

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

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Elizabeth A. Brown
Clerk of Supreme Court

**MOTION FOR EXTENSION OF TIME TO FILE MOTION FOR LEAVE
TO FILE AMICUS CURIAE BRIEF AND REQUEST FOR EXPEDITED
RELIEF**

The Walker River Paiute Tribe (“Tribe”), by and through undersigned counsel, respectfully moves the Court to extend the time in which to file its motion for leave to file an amicus curiae brief to January 25, 2019, consistent with the briefing schedule that the Nevada State Engineer, Appellants, and Respondents (collectively “Movants”) proposed in their *Joint Motion for Extensions of Time* (Nov. 29, 2018) (“Joint Motion”). The Tribe makes this motion pursuant to NRAP

29(f) and NRAP 26(b)(1)(A). Because the current filing deadline for amici curiae motions and accompanying briefs is December 5, 2018, the Tribe respectfully requests expedited relief on this motion.

The Tribe has requested that the other interested parties to this proceeding and those before the United States District Court for the District of Nevada, *United States v. Walker River Irrigation Dist.*, No. C-128 (D. Nev.), for their consent to this motion. As of this filing, the State Engineer, Nevada Department of Wildlife, Mineral County and the Walker Lake Working Group have stated that they do not object to the Tribe's request. The Tribe has not yet heard from the other parties.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The Tribe intends to move this Court for leave to file an amicus curiae brief pursuant to NRAP 29(a) that does not support either party. Pursuant to NRAP 29(f), the Tribe “must file its brief no later than 7 days after the appellant’s opening brief is filed.” The Appellants certified that they filed their opening brief on November 26, 2018. *Appellants’ Opening Brief* at 55 (Nov. 26, 2018). Computing time pursuant to NRAP 26(a)(2), the Tribe must file its motion seeking leave to file an amicus curiae brief no later than December 5, 2018.

On November 29, 2018, the Movants asked this Court to extend the briefing schedule set in the *Order Accepting Second Certified Question and Modifying*

Briefing Schedule (Sept. 7, 2018). Joint Motion at 2. The Movants proposed to extend the State Engineer’s filing deadline as amicus curiae to January 25, 2019, and to extend the Respondents’ filing deadline for their answering brief to 60 days from that date. The Tribe now proposes to extend its deadline for filing a motion for leave to file an amicus curiae brief, and accompanying amicus brief, to January 25, 2019, consistent with the Movants’ proposed schedule.

II. ARGUMENT

NRAP 29(f) provides that the Court “may grant leave for later filing” of an amicus curiae brief and accompanying motion for filing. NRAP 26(b)(1)(A) permits the Court to extend the time that the rules prescribe for “good cause.” Assuming the Court grants the Movants’ Joint Motion, good cause exists for the Court to grant the Tribe an extension of time for filing a motion for leave to file an amicus curiae brief, and accompanying amicus brief.

Where a Nevada rule mirrors a federal rule of procedure, the Court “may consult federal law” to interpret it. *AA Primo Builders, LLC v. Washington*, 245 P.3d 1190, 1193 (Nev. 2010). The federal Advisory Committee on Rules of Appellate Procedure note on the equivalent federal rule governing amicus curiae briefs explains the purpose of the 7-day filing rule:

The 7-day stagger was adopted because it is long enough to permit an amicus to review the completed brief of the party being supported and avoid repetitious argument. A 7-day period also is short enough that no adjustment need be made in the opposing party's briefing schedule.

The opposing party will have sufficient time to review arguments made by the amicus and address them in the party's responsive pleading. The timetable for filing the parties' briefs is unaffected by this change.

FED. R. APP. P. 29 committee note to 1998 amendments. Thus, the 7-day rule allows an amicus to address the issues raised in the opening brief while reserving enough time for respondents to answer both the amicus curiae brief and the opening brief.

The Movants' proposed briefing schedule here would allow the State Engineer to file its amicus brief nearly two months after the Appellants filed their opening brief, and the Respondents another two months after that to file answering briefs. The Tribe, however, would have only seven days after the Appellants filed their opening brief to file its amicus curiae motion and brief, which is December 5, 2018. The Tribe instead proposes that the Court extend its filing deadline to match the Movants' proposed filing deadlines. *See* Joint Motion at 2. This extension would prevent prejudice against the Tribe by allowing it the same opportunity to develop its argument as the other amicus curiae State Engineer. Moreover, an extension would preserve the balance that NRAP 29(f) achieves by allowing the Tribe sufficient time to address the issues raised in the opening brief (59 days) while still ensuring the Respondents sufficient time to respond (60 days).

III. CONCLUSION

For all the foregoing reasons, the Tribe respectfully requests that this Court extend its time to file a motion seeking leave to file an amicus curiae brief, and the accompanying amicus brief, to January 25, 2019, to match the Movants' proposed briefing schedule. Because the current deadline is December 5, 2018, the Tribe respectfully requests expedited relief on this motion.

RESPECTFULLY SUBMITTED 3rd day of December, 2018.

LAW OFFICES OF WES WILLIAMS JR.,
P.C.

By /s/ Wes Williams Jr.

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CERTIFICATE OF SERVICE

I certify that I am an employee of the Law Offices of Wes Williams Jr., P.C. and that on this 3rd day of December, 2018, I served a copy of the foregoing MOTION FOR EXTENSION OF TIME TO FILE MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND REQUEST FOR EXPEDITED RELIEF, by electronic filing to:

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/s/ Wes Williams Jr.
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