

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA STATE  
ENGINEER; THE STATE OF  
NEVADA DEPARTMENT OF  
CONSERVATION AND NATURAL  
RESOURCES, DIVISION OF  
WATER RESOURCES; and  
KOBEL VALLEY RANCH, LLC,

Appellants,

vs.

EUREKA COUNTY, a political  
subdivision of THE STATE OF  
NEVADA; KENNETH F. BENSON,  
an individual; DIAMOND CATTLE  
COMPANY, LLC, a Nevada limited  
liability company; and MICHEL  
AND MARGARET ANN  
ETCHEVERRY FAMILY, LP, a  
Nevada registered foreign limited  
partnership,

Respondents.

Electronically Filed  
Apr 13 2017 08:13 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Case No. 70157

**MOTION SEEKING GUIDANCE REGARDING  
ORAL ARGUMENT AND SUBJECT MATTER FOR DISCUSSION**

Appellant, Jason King, P.E., the State Engineer, in his capacity as  
the Nevada State Engineer, Department of Conservation and Natural  
Resources, Division of Water Resources (hereafter “Nevada State  
Engineer”), by and through counsel, Nevada Attorney General Adam

Paul Laxalt and Senior Deputy Attorney General Micheline N. Fairbank, hereby submits this Motion seeking guidance in advance of the oral argument set in this matter for May 1, 2017. Because oral argument, previously set for April 4, 2017, was vacated and the matter submitted for decision on the brief, then reset on March 24, 2017, based upon the Court's determination that oral argument may be of assistance, the State Engineer seeks guidance to allow the parties to appropriately be prepared to respond to those issues that are of particular concern to the Court.

### **POINTS AND AUTHORITIES**

The Court's decision to reset this matter for oral argument indicates that there are issues which may not have been sufficiently addressed in the briefing by the parties. As the Court is aware, this matter involves numerous applications to appropriate groundwater, interpretation of Nevada water law and this Court's prior decision in *Eureka County v. State Engineer*, 131 Nev. Adv. Op. 84, 359 P.3d 114 (2015), and constitutional issues. In an effort to provide the Court with the most efficient use of the time allotted for oral argument, the State Engineer believes that a brief statement directing the parties to those

particular issues that this Court is looking to focus would not only benefit the parties, but the Court in assuring that the parties are prepared to fully address those specific topics of concern to the Court.

While the State Engineer acknowledges that this is an unconventional request, such a request is not extraordinary.<sup>1</sup> The State Engineer further recognizes the numerous demands on this Court's time; however, the State Engineer believes that a simple statement will result in an efficient presentation of issues and argument at the May 1st oral argument, and assist the Court in addressing those matters necessary in resolving this matter.

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<sup>1</sup> See, e.g., *Franchise Tax Board of State of California v. Hyatt*, NSC Case No. 53264, Respondent's Motion for Guidance Regarding Subjects to Be Discussed at Oral Argument.

Accordingly, the State Engineer respectfully requests a short statement directing the parties to the issues that would be of most assistance to the Court in resolving this matter so that the parties may appropriately be prepared to address and respond to those specific issues.

RESPECTFULLY SUBMITTED this 12th day of April, 2017.

ADAM PAUL LAXALT  
Attorney General

By: /s/ Micheline N. Fairbank  
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## CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 12th day of April, 2017, I served a copy of the foregoing MOTION SEEKING GUIDANCE REGARDING ORAL ARGUMENT AND SUBJECT MATTER FOR DISCUSSION, by electronic service to:

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