

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 81224

DIAMOND NATURAL RESOURCES PROTECTION & CONSERVATION
ASSOCIATION; J&T FARMS, LLC; GALLAGHER FARMS, LLC; JAMES
LOMMORI; M&C HAY; CONLEY LAND & LIVESTOCK, LLC; JAMES
ETCHEVERRY; NICK ETCHEVERRY; TIM HALPIN; SANDI HALPIN;
DIAMOND VALLEY HAY COMPANY, INC.; MARK MOYLE FARMS LLC;
D.F. & E.M. PALMORE FAMILY TRUST; WILLIAM H. NORTON;
PATRICIA NORTON; SESTANOVICH HAY & CATTLE, LLC; JERRY
ANDERSON; BILL BAUMAN; AND DARLA BAUMAN, TIM WILSON,
P.E., NEVADA STATE ENGINEER, DIVISION OF WATER RESOURCES,
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES;
EUREKA COUNTY

Appellants,

v.

DIAMOND VALLEY RANCH, LLC; AMERICAN FIRST FEDERAL, INC.;
BERG PROPERTIES CALIFORNIA, LLC; BLANCO RANCH, LLC; BETH
MILLS, TRUSTEE MARSHALL FAMILY TRUST; TIMOTHY LEE BAILEY;
CONSTANCE MARIE BAILEY; FRED BAILEY; CAROLYN BAILEY;
SADLER RANCH, LLC; IRA R. RENNER; AND MONTIRA RENNER,

Respondents.

Appeal From Order Granting Petitions for Judicial Review
Seventh Judicial District Court of Nevada Case No. CV-1902-348

**DNRPCA APPELLANTS'
NOTICE OF SUPPLEMENTAL AUTHORITIES**

LEONARD LAW, PC
Debbie Leonard (#8260)
955 S. Virginia St., Suite #220, Reno, NV 89502
775-964-4656
debbie@leonardlawpc.com

Attorney for DNRPCA Appellants

Pursuant to NRAP 31(e), Appellants DIAMOND NATURAL RESOURCES PROTECTION & CONSERVATION ASSOCIATION; J&T FARMS, LLC; GALLAGHER FARMS LLC; JEFF LOMMORI; M&C HAY; CONLEY LAND & LIVESTOCK, LLC; JAMES ETCHEVERRY; NICK ETCHEVERRY; TIM HALPIN; SANDI HALPIN; DIAMOND VALLEY HAY COMPANY, INC.; MARK MOYLE FARMS LLC; D.F. & E.M. PALMORE FAMILY TRUST; WILLIAM H. NORTON; PATRICIA NORTON; SESTANOVICH HAY & CATTLE, LLC; JERRY ANDERSON; BILL BAUMAN; AND DARLA BAUMAN (collectively, “DNRPCA Appellants”) provide the Court with this notice of supplemental authorities. Supplemental authorities may be filed “[w]hen pertinent and significant authorities come to a party’s attention after the party’s brief has been filed, but before a decision....” *Id.* A notice of supplemental authorities must “state concisely and without argument the legal proposition for which each supplemental authority is cited” with “references to the page(s) of the brief that is being supplemented.” *Id.*

On February 25, 2021, the Court issued a published opinion in *Wilson v. Pahrump Fair Water, LLC*, 137 Nev. Adv. Op. 2, 481 P.3d 853 (2021) (“*Pahrump Fair Water*”). There, the Court either stated and/or reaffirmed the following points made in the DNRPCA Appellants’ briefs:

- “[T]he Legislature [may] progressively chip[] away at, and ultimately eliminate ... aspects of Nevada water law.” *Id.* at 857, *citing Mineral Cty. v. Lyon Cty.*, 136 Nev. Adv. Op. 58, 473 P.3d 418, 426 (2020). This supports Op.Br. pp. 36-40 and Rply.Br. pp. 17-22.
- “[W]ater is a public resource in this state, not private property....” *Id.* at 854, *citing Mineral Cty.*, 473 P.3d at 426. This supports Op.Br. pp. 36-41 and Rply.Br. pp. 17-22, 31-32.
- “[T]he State Engineer has authority to draw reasonable inferences from ... evidence [in the administrative record....]” *Id.* 858. This supports Op.Br. pp. 32-33 and Rply.Br. pp. 23-27.
- The Court may not substitute its judgment for that of the State Engineer, and deference to the State Engineer is particularly warranted with “technical and scientifically complex” matters. *Id.* at 858, *citing Revert v. Ray*, 95 Nev. 782, 786, 603 P.2d 262, 264 (1979) and *Pyramid Lake Paiute Tribe of Indians v. Ricci*, 126 Nev. 521, 527, 245 P.3d 1145, 1149 (2010). This supports Op.Br. pp. 26, 28, 32-33, 56 and Rply.Br. pp. 3-4, 22-30.
- “[T]he State Engineer [need only] compl[y] ... with the relevant statutory authority...” related to the order being issued. *Id.* at 859, *citing Vt. Yankee Nuclear Power Corp. v. Nat. Res. Def. Council, Inc.*,

435 U.S. 519, 547 (1978) and *Application of Filippini*, 66 Nev. 17, 27, 202 P.2d 535, 540 (1949). This supports Op.Br. pp. 31-33 and Rply.Br. pp. 14-16.

AFFIRMATION

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Date: May 18, 2021

/s/ Debbie Leonard

Debbie Leonard (Nevada Bar No. 8260)

LEONARD LAW, PC

955 S. Virginia Street, Suite 220

Reno, NV 89502

(775) 964-4656

debbie@leonardlawpc.com

Attorney for DNRPCA Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Leonard Law, PC, and that on May 18, 2021, a copy of the foregoing document was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (E-Flex). Participants in the case who are registered with E-Flex as users will be served by the EFlex system. All others will be served by first-class mail.

/s/ Tricia Trevino
An employee of Leonard Law, PC