

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2
3 In the Matter of the Determination
4 Of the Relative Rights in and to
5 The Waters of Mott Creek, Taylor
6 Creek, Cary Creek (aka Carey
7 Creek), Monument Creek, and Bulls
8 Canyon, Stutler Creek (aka Stattler
9 Creek), Sheridan Creek, Gansberg
10 Spring, Sharpe Spring, Wheeler
11 Creek No. 1 Wheeler Creek No. 2,
12 Miller Creek, Beers Spring, Luther
13 Creek and Various Unnamed Sources
14 in Carson Valley, Douglas Valley,
15 Nevada.

Supreme Court No. 56551

District Case No. CV0363

11 J.W. Bentley and Maryann Bentley,
12 Trustees of the Bentley Family
13 1995 Trust,

Appellants,

14 vs.

15 The State of Nevada Office of the
16 State Engineer; Hall Ranches, LLC,
17 Thomas J. Scyphers; Kathleen M.
18 Scyphers; Frank Scharo; Sheridan
19 Creek Equestrian Center, LLC;
20 Donald S. Forrester; Kristina M.
21 Forrester; Ronald R. Mitchell;
22 and Ginger G. Mitchell,

Respondents.

23 MOTION TO DISMISS

24 COME NOW, Real Parties in Interest DONALD S. FORRESTER and
25 KRISTINA M. FORRESTER, HALL RANCHES, LLC, a Nevada Limited
26 Liability Company, THOMAS J. SCYPHERS and KATHLEEN M. SCYPHERS,
27 FRANK SCHARO, SHERIDAN CREEK EQUESTRIAN CENTER, LLC, a Nevada

FILED

SEP 27 2010

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

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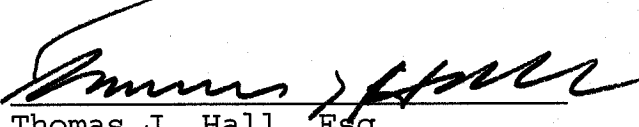
SEP 27 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

1 Limited Liability Company, RONALD R. MITCHELL and GINGER G.
2 MITCHELL ("Real Parties"), by and through their counsel, THOMAS
3 J. HALL, ESQ., and pursuant to Rule 27 of the Nevada Rules of
4 Appellate Procedure, move to dismiss the Appeal filed herein.

5 DATED this 27th day of September, 2010.

6 LAW OFFICES OF THOMAS J. HALL

7
8 
9 Thomas J. Hall, Esq.
10 Nevada State Bar No. 675
11 305 South Arlington Avenue
12 Post Office Box 3948
13 Reno, Nevada 89505
14 Telephone: 775-348-7011
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16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **IN SUPPORT OF MOTION TO DISMISS**

18 **A. The Order For Division Of Water Is Only In Effect Until**
19 **October 15, 2010.**

20 The Order For Division Of Water was filed following an
21 extensive hearing on May 17, 2010. 3 App. 728-748. The Court
22 entered its Order For Division of Water, specifically limiting
23 the time the Order would be in effect. 3 App. 753-755. See,
24 paragraph 3, which provides as follows:

25 The Court finds the 21 Day Rotation Schedule attached
26 hereto as Exhibit 1 is a fair and equitable Rotation
27 Schedule for the 2010 irrigation season. [Emphasis
28 supplied.]

Under the Final Order of Determination, the 2010 irrigation
season runs from April 1, 2010 to October 15, 2010. See Order of

1 Determination, Period of Use, 1 App. 98-99. Therefore, the
2 Rotation Schedule ordered by the District Court will not be in
3 effect by the time the Court enters a briefing schedule.

4 B. This Court Does Not Give Advisory Opinions.

5 This Court is prohibited from giving advisory opinions. Nev.
6 Const. art. 6 § 4; Applebaum v. Applebaum, 97 Nev. 11, 12, 621
7 P.2d 1110 (1981) ("This court will not render advisory opinions
8 on moot or abstract questions. Decisions may be rendered only
9 where actual controversies exist."); State Engineer v. Truckee-
10 Carson Irrig., 116 Nev. 1024, 1032, 13 P.3d 395 (2008). The
11 Appeal filed by the Bentleys will be moot on October 15, 2010, at
12 the end of the 2010 irrigation season, eighteen days hence.
13 Consequently, the Appeal should be dismissed.

14 Pursuant to NRS 239B.030, the undersigned affirms that the
15 preceding document does not contain the social security number of
16 any person.

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

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21 LAW OFFICES OF THOMAS J. HALL

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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
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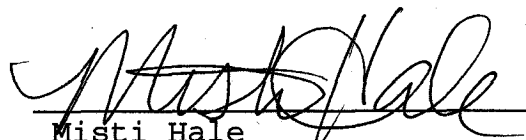
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Sheridan Equestrian Center, LLC
Glenn A. Roberson, Jr.
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Gardnerville, Nevada 89460

DATED this 27th day of September, 2010.

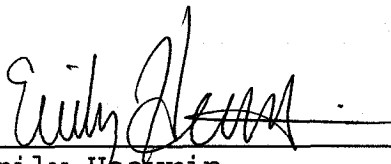

Misti Hale

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. 12th Street
Reno, Nevada 89503.

Dated this 27th day of September, 2010.



Emily Heavrin