

IN THE SUPREME COURT OF THE STATE OF NEVADA

MINERAL COUNTY; AND WALKER  
LAKE WORKING GROUP,  
Appellants,  
vs.  
LYON COUNTY; CENTENNIAL  
LIVESTOCK; BRIDGEPORT  
RANCHERS; SCHROEDER GROUP;  
WALKER RIVER IRRIGATION  
DISTRICT; STATE OF NEVADA  
DEPARTMENT OF WILDLIFE; AND  
COUNTY OF MONO, CALIFORNIA,  
Respondents.

No. 75917

**FILED**

JUL 18 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

**ORDER ACCEPTING CERTIFIED QUESTION AND  
DIRECTING BRIEFING**

This matter involves a legal question certified to this court under NRAP 5 by the United States Court of Appeals for the Ninth Circuit. Specifically, the Ninth Circuit has certified the following question of law to this court:

Does the public trust doctrine apply to rights already adjudicated and settled under the doctrine of prior appropriation and, if so, to what extent?

In determining whether to accept a certified question, this court considers three factors: (1) will this court's answer be determinative of part of the federal case, (2) is there any clearly controlling Nevada precedent, and (3) will the answer help settle important questions of law. *Volvo Cars of N. Am. v. Ricci*, 122 Nev. 746, 137 P.3d 1161 (2006). We conclude that those factors are met with respect to the above question. See *Mineral Cty. v. Nev. Dep't of Conserv. & Natural Res.*, 117 Nev. 235, 237, 245 n.35, 20 P.3d 800, 801, 807 n.35 (2001) (refusing to entertain writ petition raising this question because case was pending in another forum (federal district

court) that had exclusive jurisdiction and observing that federal court could certify the legal issue to this court); *id.* at 246, 248, 20 P.3d at 807, 808 (Rose, J., concurring) (discussing importance of the legal issue regarding the public trust doctrine and its impact on adjudicated water rights, particularly those that impact the continued viability and existence of Walker Lake). Accordingly, we accept the certified question.<sup>1</sup>

Appellants shall have 30 days from the date of this order to file and serve an opening brief addressing the certified question. Respondents shall have 30 days from the date the opening brief is served to file and serve answering briefs. Appellants shall then have 20 days from the last-filed answering brief to file and serve any reply brief. The parties' briefs shall comply with NRAP 28, 28.2, 31, and 32. *See* NRAP 5(g)(2). The parties may file a joint appendix containing any portions of the record before the Ninth Circuit that are necessary to this court's resolution of the certified question and were not already provided to this court with the Certification Order. *See* NRAP 5(d), (g)(2).

It is so ORDERED.<sup>2</sup>

Douglas, C.J.

---

<sup>1</sup>The Certification Order mentions a second legal question in a footnote: "Does the abrogation of such adjudicated or vested rights constitute a 'taking' under the Nevada Constitution requiring payment of just compensation?" But, we do not read the Certification Order as certifying that question. If the Ninth Circuit intended to do so at this time, we would entertain an amended Certification Order.

<sup>2</sup>The clerk of this court shall not charge a filing fee in this case. *See* NRS 2.250(1)(d)(1).

cc: Mineral County District Attorney  
Simeon M. Herskovits  
Attorney General/Carson City  
Woodburn & Wedge  
Law Office of Jerry M. Snyder  
Roderick E. Walston  
Stacey Simon (Acting County Counsel)  
Lyon County District Attorney  
Stephen M. Kerins (Deputy County Counsel)  
Steven G. Martin  
Schroeder Law Offices, P.C.  
Clerk, Ninth Circuit Court of Appeals