

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

2 MINERAL COUNTY; AND WALKER)
3 LAKE WORKING GROUP,)

4 Appellants,)

5 vs.)

6 LYON COUNTY; CENTENNIAL)
7 LIVESTOCK; BRIDGEPORT)
8 RANCHERS; SCHROEDER GROUP;)
9 WALKER RIVER IRRIGATION)
10 DISTRICT; STATE OF NEVADA)
11 DEPARTMENT OF WILDLIFE; AND)
12 COUNTY OF MONO, CALIFORNIA,)

13 Respondents.)
14

Case No. 75917 Electronically Filed
Aug 23 2018 12:49 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

15 **JOINT MOTION TO SUSPEND BRIEFING SCHEDULE**

16 Pursuant to Nev. R. App. Proc., Rule 31(b)(3), Appellants Mineral County and
17 Walker Lake Working Group, and Respondents Walker River Irrigation District, Lyon
18 County, Nevada, the Schroeder Group, and the State of Nevada Department of Wildlife,
19 (collectively “the Parties”), by and through undersigned counsel, respectfully jointly
20 move the Court to suspend the briefing schedule agreed to and proposed by the Parties in
21 their July 25, 2018, *Joint Motion to Modify Briefing Schedule* (Doc. 2018-28493), and
22 approved by this Court in its August 8, 2018, *Order Granting Motion* (Doc. 2018-30459),
23 until this Court decides whether to accept the second question newly certified by the
24 Ninth Circuit in its August 20, 2018, *Order and Amended Order Certifying Questions to*
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1 *the Nevada Supreme Court. Mineral County v. Walker River Irrigation Dist.*, No. 15-
2 16342, slip op. at 18 (9th Cir. August 20, 2018).

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4 As grounds for this motion the Parties state as follows:

5 1. On August 20, 2018, the United States Court of Appeals for the Ninth Circuit
6 issued an *Order and Amended Order Certifying Questions to the Nevada Supreme Court*,
7 which certified the additional following question to this Court:
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9 If the public trust doctrine applies and allows for the reallocation
10 of rights settled under the doctrine of prior appropriation, does
11 the abrogation of such adjudicated or vested rights constitute a
12 “taking” under the Nevada Constitution requiring payment of
just compensation?

13 *Mineral County v. Walker River Irrigation Dist.*, No. 15-16342, slip op. at 18 (9th Cir.
14 August 20, 2018). As in its initial *Order Certifying a Question to the Nevada Supreme*
15 *Court*, the Ninth Circuit recognized that this Court “may, in its discretion, reword the
16 certified question[s].” *Id.*;
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18 2. On August 22, 2018, the Ninth Circuit’s Amended Order was filed in the
19 Nevada Supreme Court. *Mineral County, et al., v. Lyon County, et al.*, No. 7591, Doc.
20 2018-32647 (Nev. Sup. Ct. August 22, 2018);
21

22 3. This second question certified to the Nevada Supreme Court by the Ninth
23 Circuit Court of Appeals is of equal import as the first certified question to the Parties,
24 their respective constituents, and to the State of Nevada as a whole;
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1 4. If accepted, this second certified question adds substantial new substantive
2 issues and considerations that counsel for all parties will have to address in their briefs,
3 which are likely to entail significant additional research and writing and require additional
4 time;

5
6 5. Counsel for all Parties have other scheduled filing deadlines and/or travel in
7 other matters during the fall months around the deadlines of the existing briefing
8 schedule, and consequently when a determination is made regarding the additional
9 certified question counsel for all Parties request the opportunity to confer on a mutually
10 reasonable modified briefing schedule and to propose that schedule to the Court;

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13 6. The only previous modification of the briefing schedule sought by any other
14 party to date is the initial modified briefing schedule jointly proposed by all the Parties
15 and approved by the Court on August 8, 2018; and

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17 7. Counsel for the Parties are aware of no prejudice to any party resulting from
18 the requested modification.

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20 8. Counsel for Bridgeport Ranchers, Centennial Livestock, and County of
21 Mono, California, have been contacted and support this motion. However, while Counsel
22 for Bridgeport Ranchers and Centennial Livestock have filed a motion for permission to
23 practice *pro hac vice* and counsel for County of Mono, California, intend to file such a
24 motion, they have not yet been admitted to the bar of this Court, and therefore cannot
25 sign on to this motion.
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1 WHEREFORE, the Parties respectfully request that the Court suspend the briefing
2 schedule as requested, and allow the Parties the opportunity to confer and propose a
3 modified briefing schedule after the Court enters an order with respect to the second
4 certified question.
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6 Respectfully submitted this 23rd day of August, 2018,
7

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