

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

J.W. Bentley and Maryann Bentley,  
Trustees of the Bentley Family  
1995 Trust,

Case No. 56351

Petitioners

v.

THE NINTH JUDICIAL DISTRICT COURT  
of the State of Nevada, in and for  
the County of Douglas, and THE  
HONORABLE DAVID R. GAMBLE, District  
Court Judge,

Respondents,

AND

DONALD S. FORRESTER, KRISTINA M.  
FORRESTER; HALL RANCHES, LLC, a  
Nevada limited liability company;  
THOMAS J. SCYPHERS; KATHLEEN M.  
SCYPHERS; FRANK SCHARO; SHERIDAN  
CREEK EQUESTRIAN CENTER, LLC, a  
Nevada limited liability company;  
RONALD R. MITCHELL; and GINGER G.  
MITCHELL as Intervenors In the  
Matter of the Determination of  
the Relative Rights in and to the  
Waters of Mott Creek, Taylor Creek,  
Cary Creek (aka Carey Creek),  
Monument Creek, and Bulls Canyon,  
Stutler Creek (aka Stattler Creek),  
Sheridan Creek, Gansberg Spring,  
Sharpe Spring, Wheeler Creek No. 1  
Wheeler Creek No. 2, Miller Creek,  
Beers Spring, Luther Creek and  
Various Unnamed Sources in Carson  
Valley, Douglas Valley, Nevada.

FILED

SEP 27 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

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OPPOSITION TO REQUEST FOR LEAVE

Thomas J. Hall, Esq.  
Nevada State Bar No. 675  
305 South Arlington Avenue  
Post Office Box 3948  
Reno, Nevada 89505

Attorney for Real Parties in  
Interest

COME NOW, Real Parties in Interest DONALD S. FORRESTER and KRISTINA M. FORRESTER, HALL RANCHES, LLC, a Nevada Limited Liability Company, THOMAS J. SCYPHERS and KATHLEEN M. SCYPHERS, FRANK SCHARO, SHERIDAN CREEK EQUESTRIAN CENTER, LLC, a Nevada Limited Liability Company, RONALD R. MITCHELL and GINGER G. MITCHELL ("Real Parties"), by and through their counsel, THOMAS J. HALL, ESQ., and file their Opposition to Request for Leave filed herein on September 17, 2010, as follows:

**A. The Request For Leave Is Not Authorized.**

Rule 21 of the Nevada Rules of Appellate Procedure does not permit the filing of a Request for Leave. Nowhere in Rule 21 of the Nevada Rules of Appellate Procedure is any rule or procedure set forth for the filing a Request for Leave in the form of a Reply. Pursuant to Rule 21(b)(1), the Court ordered an Answer to be filed by the Real Parties which was timely filed on September 13, 2010. No other pleadings, replies or supplements to the record have been ordered by the Court or are allowed.

**B. The Writ Petition Is Likely To Be Moot.**

Further, the Writ Petition is likely to be moot by the time it is considered by this Court.

As set forth in the Answer filed by the Real Parties in Interest on September 13, 2010, page 14, line 10 through page 15, line 10:

The Order For Division Of Water was filed following an extensive hearing on May 17, 2010. 3 App. 728-748. The Court entered its Order For Division of Water,

1 specifically limiting the time the Order would be in  
2 effect. 3 App. 753-755. See, paragraph 3, which  
provides as follows:

3 The Court finds the 21 Day Rotation Schedule  
4 attached hereto as Exhibit 1 is a fair and  
equitable Rotation Schedule for the 2010  
5 irrigation season. [Emphasis supplied.]

6 Under the Final Order of Determination, the 2010  
7 irrigation season runs from April 1, 2010 to October  
8 15, 2010. See Order of Determination, Period of Use, 1  
App. 98-99. Therefore, it is unlikely that this  
9 Rotation Schedule will be in effect by the time the  
Court hears this Petition.

10 **C. This Court Does Not Give Advisory Opinions.**

11 This Court is prohibited from giving advisory opinions. Nev.  
12 Const. art. 6 § 4; Applebaum v. Applebaum, 97 Nev. 11, 12, 621  
13 P.2d 1110 (1981) ("This court will not render advisory opinions  
14 on moot or abstract questions. Decisions may be rendered only  
15 where actual controversies exist."); State Engineer v. Truckee-  
16 Carson Irrig., 116 Nev. 1024, 1032, 13 P.3d 395 (2008).  
17 Therefore, the Writ Petition in Case No. 56351 and the Appeal in  
18 Case No. 56551, both filed by the Bentleys, will be moot on  
19 October 15, 2010, at the end of the 2010 irrigation season.  
20

21 Both the Writ Petition and the Appeal filed by the Bentleys  
22 should be dismissed.  
23

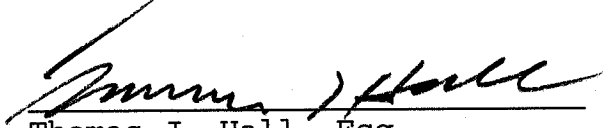
24 Pursuant to NRS 239B.030, the undersigned affirms that the  
25 preceding document does not contain the social security number of  
26 any person.

27 \\\

28 \\\

1 Respectfully submitted this 27th day of September, 2010.

2 LAW OFFICES OF THOMAS J. HALL

3 

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5 Nevada State Bar No. 675

6 305 South Arlington Avenue

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8 Reno, Nevada 89505

9 Telephone: 775-348-7011

10 Facsimile: 775-348-7211

**CERTIFICATE OF SERVICE BY MAIL**

I certify that I am an employee of Thomas J. Hall, Esq., and that on this date, pursuant to NRAP 25(d), I placed in the U.S. Mail, postage prepaid, a true and correct copy of the foregoing document addressed to:

Judge David R. Gamble  
Ninth Judicial District Court  
Post Office Box 218  
Minden, Nevada 89423

Thomas J. Scyphers  
Kathleen M. Scyphers  
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Deputy Attorney General  
100 North Carson Street  
Carson City, Nevada 89701

Ronald R. Mitchell  
Ginger G. Mitchell  
Post Office Box 5607  
Stateline, Nevada 89449

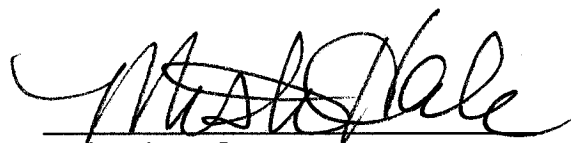
State of Nevada  
Department of Conservation and  
Natural Resources  
Division of Water Resources  
901 S. Stewart Street, Suite 2002  
Carson City, Nevada 89701

Frank Scharo  
Post Office Box 1225  
Minden, Nevada 89423

Hall Ranches, LLC  
Post Office Box 3948  
Reno, Nevada 89505

Sheridan Equestrian Center, LLC  
Glenn A. Roberson, Jr.  
281 Tiger Wood Court  
Gardnerville, Nevada 89460

DATED this 27th day of September, 2010.

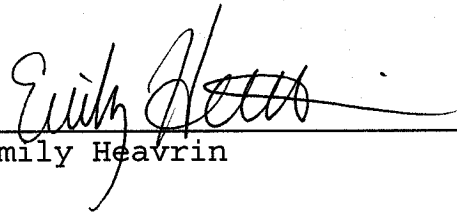
  
Misti Hale

**CERTIFICATE OF SERVICE**

I certify that I am an employee of Thomas J. Hall, Esq., and that on this date, pursuant to NRAP 25(d), I hand delivered a true and correct copy of the foregoing document to:

William E. Nork, Esq.  
825 W. 12<sup>th</sup> Street  
Reno, Nevada 89503.

Dated this 27<sup>th</sup> day of September, 2010.

  
\_\_\_\_\_  
Emily Heavrin