

IN THE SUPREME COURT OF THE STATE OF NEVADA

MINERAL COUNTY; and
WALKER LAKE WORKING
GROUP,

Appellants,

vs.

LYON COUNTY; CENTENNIAL
LIVESTOCK; BRIDGEPORT
RANCERS; SCHROEDER GROUP;
WALKER RIVER IRRIGATION
DISTRICT; STATE OF NEVADA
DEPARTMENT OF WIDLIFE;
and COUNTY OF MONO,
CALIFORNIA,

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

Case No. 75917

JOINT MOTION FOR EXTENSIONS OF TIME

Amicus curiae, Jason King, P.E., in his capacity as the Nevada State Engineer, Department of Conservation and Natural Resources, Division of Water Resources (hereinafter “State Engineer”), Appellants Mineral County and Walker Lake Working Group, and Respondents Walker River Irrigation District, Lyon County, Nevada, and the

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Schroeder Group (collectively “the Parties”),¹ by and through undersigned counsel, respectfully jointly move the Court to extend the briefing schedule set by the Court in its September 7, 2018, Order Accepting Second Certified Question and Modifying Briefing Schedule, as follows: (1) The State Engineer’s December 5, 2018, filing deadline as an amicus curiae should be extended to January 25, 2019; (2) Respondents will have 60 days from January 25, 2019, to file their answering briefs; and (3) Appellants will have 60 days from the last filed of Respondents’ answering briefs to file their reply brief. This Motion is made pursuant to NRAP 29(f) and NRAP 26(b)(1)(a) and is supported by the attached Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND FACTUAL SUMMARY

The State Engineer intends to file an amicus brief in this matter as permitted by Rule 29(a), which based upon the current briefing schedule under NRAP 29(f) is due on December 5, 2018. The State Engineer

¹ The State of Nevada Department of Wildlife is not included in this Stipulation but will be concurrently filing a non-opposition. Further, County of Mono, California, while named as an appellant, will not be litigating this issue and is therefore not included in this stipulation.

respectfully requests an extension of time to January 25, 2019, to file the amicus brief due to the necessary coordination with the incoming Governor and Attorney General, which is required to address the Certified Questions presented by the United States Court of Appeals for the Ninth Circuit that involve issues of statewide importance with the potential for outcomes that could result in significant impacts to the State of Nevada. The State Engineer asserts that this Motion is sought in good faith, not for the purpose of delay, and that good cause exists to grant the motion. Accordingly, the State Engineer requests an extension of time from December 5, 2018, to January 25, 2019, to file his amicus brief.

The State Engineer's request for an extension of time also necessitates an extension of time for the Parties. Accordingly, the Parties have conferred and jointly request and propose to the Court the following extensions: (1) The State Engineer's December 5, 2018, filing deadline as an amicus curiae be extended to January 25, 2019; (2) Respondents will have 60 days from January 25, 2019, to file their answering briefs; and (3) Appellants will have 60 days from the last filed of Respondents' answering briefs to file their reply brief.

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II. LEGAL DISCUSSION

Pursuant to NRAP 29(f), an amicus curiae that does not support either party must file its brief no later than 7 days after the appellant's opening brief is filed. Mineral County and Walker Lake Working Group's brief was filed on November 26, 2018, and thus the State Engineer's amicus brief is currently due to be filed on December 5, 2018. The rule specifically provides that the Court "may grant leave for later filing." NRAP 29(f). Further, "[f]or good cause, the court . . . may permit an act to be done after the time expires." NRAP 26(b)(1)(A). Good Cause has generally been defined as "a 'substantial reason; one that affords a legal excuse.'" *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (citing *Colley v. State*, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

The United States Court of Appeals for the Ninth Circuit certified two questions of law critical to water rights administration in Nevada which, depending on the answers to those questions rendered by this Court, could have significant fiscal consequences to the State of Nevada. Thus, the manner in which the Court resolves these two questions will have far-reaching implications for the not only the administration of the water resources, but for the State of Nevada as a whole. Further, on

January 7, 2019, Governor-elect Steve Sisolak and Attorney General-elect Aaron Ford take office and their input and contribution to the issues and arguments asserted by the State Engineer on behalf of the State are imperative. Additional time is needed to coordinate the legal positions of each office through the change in administrations. In accordance with the significance of the issues, and, in an effort to ensure that the amicus brief properly articulates what will be most helpful to this Court in resolving these questions, the State Engineer respectfully requests an extension of time to file its amicus brief on January 25, 2019.

Further, an extension of time is also needed for the remaining parties so as to avoid any prejudice from the State Engineer's requested extension. Because the State Engineer's amicus brief will raise arguments that Respondents will need a reasonable opportunity to review and respond to, the Parties agree that Respondents should have 60 days from the date the State Engineer's amicus brief is filed to file their answering briefs. In addition, because the opposing Respondent Parties and any supporting amici will have additional time to prepare their answering briefs and develop additional challenges to the opening brief, the Parties agree that Appellants' reply brief should be due 60 days

from the date of the last filed answering brief in order to provide Appellants with a fair and reasonable opportunity to reply to the State Engineer's amicus brief, the Respondents' answering briefs, and any amicus briefs in support of Respondents.

III. CONCLUSION

The Parties assert that the extensions of time requested herein are reasonable and warranted in this matter. As such, the Parties respectfully request that: (1) The State Engineer's December 5, 2018, filing deadline as an amicus curiae be extended to January 25, 2019; (2) Respondents will have 60 days from January 25, 2019, to file their answering briefs; and (3) Appellants will have 60 days from the last filed of Respondents' answering briefs to file their reply brief.

RESPECTFULLY SUBMITTED this 29th day of November, 2018.

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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 29th day of November, 2018, I served a copy of the foregoing JOINT MOTION FOR EXTENSIONS OF TIME, by electronic filing to:

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