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5  
6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 THOMAS S. TAORMINA and MIDGE A.  
TAORMINA,

CASE NO. 3:11-CV-00645-RCJ-VPC

9 Plaintiffs,

**ANSWER TO COMPLAINT SEEKING  
DECLARATORY AND INJUNCTIVE  
RELIEF**

10 vs.

11 STOREY COUNTY, NEVADA and DOES  
1-10,

12 Defendants.

13 COMES NOW Defendant, Storey County, Nevada, by and through its attorneys,  
14 Thorndal, Armstrong, Delk, Balkenbush & Eisinger, and in answer to Plaintiffs' Complaint  
15 Seeking Declaratory and Injunctive Relief, hereby admits, denies, and alleges as follows:

16 **FIRST DEFENSE**

17 **I**

18 Defendant is without sufficient knowledge or information with which to form a belief as  
19 to the truth of the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 10, 11a, 15, 16, 17, 18,  
20 19, 22, 24, 25, 26, 55, 61, 63, 64, 70, 75, 77, 78, 80, 81, 87, 88, 89, and 97 of Plaintiffs'  
21 Complaint Seeking Declaratory and Injunctive Relief, and upon such basis denies said  
22 allegations.

23 **II**

24 Defendant admits the allegations contained in Paragraphs 7, 11, 12, 13, 20, 21, 29, 30, 31,  
25 37, 39, 40, 41, 42, 43, 45, 46, 54, 56, 57, 58, 65, 67, 69, and 73 of Plaintiffs' Complaint Seeking  
26 Declaratory and Injunctive Relief.

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**III**

Defendant denies the allegations contained in Paragraphs 14, 23, 27, 28, 32, 38, 44, 48, 59, 60, 66, 68, 71, 72, 74, 76, 79, 82, 83, 84, 85, 86, 90, 91, 92, 93, 94, 95, 96, and 98 of Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief.

**IV**

In answer to Paragraph 33 of Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief, Defendant states that the Storey County Code § 17.62.010 speaks for itself.

**V**

In answer to Paragraph 34 of Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief, Defendant states that 47 U.S.C. § 303 speaks for itself.

**VI**

In answer to Paragraph 35 of Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief, Defendant states that 42 C.F.R. § 97.1 speaks for itself.

**VII**

In answer to Paragraph 36 of Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief, Defendant states that the test of Public Law 103-408 (J. Res., 103d Congress, 1994) speaks for itself.

**VIII**

In answer to Paragraph 47 of Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief, Defendant states that the Staff Report speaks for itself.

**VIX**

In answer to Paragraph 49 of Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief, Defendant states that the Staff Report speaks for itself.

**X**

In answer to Paragraph 50 of Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief, Defendant states that the Staff Report speaks for itself.

**XI**

In answer to Paragraph 51 of Plaintiffs' Complaint Seeking Declaratory and Injunctive

1 Relief, Defendant states that the Staff Report speaks for itself.

2 **XII**

3 In answer to Paragraph 52 of Plaintiffs' Complaint Seeking Declaratory and Injunctive  
4 Relief, Defendant states that the Staff Report speaks for itself.

5 **XIII**

6 In answer to Paragraph 53 of Plaintiffs' Complaint Seeking Declaratory and Injunctive  
7 Relief, Defendant states that the Staff Report speaks for itself.

8 **XIV**

9 In answer to Paragraph 62 of Plaintiffs' Complaint Seeking Declaratory and Injunctive  
10 Relief, Defendant states that the Staff Report speaks for itself.

11 **SECOND DEFENSE**

12 Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief on file herein  
13 fails to state a claim against this Defendant upon which relief may be granted.

14 **THIRD DEFENSE**

15 Defendant's alleged actions or omissions were taken with due care in the execution of the  
16 statutes and regulations, and therefore, Defendant is statutorily immune from this action.

17 **FOURTH DEFENSE**

18 Defendant's alleged actions or omissions occurred in the exercise or performance of  
19 discretionary functions and duties, and therefore, Defendant is statutorily immune from this  
20 action.

21 **FOURTH DEFENSE**

22 At the time and place alleged in Plaintiffs' Complaint Seeking Declaratory and Injunctive  
23 Relief, Plaintiff had complete knowledge of each and every condition then and there existing, and  
24 with such knowledge, freely, voluntarily, and knowingly consented to and assumed the risk of  
25 injury and damage in the situation then existing, including the incidents which are referred to in  
26 the Complaint.

27 **FIFTH DEFENSE**

28 It has been necessary for Defendant to employ the services of an attorney to defend this

1 action, and a reasonable sum should be allowed Defendant as and for attorney's fees, together  
2 with its costs expended in this action.

3 **SIXTH DEFENSE**

4 Pursuant to NRCP Rule 11, as amended, all possible affirmative defenses may not have  
5 been alleged herein insofar as sufficient facts were not available to Defendant after reasonable  
6 inquiry upon the filing of Defendant's Answer, and therefore, Defendant reserves the right to  
7 amend this Answer to allege additional affirmative defenses if subsequent investigation so  
8 warrants.

9 WHEREFORE, Defendant prays:

- 10 1. That Plaintiffs' Complaint Seeking Declaratory and Injunctive Relief be dismissed
- 11 with prejudice and that they take nothing thereby;
- 12 2. That Defendant be awarded a reasonable attorney's fee and costs of suit; and
- 13 3. For such other and further relief as this Court deems just and proper.

14 DATED this 27<sup>th</sup> day of October, 2011.

15 THORNDAL, ARMSTRONG,  
16 DELK, BALKENBUSH & EISINGER

17 By: /s/ Brent T. Kolvet  
18 Brent T. Kolvet, Esq.  
19 State Bar No. 1597  
20 6590 S. McCarran Blvd., Suite B  
21 Reno, Nevada 89509  
22 Attorneys for Defendant  
23 Storey County  
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**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of Thorndal, Armstrong, Delk, Balkenbush & Eisinger, and that on this date I electronically filed the foregoing **ANSWER TO COMPLAINT SEEKING DECLARATORY AND INJUNCTIVE RELIEF** with the United States District Court's CM/ECF Electronic Filing system, which will serve the following parties electronically:

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*Attorneys for Plaintiffs*  
*Thomas S. Taormina*

DATED this 27<sup>th</sup> day of October, 2011.

/s/ Mary C. Wilson  
An employee of Thorndal, Armstrong,  
Delk, Balkenbush & Eisinger