salt Lake County Bar Association

Member, Utah State Bar Environmental and Natural Resources Division

Member, Utah Commercial Real Estate for Women 2013-Present

Volunteer, Wasatch Community Gardens Plant Sale, 2005 – present

## PUBLICATIONS

*The Constitutional Right to a Healthy Environment; Enforcing Environmental Protection Through State and Federal Constitutions*, 11 Int'l Legal Persp. 185; First Place in Davis, Wright, Tremaine International Environmental Law Writing Competition 2001

Co-author of *Beef and Backpackers*, a chapter in *Contested Landscape: The Politics of Wilderness in Utah and the West*, 1999 University of Utah Press

## ADDITIONAL INTERESTS

- Running and relay races
- Skiing
- Yoga
- Organic gardening
- Beekeeping
- Camping, paddle boarding and hiking

# Calvin R. Winder

36 South State Street, Suite 1400 • Salt Lake City, UT 84111  
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## EXPERIENCE

**Ray Quinney & Nebeker P.C., Salt Lake City, UT** August 2013–Present  
*Associate*

Engaged in numerous discussions regarding and obtained familiarity with water law and water rights issues affecting the Truckee-Carson Irrigation District in Fallon, Nevada—including the Orr Ditch and Alpine Decrees, Truckee River Operating Agreement, Operating Criteria and Procedures for the Newlands Reclamation Project, Nevada, and litigation with the Pyramid Lake Paiute Tribe related to Truckee River water rights—due to family member’s position as Deputy Project Manager. Defended publicly-traded company, subsidiary, and executives in a \$135 million lawsuit involving, among other things, complex contract, fraud, and trade secret claims. Represented a Utah county regarding Indian law issues in ongoing civil litigation regarding the interplay between federal, state, and tribal jurisdiction within the Uintah Basin. Drafted several Tenth Circuit briefs, both amicus and merits, concerning complicated legal issues involving, among other things, jurisdiction and constitutional law. Assisted in drafting Tenth Circuit briefs relating to petitions for review of EPA final actions relating to Arizona’s, Colorado’s, Utah’s, and Wyoming’s Regional Haze State Implementation Plans pursuant to the Clean Air Act. Represented major national motor carrier in litigation against certain competitors regarding tortious interference with professional truck drivers subject to contract. Represented clients in other significant civil actions concerning breach of contract, business tort, and restrictive covenant claims.

**The Honorable Jay S. Bybee, U.S. Court of Appeals for the Ninth Circuit,**  
Las Vegas, NV July 2012–August 2013  
*Law Clerk*

Researched complicated civil, criminal, and administrative law issues in numerous legal fields. Prepared detailed legal memoranda and provided in-depth oral and written recommendations regarding court decisions. Assisted in drafting court orders, memorandum decisions, and published opinions. Reviewed and edited court orders, memorandum decisions, and published opinions drafted by other judges.

**Lone Tree Enterprises, LLC, Fallon, NV** April 2008–Present  
*Managing Member*

Managed limited liability company engaged in construction of concrete water-control structures and cattle ranching.

**Ray Quinney & Nebeker P.C., Salt Lake City, UT** May–July 2012  
*Summer Clerk*

Researched and drafted legal memoranda and motions on such issues as class certification discovery and statutes of limitations precluding FINRA arbitration claims.

**Simpson Thacher & Bartlett, LLP**, Palo Alto, CA May–August 2011  
*Summer Associate*  
Researched and drafted legal memoranda on False Claims Act damages, Eleventh Amendment “Arm-of-the-State” doctrine, and issues underpinning fact testimony by expert witnesses. Drafted portions of a motion to quash production of information that was burdensome, cumulative, and contained confidential business information.

**Fangda Partners**, Beijing, China June 2010  
*Summer Associate*  
Reviewed and revised Series “E” Preferred Share investment documents, shareholder and board resolutions, and CIETAC arbitration opinions and comments.

**Churchill County District Attorney’s Office**, Fallon, NV May 2010  
*Summer Intern*  
Researched and drafted petition for writ of mandamus and memorandum in opposition to defendant’s motion for suppression of evidence illegally obtained.

**Professor Samuel W. Buell, Duke Law School**, Durham, NC  
January 2010–May 2012  
*Research Assistant*  
Researched the status of the *mens rea* requirement for criminal securities fraud liability. Assisted in researching and drafting testimony presented to the United States Sentencing Commission regarding the proposed fraud amendments to the United States Sentencing Guidelines.

**The Church of Jesus Christ of Latter-day Saints**, Hong Kong, China  
2005–2006  
*Volunteer Representative*

**Winder Land & Cattle**, Fallon, NV 1996–2005  
Worked on family alfalfa farming and cattle operation, gaining extensive experience with the Truckee-Carson Irrigation District irrigation system, which is part of the Newlands Reclamation Project, Nevada.

## EDUCATION

**Duke University School of Law**, Durham, NC  
*Juris Doctor/Master of Laws, International and Comparative Law*, May 2012  
GPA: 3.77

### *Honors and Activities*

Cum Laude

Business Organization & Finance Law Award, Class of 2012

Academic Recognition, Top 5% of Duke Law Class of 2012

Duke Law Journal, *Research Editor/Staff Editor*

Duke Law Moot Court Board

Duke Law Mock Trial Board

2012 Irving R. Kaufman Memorial Moot Court Competition

2010 ELSA Moot Court Competition (EMC<sup>2</sup>) on WTO Law

- North American Regional Round Participant, Best Orator Grand Final Round, Best Overall Written Submission [Co-Author]; International Final Oral Round Participant

Duke Law J. Reuben Clark Law Society, President 2010–11

**Asia-America Institute in Transnational Law**, Hong Kong, China  
*Summer Study*, July 2010

**Brigham Young University**, Provo, UT  
*Bachelor of Arts, Economics*, April 2009  
GPA: 3.95  
***Honors and Activities***  
Magna Cum Laude  
Dean's List 2007–2008

**ADMISSIONS**

Utah State Bar, 2012  
United States District Court, District of Utah, 2012  
State Bar of Nevada, 2013  
United States District Court, District of Nevada, 2013  
State Bar of California, 2014  
United States Court of Appeals, Ninth Circuit, 2013  
United States Court of Appeals, Tenth Circuit, 2014  
United States District Court, Southern District of California, 2014

**PRESENTATIONS**

Co-Presenter, *Canal Company Liability Issues/Truckee Canal Failure*,  
The 2014 Utah Water Users Workshop, March 17-19, 2014, St. George,  
Utah

**PARTICIPANT**

2015 American Agricultural Law Association Annual Educational Symposium,  
October 21-23, 2015, Charleston, South Carolina  
22nd Annual Utah Water Law Conference, Water Rights & Water Quality at the  
Crossroads, October 3, 2014, Salt Lake City, Utah

**INTERESTS**

Cattle and horse ranching, Scouting (Eagle Scout), Chinese (Cantonese and  
Mandarin), travel, snowmobiling