

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

DIAMOND NATURAL RESOURCES
PROTECTION & CONSERVATION
ASSOCIATION; et al,

Appellants,

vs.

TIMOTHY LEE BAILEY; et al,

Respondents.

SADLER RANCH, LLC AND IRA AND MONTIRA RENNER RESPONSE
TO APPELLANTS' MOTION TO EXCEED PAGE LIMITS

Pursuant to NRAP 27(a)(3)(A) Respondents Sadler Ranch, LLC and Ira & Montira Renner hereby object to the Motion to Exceed Page Limits filed by Diamond Natural Resources Protection and Conservation Association, et al. (“DNRCPA”).

MEMORANDUM OF POINTS AND AUTHORITIES

DNRCPA is requesting to file an Emergency Motion for Stay that is a full twenty-eight pages long, or three times longer than what is allowed under NRAP

27(d)(2). In doing so, DNRCPA ignores this Court’s admonition that “shorter brief[s] provide more effective advocacy than longer one[s].”¹ In writing a motion or brief, it is the attorney’s job to present their case clearly and concisely, within the page limits allowed.² There is simply no legitimate reason why DNRCPA’s motion needs to be three times the normal size in order to make their case. Accordingly, the motion to exceed page limits should be denied and the proposed emergency motion stricken from the record.

There are only four factors this Court considers when deciding a request for a stay.³ Ten pages is more than enough room in which to concisely discuss each of those factors and how they apply to the case at hand. In fact, the District Court needed just five pages to discuss the same factors and deny DNRCPA’s request.⁴

Contrary to DNRCPA’s assertion, “a comprehensive discussion of the history of water appropriation in Diamond Valley, the legislative history of the statutes, the GMP planning process, and the aquifer condition” is not pertinent to the limited issue at hand (whether to issue a stay). Nor is there a need to attach fourteen main exhibits and twenty-one sub-exhibits consisting of hundreds of pages of material. To top it

¹ *Hernandez v. State*, 117 Nev. 463, 467, 24 P.3d 767, 770 (2001).

² See Antonin Scalia & Bryan A. Garner, *Making Your Case: The Art of Persuading Judges* 23 (Thompson/West 2008).

³ NRAP 8(c).

⁴ Order Denying DNRCPA Intervenor’s Motion for Stay Pending Appeal, *Bailey v. State Engineer*, Seventh Dist. Ct. Case No. CV-1902-348 (June 30, 2020).

all off, DNRCPA asks this Court to somehow digest all of this information and rule on the emergency motion in just four days, without providing opposing counsel an opportunity to respond.

In essence, DNRCPA's Motion is nothing more than an attempt to argue the merits of the case using its own cherry-picked record that includes materials not in the official record of the proceedings below. For example, DNRCPA cites to, and includes as an exhibit, a declaration from Dale Bugenig, a hydrologist, who: (1) is not a party to this action, (2) never appeared as or was qualified as an expert witness in the proceedings below, and (3) Respondents have never had an opportunity to depose or cross-examine.

The parties will have every opportunity to educate the Court on such subjects as the history of water appropriation in Diamond Valley and the legislative history of the relevant statutes in their respective briefs on the merits. And this Court will be able to review those arguments using the official record developed in the administrative and judicial proceedings below not the self-serving, cherry-picked record offered by DNRCPA.

DNRCPA is correct that this case presents an issue of great public importance and first impression. But, so do many of the cases that come before this Court. For example, similar complex issues of public importance, first impression, and statutory interpretation are raised in *Wilson v. Pahrump Fair Water, LLC* (Case No. 77722).

In that case the State Engineer, like DNRCPA here, sought an emergency stay of the District Court's order. But, unlike DNRCPA, the Deputy Attorney General only needed nine pages to successfully argue his case to have the stay granted.

If the Court allows every party to a case of first impression to exceed page limits merely because of the importance of the issues involved, it will be flooded with unnecessarily voluminous pleadings. The rules exist for a reason, to promote judicial efficiency, manage the workload of the Court, and provide opposing parties ample opportunity to digest arguments and offer responses. There is no reason why DNRCPA needs to waste this Court's, and opposing counsel's, time with its overly lengthy motion.

CONCLUSION

For the reasons stated above, Respondents respectfully request that DNRCPA's motion be denied, the proposed motion and accompanying exhibits be stricken from the record, and DNRCPA be ordered to file a new motion that conforms to the rules.

In the alternative, Respondents respectfully request that they also be allowed to exceed NRAP 27(d)(2)'s page limit in their response and that NRAP 27(a)(3)(A)'s seven day deadline to file a response be extended so as to allow adequate time to fully digest DNRCPA's lengthy brief, with its hundreds of pages of exhibits, and prepare an appropriate response.

The forgoing Response is respectfully submitted this 8th day of July, 2020.

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(b), I certify that I am an employee of TAGGART & TAGGART, LTD., and that on this day, I served, or caused to be served, a true and correct copy of the foregoing Respondent's Answering Brief by U.S. Mail to:

Beth Mills, Trustee, Marshall Family Trust
HC 62 Box 62138
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All other counsel in this case are registered E-Flex users and were served electronically through the E-Flex Court system.

DATED this 8th day of July, 2020.

/s/ TJ Carpitcher
Employee of TAGGART & TAGGART, LTD.