

IN THE SUPREME COURT OF THE STATE OF NEVADA

A.K. CORAL CAY TRUST, D/B/A  
BEVERLY HILLS DAIRY,  
Appellant,  
vs.  
BILL BARRACKMAN; NEVADA  
DIVISION OF ENVIRONMENTAL  
PROTECTION; AND THE STATE  
ENVIRONMENTAL COMMISSION,  
Respondents.

No. 50682

**FILED**

NOV 13 2008

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

ORDER DISMISSING APPEAL

This is an appeal from a district court order remanding a matter to the State Environmental Commission. First Judicial District Court, Carson City; James Todd Russell, Judge.

Respondents have filed a motion to dismiss this appeal for lack of jurisdiction, appellant has filed an opposition to the motion to dismiss, and respondents have moved for leave to file a reply to appellant's opposition. In their motion to dismiss, respondents argue that this court lacks jurisdiction because the district court remand order, filed on November 6, 2007, was not a final judgment appealable under NRAP 3A(b)(1).<sup>1</sup> Appellant, however, contends that because the order resolved the sole issue before the district court—whether respondent Bill Barrackman had standing to challenge appellant's dairy permit—a

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<sup>1</sup>See also NRS 233B.150 (explaining that an aggrieved party may appeal from a district court order that finally resolves a petition for judicial review as in other civil cases).

functional view of finality should render the order final and appealable, so as to promote judicial economy.

An order is appealable as a final judgment under NRAP 3A(b)(1) when it resolves all of the issues and adjudicates the rights and liabilities of all of the parties in an action.<sup>2</sup> Typically, an order of remand is not appealable as a final judgment because it resolves neither the issues nor adjudicates the rights and liabilities of any party.<sup>3</sup> Here, the district court's November 6 order remands the matter to the State Environmental Commission for substantive proceedings on the merits, and thus neither the issues nor the rights and liabilities of any party have been finally resolved.<sup>4</sup> Thus, the November 6 order is not appealable as a final judgment under NRAP 3A(b)(1). Accordingly, we grant respondents' motion, and we

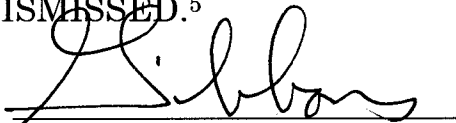
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<sup>2</sup>See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).


<sup>3</sup>See, e.g., Ayala v. Caesars Palace, 119 Nev. 232, 235, 71 P.3d 490, 492 (2003) abrogated on other grounds by Five Star Capital Corp. v. Ruby, 124 Nev. \_\_\_, \_\_\_ P.3d \_\_\_ (Adv. Op. No. 88, October 30, 2008); Clark County Liquor v. Clark, 102 Nev. 654, 657-58, 730 P.2d 443, 446 (1986).

<sup>4</sup>See State, Taxicab Authority v. Greenspun, 109 Nev. 1022, 1025, 862 P.2d 423, 425 (1993) (explaining that allowing or considering an interlocutory appeal from an order remanding a matter to an administrative agency likely will result in piecemeal litigation and cause unnecessary disruption, delay, and expense); cf. Bally's Grand Hotel v. Reeves, 112 Nev. 1487, 1488-89, 929 P.2d 936, 937 (1996) (noting that this court takes a "functional view of finality," and thus, unlike an order remanding a matter to an administrative agency for further substantive proceedings, an order that resolves substantive rights and remands for a mere calculation of benefits is appealable as a final judgment).

ORDER this appeal DISMISSED.<sup>5</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. James Todd Russell, District Judge  
Madelyn Shipman, Settlement Judge  
Parsons Behle & Latimer  
Attorney General Catherine Cortez Masto/Carson City  
Attorney General Catherine Cortez Masto/Las Vegas  
John L. Marshall  
Carson City Clerk

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<sup>5</sup>In light of this order, we deny as moot respondents' motion for leave to file a reply.