

IN THE SUPREME COURT OF THE STATE OF NEVADA

EUREKA COUNTY; ETCHEVERRY  
FAMILY LTD. PARTNERSHIP; AND  
DIAMOND CATTLE COMPANY, LLC  
Petitioners,

vs.

JASON KING, P.E., NEVADA STATE  
ENGINEER, DIVISION OF WATER  
RESOURCES, DEPARTMENT OF  
CONSERVATION AND NATURAL  
RESOURCES,

Respondent,

and

KOBEH VALLEY RANCH, LLC; AND  
DIAMOND NATURAL RESOURCES  
PROTECTION & CONSERVATION  
ASSOCIATION,

Real Parties in Interest.

No. 75814

**FILED**

AUG 30 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER DENYING PETITION*

This is an original petition for a writ of certiorari, prohibition, mandamus, or advisory mandamus challenging a State Engineer order denying a motion to dismiss applications seeking to appropriate water. Having reviewed the documents submitted in this matter, we are not persuaded that our extraordinary and discretionary intervention is warranted. NRS 34.020(2); NRS 34.160; NRS 34.320; *MDC Rests., LLC v.*

*Eighth Judicial Dist. Court*, 134 Nev., Adv. Op. 41, 419 P.3d 148, 151 (2018); *Dangberg Holdings Nev., LLC v. Douglas Cty.*, 115 Nev. 129, 137, 978 P.2d 311, 316 (1999); *Smith v. Eighth Judicial Dist. Court*, 107 Nev. 674, 677, 679, 818 P.2d 849, 851, 853 (1991).

Petitioners seek an order directing the State Engineer to dismiss applications to appropriate water because they are allegedly similar to, and precluded by, applications that were previously denied. NRS 533.450(1), however, allows petitioners to seek judicial review of the State Engineer's denial of their motion to dismiss by filing a petition for judicial review in the appropriate district court. The availability of judicial review precludes writ relief. *See Howell v. Ricci*, 124 Nev. 1222, 1229, 197 P.3d 1044, 1049 (2008) (concluding that an extraordinary writ was not a proper method to challenge a State Engineer's decision because judicial review was available under NRS 533.450(1)). Advisory mandamus is also unwarranted as the decision to deny the motion to dismiss appears fact-bound and tied to an as-yet incomplete record. *See Archon Corp. v. Eighth Judicial Dist. Court*, 133 Nev., Adv. Op. 101, 407 P.3d 702, 708 (2017) (holding that advisory mandamus should only issue to address "the rare question" that is fully developed and likely to recur without interlocutory review); *see also Buckwalter v. Eighth Judicial Dist. Court*, 126 Nev. 200, 201, 234 P.3d 920, 921 (2010) (providing that this court generally does not entertain writ petitions challenging denial of motions to dismiss that are fact-bound).

Accordingly, and without opining on the merits of the arguments presented,  
we

ORDER the petition DENIED.<sup>1</sup>

Pickering, J.  
Pickering

Gibbons, J.  
Gibbons

Hardesty, J.  
Hardesty

cc: Allison MacKenzie, Ltd.  
Eureka County District Attorney  
Schroeder Law Offices, P.C.  
Taggart & Taggart, Ltd.  
McDonald Carano LLP/Reno  
Attorney General/Carson City  
Parsons Behle & Latimer/Reno  
Eureka County Clerk

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<sup>1</sup>In light of our decision herein, we deny petitioners' May 25, 2018, request for a stay of the proceedings before the State Engineer as moot.