

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Tracie K. Lindeman
Clerk of Supreme Court

JASON KING, P.E., Nevada State
Engineer, DIVISION OF WATER
RESOURCES, DEPARTMENT OF
CONSERVATION AND NATURAL
RESOURCES

Appellant,

vs.

RODNEY ST. CLAIR,

Respondent.

Supreme Court No.: 70458

District Court Case No.: CV 20112

REQUEST FOR SETTLEMENT CONFERENCE

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Attorneys for Respondent

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1 NOW APPEARS Respondent, by and through his counsel of record, and hereby
2 requests that the Court order a settlement conference to be administered by a Supreme
3 Court Justice.

4 **I. FACTS**

5 On July 25, 2014, the State Engineer denied Rodney St. Clair's Application to
6 change point of diversion, manner of use, and place of use of the public waters of State
7 of Nevada, Application 83246T ("Application"), which was filed by Respondent,
8 Rodney St. Clair ("St. Clair"). St. Clair owns real property in Humboldt County,
9 Nevada (Assessor's Parcel Number ("APN") 03-491-17), which was purchased in
10 August, 2013. St. Clair filed a Proof of Appropriation, V-010493, claiming a vested
11 right to an underground water source for the irrigation of 160 acres of land. On
12 November 8, 2013, St. Clair filed Application 8326T to change place and use of their
13 vested water rights.

14 In Ruling 6287, the State Engineer reviewed the evidence that was submitted in
15 Vested Claim 010493. The State Engineer found that the Respondent, St. Clair,
16 established that a vested water right existed on their property prior to 1939. However,
17 in the same Ruling, the State Engineer then found that Vested Claim 010493 was
18 abandoned based on non-use. The State Engineer did not hold a hearing to give
19 Petitioners' an opportunity to be heard regarding the abandonment claim. In Ruling
20 6287, the State Engineer also improperly shifted the burden of proof to Petitioners
21 requiring Petitioners to prove actual use of the water. After this improper burden shift,
22 the State Engineer held that the Petitioners failed show evidence of when the water
23 rights were actually used to support his finding of abandonment.

24 Respondent St. Clair timely appealed Ruling 6287 to state district court. Oral
25 arguments were held in specialty state court on January 5, 2016. On April 22, 2016,
26 the Sixth Judicial District Court entered its Order Overruling State Engineer's Ruling
27
28

6287 (“Order”). The Notice of Entry of Order was filed on April 29, 2016. The State Engineer appealed the Order on or around May 20, 2016.

II. STANDRAD OF REVIEW

Nevada Rules of Appellate Procedure (“NRAP”) 16 allows any civil appeal in which all parties are represented by counsel that does not involve parental rights, to be assigned to the settlement conference program. Settlement conferences further satisfy Nevada Rules of Civil Procedure (“NRCP”) 1, which favors the just, speedy and inexpensive determination of every action, where possible. It is also supports the interests of judicial economy to refer this matter to a settlement conference. Finally, Nevada has longstanding practice that supports and encourages settlements between litigants.

III. ARGUMENT

The State Engineer indicated in his Case Appeal Statement that settlement is not possible in this matter. St. Clair respectfully disagrees. As an alternative, rather than require the Parties and this Court expending significant time and expense in litigating this appeal, Respondent St. Clair, respectfully requests that a settlement conference administered by a Supreme Court Justice in order to expeditiously resolve this matter. A settlement conference that includes open and frank communication between the parties may quickly dispose of this case without the need for further litigation.

Nearly two (2) years have passed since St. Clair initiated of this action on August 22, 2014. To date, St. Clair has expended a large amount of funds on attorneys’ fees, simply defending his vested water rights. The cost of litigation is becoming burdensome to St. Clair. A settlement conference may alleviate that burden and allow the parties to negotiate in good faith.

In addition, the expeditious settlement of this litigation will provide a public benefit to the people of Nevada by freeing up the resources of this Court, the State

1 Engineer, and the Attorney General currently being consumed by this litigation.
2 Alternative dispute resolution procedures, like judicially supervised settlement
3 conferences are a proven method for promoting judicial economy and resolving
4 conflicts. St Clair and the State Engineer should be given the opportunity to resolve
5 their differences amicably, without the need to spend additional time and money
6 briefing and arguing this appeal.


7
8 **IV. CONCLUSION**

9 For the reasons stated herein, St. Clair requests this Court refer this matter to a
10 judicially supervised settlement conference.

11
12 DATED this 15th day of July, 2016.

13 Respectfully submitted by:

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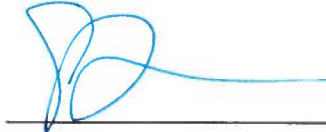
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and NRS 533.450, I hereby certify that I am an employee of TAGGART & TAGGART, LTD., and that on this date I served, or caused to be served, a true and correct copy of the foregoing as follows:

☒ By U.S. POSTAL SERVICE: I deposited for mailing in the United States Mail, with postage prepaid, an envelope containing the above-identified document, at Carson City, Nevada, in the ordinary course of business, addressed as follows:

Justina A. Caviglia, Esq.
Nevada Attorney General's Office
100 North Carson Street
Carson City, Nevada 89701

DATED this 15th day of July, 2016.



Employee of TAGGART & TAGGART, LTD.