

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA, ON
RELATION TO ITS DIVISION OF
WATER RESOURCES; THE STATE OF
NEVADA DEPARTMENT OF
CONSERVATION AND NATURAL
RESOURCES; AND ADAM SULLIVAN,
P.E., NEVADA STATE ENGINEER,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
MARK R. DENTON, DISTRICT JUDGE,
Respondents,

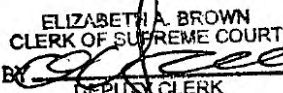
and

COYOTE SPRINGS INVESTMENT,
LLC; COYOTE SPRINGS NEVADA,
LLC; AND COYOTE SPRINGS
NURSERY, LLC,
Real Parties in Interest.

No. 87356

FILED

OCT 10 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

This emergency petition for a writ of mandamus challenges a district court order denying a motion to hold the underlying proceedings in abeyance pending a decision in a related appeal, *Sullivan, P.E. v. Lincoln Cty. Water District*, Docket Nos. 84739/84741/84742/84809/85137. Real

parties in interest have timely filed an answer,¹ as directed, and petitioners have timely filed a reply.

Writ relief is an extraordinary remedy that is solely within this court's discretion. *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991). A writ of mandamus "shall be issued in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law." NRS 34.170. "This court may issue a writ of mandamus to compel the performance of an act which the law requires as a duty resulting from an office or where discretion has been manifestly abused or exercised arbitrarily or capriciously." *Scarbo v. Eighth Judicial Dist. Court*, 125 Nev. 118, 121, 206 P.3d 975, 977 (2009); NRS 34.160 (stating mandamus standard).

When deciding whether to issue a stay pending other litigation, courts generally consider the competing interests of the parties and any others affected, as well as the court's interests in case management and judicial economy:

Where it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay must be weighed. Among those competing interests are the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay.

¹Real parties in interest's motion for leave to file an answer that exceeds the page/word-count limit is granted; the answer was filed on October 5, 2023.

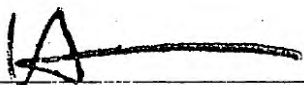
Lockyer v. Mirant Corp., 398 F.3d 1098, 1110 (9th Cir. 2005) (citing *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936)). And while the district court's decision is discretionary, the Ninth Circuit Court of Appeals has noted that appellate review of such a decision is "somewhat less deferential" than that of other discretionary decisions, and the court's discretion is abused if based on an incorrect view of the law or a "clearly erroneous assessment of the evidence." *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007) (internal quote marks and citations omitted).

Here, the district court's order summarily denied petitioners' motion to hold the proceedings in abeyance pending a decision in *Sullivan* because it concluded, without further explanation, that the motion was not ripe and that an indefinite stay was not warranted. But the briefing before us has not asserted or demonstrated that the motion is not ripe, and the requested stay is not indefinite, as petitioners seek a stay only until this court's decision in *Sullivan* is rendered and those consolidated appeals have already been briefed and argued.

Moreover, petitioners have demonstrated that, while perhaps not necessarily dispositive of the issues before the district court currently, the *Sullivan* decision will likely significantly impact the underlying case by narrowing the focus of the claims and discovery and potentially settling uncertain aspects of the legal or factual landscape. See *Flores v. Bennett*, No. 1:22-CV-01003-JLT-HBK, 2023 WL 3751998, at *8 (E.D. Cal. June 1, 2023) (noting that the overlap of issues on appeal and issues pending before the court indicates that the decision on appeal would streamline the issues pending before the court). Given the impact the *Sullivan* decision could have on the underlying case, we conclude that, upon balance, any hardship to real parties in interest does not outweigh the benefits of staying the

proceedings. Compare, e.g., *id.* at *8 (noting that, while merely being required to defend a lawsuit does not constitute harm, having to conduct “substantial, unrecoverable, and wasteful discovery and pretrial motions practice on matters that could be mooted by a pending appeal may amount to hardship or inequity sufficient to justify a stay”), with *Noble v. JP Morgan Chase Bank, Nat’l Ass’n*, No. 22-CV-02879-LB, 2022 WL 4229311, at *8 (N.D. Cal. Sept. 13, 2022) (“[A] delay in recovering monetary damages is not a sufficient basis to deny a stay motion.”). Accordingly, petitioners have demonstrated that writ relief is warranted, and we

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to grant petitioners’ motion to stay the proceedings before it pending this court’s decision in *Sullivan, P.E. v. Lincoln Cty. Water District*, Docket Nos. 84739/84741/84742/84809/85137.


_____, J.
Herndon


_____, J.
Lee


_____, J.
Parraguirre

cc: Hon. Mark R. Denton, District Judge
Attorney General/Carson City
Attorney General/Las Vegas
Robison, Sharp, Sullivan & Brust
Coulthard Law PLLC
Eighth District Court Clerk