IN THE SUPREME COURT OF THE STATE OF NEVADA

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.

Electronically Filed
Dec 27 2011 02:55 p.m.
Supremeracia K. Lindeman
Clerk of Supreme Court
District Case No. CV0363

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

Appellants,

vs.

KRISTINA M.

FRANK SCHARO,

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

FORRESTER.

Respondents.

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REPLY IN SUPPORT OF SECOND MOTION TO DISMISS

Liability Company, THOMAS J. SCYPHERS and KATHLEEN M. SCYPHERS,

COME NOW, Real Parties in Interest DONALD S. FORRESTER and

RANCHES,

а

Nevada Limited

LLC,

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 files their Reply in Support of Second Motion to Dismiss.

I. <u>Procedural Note</u>.

The instant appeal was filed on July 21, 2011. The Case Appeal Statement was filed on September 14, 2011. Respondents filed their Motion to Dismiss on October 5, 2011. On October 14, 2011, the Court denied the Motion to Dismiss, stating, "This denial is without prejudice to Respondents' right to renew the Motion, if deemed appropriate, upon completion of the settlement proceedings".

The Settlement Program Status Report was filed December 9, 2011, noting that the parties were unable to agree to a settlement of this matter.

The Second Motion to Dismiss was filed five days later on December 14, 2011.

The Respondents cannot be accused of any delay or dilatory tactics.

Trial on the merits has been scheduled for January 9 - 12, 2012. Those proceedings will allow the District Court to make a full and complete record of its future decision on the issue now pending before this Court. It is improper for this Court to rule in a piecemeal fashion.

(775) 348-7011

The previous appeal in Supreme Court Case 56551, was resolved by an Order Dismissing Appeal, where this Court states:

Having reviewed the parties' documents, we conclude that the appeal is moot, as the challenged order expired by its own terms at the end of the 2010 irrigation season, October 15, 2010.

See also, Order Denying Petition for Writ of Prohibition or Mandamus, Supreme Court Case 56351, issued March 18, 2011.

The challenged Order here expired October 15, 2011. Hence, this appeal is moot.

WHEREFORE, it is respectfully requested that the instant appeal be dismissed.

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

Respectfully submitted this 27th day of December, 2011.

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 Post Office Box 218 Minden, Nevada 89423

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DATED this 27th day of December, 2011.

Sharon M. Knudson