

IN THE SUPREME COURT OF NEVADA

In Re: Rotation Schedule

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 County, Nevada.

JOY SMITH, DANIEL BARDEN and
ELAINE BARDEN, J.W. BENTLEY and
MARYANN BENTLEY, TRUSTEES OF
THE BENTLEY FAMILY 1995 TRUST,

Appellants,
v.

STATE OF NEVADA, OFFICE OF THE
STATE ENGINEER,

Respondent.

AND RELATED CASES.

Electronically Filed
Oct 12 2016 10:41 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No. 64773
(Consolidated with
Case Nos. 66303 & 66932)

REQUEST FOR LEAVE TO FILE REPLY BRIEF

COME NOW J.W. BENTLEY and MARYANN BENTLEY, Trustees of the Bentley Family 1995 Trust, by and through their counsel of record, Matuska Law Offices, Ltd., Michael L. Matuska, and hereby request leave to file a reply to the Answers filed by the Nevada State Engineer and the multiple Intervenor/Respondents to the Bentleys' Petition for Rehearing.¹ Specific issues that the Bentleys wish to address in a reply include:

1. The State Engineer's reference to "equitable proceedings" and all of the Respondents' failure to cite any legal authority for a mandatory rotation schedule;
2. Respondents' failure to address the distinction made in the Order of Affirmance between the upper pond and (original) lower pond;
3. Intervenor/Respondents' contention that the Bentleys' argument that the Diversion Agreement can be limited and enforced to the North Branch of Sheridan Creek is a new argument; and
4. Respondents' argument that the Bentleys failed to comply with NRAP 40 and multiple statements of fact made without reference to the record.

///

///

¹ Intervenor/Respondents Answer was filed on October 10th and is untimely. Intervenor/Respondents were given 15 days to respond (See September 22, 2016 Order). That time was not extended for service. NEFCR 9(f).

Respectfully submitted,

Dated this 11th day of October 2016.

MATUSKA LAW OFFICES, LTD.

By:



MICHAEL L. MATUSKA, SBN 5711
Attorneys for APPELLANTS,
J.W. BENTLEY and
MARYANN BENTLEY

CERTIFICATE OF SERVICE

I certify that on the 11th day of October 2016, I served a copy of this **REQUEST FOR LEAVE TO FILE REPLY BRIEF**, upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Bryan L. Stockton
Deputy Attorney General
100 North Carson Street
Carson City, NV 89701

Thomas J. Hall
305 South Arlington Avenue
P.O. Box 3948
Reno NV 89505-3948

Jessica C. Prunty
Dyer, Lawrence, Penrose, Flaherty,
Donaldson & Prunty
2805 Mountain Street
Carson City NV 89703

Dated this 11th day of October 2016.



LIZ STERN, ALS