

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

EUREKA COUNTY, A POLITICAL  
SUBDIVISION OF THE STATE OF  
NEVADA; KENNETH F. BENSON,  
INDIVIDUALLY; DIAMOND CATTLE  
COMPANY, LLC, A NEVADA LIMITED  
LIABILITY COMPANY; AND MICHEL  
AND MARGARET ANN ETCHEVERRY  
FAMILY, LP, A NEVADA REGISTERED  
FOREIGN LIMITED PARTNERSHIP,

Appellants,

vs.

THE STATE OF NEVADA STATE  
ENGINEER; THE STATE OF NEVADA  
DIVISION OF WATER RESOURCES; AND  
KOBEL VALLEY RANCH, LLC, A NEVADA  
LIMITED LIABILITY COMPANY,

Respondents.

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**EUREKA COUNTY'S MOTION TO FILE REPLY BRIEF  
IN EXCESS OF TYPE-VOLUME LIMITATION**

Appellant, EUREKA COUNTY, by and through its counsel, ALLISON,  
MacKENZIE, PAVLAKIS, WRIGHT & FAGAN, LTD., and THEODORE  
BEUTEL, ESQ., EUREKA COUNTY DISTRICT ATTORNEY, hereby requests  
permission to file its Reply Brief in excess of the type-volume limitation set forth  
in NRAP 32(a)(7)(A)(ii). EUREKA COUNTY's proposed Reply Brief is in

No. 61324

Electronically Filed  
Apr 05 2013 02:17 p.m.  
District Court Case No. 1108-155  
Tracie K. Lindeman  
Clerk of Supreme Court  
CV 1108-155; CV 1108-156;  
CV 1108-157; CV 1112-164;  
CV 1112-165; CV 1202-170

excess of 7,000 words; to-wit, the proposed Reply Brief is 11,598 words, exclusive of the table of contents, table of authorities, certificate of service, and certificate of compliance.

EUREKA COUNTY's Reply Brief addresses new matters raised in the Answering Brief filed by KOBEH VALLEY RANCH and the Answering Brief filed by the NEVADA STATE ENGINEER. In lieu of filing two separate reply briefs, EUREKA COUNTY has decided to file a single Reply Brief in accordance with NRAP 28(c) to answer new matters raised by the Respondents in their respective Answering Briefs.

This appeal raises issues of first impression to be addressed by the Court. When drafting the Reply Brief for this appeal, EUREKA COUNTY diligently attempted to comply with the 7,000 word type-volume limitation. The 11,598 word single Reply Brief is less than 14,000 words, the combined type-volume word limitation total of filing two reply briefs. Given the nature and scope of the issues of this appeal and the new matters set forth in Respondents' Answering Briefs, EUREKA COUNTY believes the additional 4,598 words, are necessary to present its arguments and provide the necessary context to aid the Court's resolution of the issues before it.

In accordance with NRAP32(a)(7)(D)(ii), the Declaration of KAREN A. PETERSON, ESQ., and Certification Pursuant to NRAP 32(a)(7)(C) is submitted concurrently herewith.

DATED this 5<sup>th</sup> day of April, 2013.

**ALLISON, MacKENZIE, PAVLAKIS,  
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## **CERTIFICATE OF SERVICE**

Pursuant to NRAP 25(1)(c), I hereby certify that I am an employee of ALLISON, MacKENZIE, PAVLAKIS, WRIGHT & FAGAN, LTD., Attorneys at Law, and that on this date, I caused the foregoing document to be served on all parties to this action by:

  ✓   Court's eFlex electronic filing system

as follows:

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////

- ✓ \_ Placing a true copy thereof in a sealed postage prepaid envelope in the United States Mail in Carson City, Nevada

as follows:

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DATED this 5<sup>th</sup> day of April, 2013.

/s/ Nancy Fontenot  
NANCY FONTENOT