

IN THE SUPREME COURT OF THE STATE OF NEVADA

MINERAL COUNTY, et al.,

Appellants,

vs.

LYON COUNTY, et al.

Respondents.

Electronically Filed
Apr 19 2019 01:29 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court Case No. 75917

**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF
IN SUPPORT OF RESPONDENTS**

Pursuant to Rule 29 of the Nevada Rules of Appellate Procedure, Peri & Sons Farms, Inc., Desert Pearl Farms, LLC, Peri Family Ranch, LLC, Jason Corporation, and Frade Ranches, Inc. (collectively, the “Peri Entities”), by and through their undersigned counsel, hereby move this Court for leave to file an *amicus curiae* brief in support of Respondents.

This Motion is made and based upon the following Memorandum of Points and Authorities. In accordance with Rule 29(c) and (f), the Peri Entities have separately and timely filed their proposed *amicus* brief within seven days of the filing of Respondents’ briefs. *See* NRAP 29(c) (“A motion for leave to file an *amicus* brief shall be accompanied by the proposed brief”) and NRAP 29(f) (“An *amicus curiae*

must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the brief of the party being supported is filed.”).

MEMORANDUM OF POINTS AND AUTHORITIES

Amicus briefs are desirable when *amici* have unique information or perspective that can help a court decide a case. *See, e.g., Youming Jin v. Minsitry of State Sec.*, 557 F. Supp. 2d 131, 137 (D.D.C. 2008). This Court accordingly accepts *amicus* briefs in appropriate cases to help resolve significant legal issues presented to it. *See, e.g., Fullerton v. State*, 116 Nev. 906, 908 n.1 (2000); *Labastida v. State*, 115 Nev. 298, 299 n.1 (1999).

The Ninth Circuit Court of Appeals has certified two questions to this Court that involve significant legal issues with respect to water rights in the State of Nevada. And recognizing the importance of this case, this Court has already accepted certain *amicus* briefs, while others await this Court’s action. *See, e.g., Motion of the Nevada Mining Association for Leave to File Amicus Curiae Brief in Support of Respondents* filed April 18, 2019. Given the significance of this case, the Peri Entities respectfully request that they be permitted to be heard as a friend of the Court.

The Peri Entities are affiliated Nevada companies located in Lyon County in and near the City of Yerington. Collectively, they own approximately 7,000 acres of irrigated farmland and have decreed water rights under the Walker River Decree

totaling 99.86 cfs. Peri & Sons Farms, Inc. is the operating entity among the Peri Entities, and it farms approximately 12,500 acres throughout Mason Valley, including the acreage owned by the Peri Entities.¹

The Peri Entities seek leave to file their *amicus* brief in support of Respondents to address the important issues certified to this Court and how answers to those questions could affect farming operations in the Walker River Basin. Agriculture in Nevada requires irrigation water, and dramatic changes in Nevada's water law would have serious consequences to the viability of Nevada agriculture. Agriculture produces significant social and economic benefits, and this Court should hear how these social and economic benefits would be affected by an overly-broad application of the public trust doctrine. This Court should also hear how an overly-broad application of the public trust doctrine to the Walker River could affect other water rights such as supplemental groundwater rights that presently exist to support agriculture in Mason Valley. The Peri Entities are uniquely positioned to give insight on these issues because, to their knowledge, they are the largest, private water right user in the Walker River system.

¹ Peri & Sons farms not only the land owned by the Peri Entities but also land owned by and leased from other non-affiliated, third parties. That is why Peri & Sons farms more acres than the acres actually owned by the Peri Entities.

For the foregoing reasons, the Peri Entities respectfully request that this Court grant them leave to file the *amicus* brief submitted concurrently with this Motion.

Dated this 19th day of April, 2019.

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Simons Hall Johnston PC and that on the 19th day of April, 2019, I electronically filed the foregoing with the Clerk of the Court using the Supreme Court Electronic Filing System, which will send notification of such filing to the following attorneys of record:

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/s/ Brad M. Johnston

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