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EUREKA COUNTY, NV

Eureka County - NV
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Fee: Page 1 of 6
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0214588

Recording Requested by:

Name Eureka County

Address PO Box 714

City/State/Zip Eureka, NV 89316

Representation Agreement
(Title of Document)

Karen Peterson

This page added to provide additional information required by NRS 111.312 Sections 1-2.
(Additional recording fee applies)

This cover page must be typed or printed.

ANDREW MACKENZIE
MIKE PAVLAKIS
JOAN C. WRIGHT
PATRICK V. FAGAN
KAREN A. PETERSON
JAMES R. CAVILIA
CHRIS MACKENZIE
DAWN ELLERBROCK



ALLISON · MACKENZIE
PAVLAKIS · WRIGHT & FAGAN
LTD.
ATTORNEYS AND COUNSELORS AT LAW

RYAN D. RUSSELL
JENNIFER M. MAHE
ALICIA G. JOHNSON
JOEL W. LOCKE

MIKE SOUNBENIOTIS
(1932-1997)

GEORGE V. ALLISON
OF COUNSEL

COPY

January 4, 2010

Eureka County
Attn: Ron Damele, Director
Eureka County Public Works
Post Office Box 714
Eureka, Nevada 89316

Re: Representation Agreement

Dear Mr. Damele:

Thank you for retaining our firm to represent Eureka County ("Eureka County"). Our firm's policies require that we enter into a representation agreement with every client. Therefore, this letter will confirm our mutual agreement regarding the terms under which we have been retained.

We have agreed to advise and represent Eureka County in connection with certain groundwater permit matters as more particularly set forth in the attached Eureka County Groundwater Permit Proposal to you from me dated January 4, 2010.

In consideration of our representation of Eureka County, Eureka County will pay us for all time devoted to work on its behalf, at the hourly rates in effect at the time the services are rendered. Eureka County understands that it is impossible to determine in advance the amount of fees or costs needed to complete certain matters. The minimum time charged for any particular activity is one-tenth (1/10) hour. Travel time is also billed at the hourly rate. My current hourly rate for this type of matter is \$200.00. The hourly rate for other shareholder attorneys working on this matter is also \$200.00. The hourly rate for associates working on this matter is \$175.00. The hourly rate for paralegal personnel working on this matter is \$95.00. The hourly rate for law clerks working on this matter is \$95.00.

We will bill Eureka County for our services monthly and Eureka County agrees to pay our statements upon presentation. Our monthly statements are generally in a format detailing time spent on Eureka County's behalf by each attorney. If you prefer another statement format, we will attempt to accommodate Eureka County's needs. We encourage Eureka County to ask any questions regarding our statements as soon as Eureka County receives them.

Eureka County has also agreed to pay all costs which we reasonably incur in our representation of Eureka County. Substantial costs are subject to prior approval and we may ask that such costs be advanced. Eureka County agrees that it will directly pay any other professionals (consultants or other experts) that may be retained on its behalf for this matter.



Eureka County
Attn: Ron Damele, Director
Eureka County Public Works
January 4, 2010
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In the event that any monthly statement rendered by us to Eureka County is not paid within thirty (30) days after its date, then interest at the rate of 10% per annum will accrue on the amount due until it is paid. In no event, however, will this rate ever exceed the maximum allowed by law.

In the event that litigation, including arbitration, between us arises out of this agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees.

Eureka County is at liberty to terminate this arrangement at any time it desires. Likewise, we retain the right to withdraw as Eureka County's attorneys at any time. Upon termination, Eureka County is responsible for paying our bill in full as of the date of termination. We are not required to release Eureka County's files until Eureka County's account is paid in full. Eureka County will be responsible for the costs incurred in the copying of its files. If we are holding money for Eureka County in our trust account, Eureka County will be entitled to the immediate return of all funds in our trust account less any accrued fees and costs as of the date of termination.

If Eureka County has any questions with regard to this representation agreement, please call. After review and approval of the engagement letter, please have the appropriate representative sign the letter on behalf of Eureka County and return it to me by fax or email. Please keep the copy for your records.

Thank you for your consideration in choosing our firm to represent you. I look forward to providing legal services to Eureka County.

Sincerely,


**ALLISON, MacKENZIE, PAVLAKIS,
WRIGHT & FAGAN, LTD.**

By: 
KAREN A. PETERSON, ESQ.

KAP/nf
Enclosure(s) as stated

ACCEPTED AND AGREED this
14 day of January, 2010

EUREKA COUNTY

By: 
ATTEST: Jackie Berg, Clerk
Its: _____

EUREKA COUNTY GROUNDWATER PERMIT PROPOSAL

To: Ron Damele, Director,
Eureka County Public Works

From: Karen A. Peterson, Esq.
Allison, MacKenzie, Pavlakis, Wright & Fagan, Ltd.

Date: January 4, 2010

A. Applications for Extensions of Time for Existing Permits

1. Estimated Cost

- I reviewed the list of permits you gave me and the list in the Devil's Gate groundwater binders. Based upon those lists, there are approximately 20 permits that need applications for extensions of time filed, either for proof of completion of work and/or proof of beneficial use.

- I assume for this proposal are that each permit would need one application for extension filed and then the new 5 year statutory provision for extensions for municipal use for a public water system would presumably apply and the extension application cycle would be five years, not annually.

- As you are aware, our firm bills by the hour and the current hourly rate we bill Eureka County is \$200 per hour.

- Each extension application would not exceed 1-1/2 hours of work. The work would include filling out the application for extension request form, providing any supplemental information as deemed appropriate with the extension application to the State Engineer and drafting a cover letter to the State Engineer.

- We would rely on Eureka County to provide us with the information that supports the extension request.

- We propose to bill Eureka County the actual time spent on each extension request, not to exceed 1-1/2 hours maximum. In other words, if the time incurred on the application for the extension is one hour, we would bill Eureka County one hour for that extension request.

- For the approximately 20 permits that need extensions, the estimate is \$6,000 to prepare the applications for extensions, not including the State Engineer's filing fees.



2. State Engineer's Filing Fees for Extension Applications

- The State Engineer's filing fee is \$100 per extension application. That fee will remain the same until at least 2011, the next Legislative session.
- Our firm can advance the State Engineer's filing fees for Eureka County and bill Eureka County for the filing fee.
- Under the State Engineer's current fee schedule, the filing fees for the extensions would total \$2,000.

3. Review of Permit Files

- I have not reviewed the State Engineer's files for these permits or the permit terms for each permit. Our office needs to review the State Engineer's files for the Eureka County permits.
- In addition, I do not see a spreadsheet that shows when extensions of time or any other items under the permit terms are due for each permit except for proofs of completion of work and beneficial use. I would like to refine the spreadsheet to keep track of the permit terms, status and extension due dates for each permit. The spreadsheet would be used to calendar the due dates and provide you with periodic monthly reminders prior to the due dates.
- To review the files and develop the spreadsheet, I estimate spending forty (40) hours to review the permit files and base water right files, if any, for the permits, at a cost of \$8,000. Again, if the actual time spent is less, the County would be billed actual time incurred.
- During the course of that review, if there are any other issues discovered with regard to the permits, we would advise Eureka County.
- Any work for newly discovered issues would be billed on a time and expense basis.

B. Reports of Conveyance and Abstracts of Title

1. Needed Information

- We would rely on Eureka County to provide the information related to any transfer of water rights to Eureka County. At a minimum, this would include a recorded deed

transferring the water rights to Eureka County and proof from the property owner that it is the record owner of the water rights with the State Engineer's office.

- Preparation of each report of conveyance and abstract of title would not exceed 1-1/2 hours, if the State Engineer's records show the property owner as the record owner of the water rights being transferred to Eureka County. This work would include filling out the report of conveyance form, abstract of title form and a cover letter to the State Engineer.

- If the water rights are not in the name of the property owner conveying the water rights to Eureka County, the supporting documents for the report of conveyance and abstract of title for the water rights need to be brought forward from the owner of record on file with the State Engineer's office to Eureka County as the owner. This work would be billed on a time and expense basis.

2. State Engineer Filing Fees for Reports of Conveyance

- The filing fee for the report of conveyance is \$100.00. Any additional conveyance documents required to be submitted, such as copies of recorded deeds, require a filing fee of \$20 per conveyance document. The filing fees for each report of conveyance will be a minimum of \$120, and the \$100 filing fee, plus \$20 per document for reports of conveyance with multiple conveyance documents.

- Our firm can advance the State Engineer's fees and bill Eureka County for the filing fees.

C. Other Matters

- **Our hourly billing rates under this proposal would remain in effect until December 31, 2010.**

- This proposal does not include any work for surface water rights owned by Eureka County.

- I am not a licensed surveyor, so I cannot file maps with the State Engineer's office.

- Attached is our standard engagement letter.

- Let me know if you have any questions.