

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,

No. 59188

FILED

JAN 23 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingerson*
DEPUTY CLERK

J.W. BENTLEY AND MARYANN
BENTLEY, TRUSTEES OF THE BENTLEY
FAMILY 1995 TRUST,

Appellants,

vs.

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; A NEVADA
LIMITED LIABILITY COMPANY;
DONALD S. FORRESTER; KRISTINA M.
FORRESTER; RONALD R. MITCHELL;
AND GINGER G. MITCHELL,
Respondents.

ORDER DISMISSING APPEAL

This is an appeal from a district court order imposing a rotation schedule in a water rights case. Ninth Judicial District Court, Douglas County; David R. Gamble, Judge.

Having considered the parties' arguments and the documents before us, we conclude that the appeal is moot, as the parties agree that the temporary rotation schedule imposed by the challenged order expired at the end of the 2011 irrigation season, October 15, 2011. Marquis & Aurbach v. Dist. Ct., 122 Nev. 1147, 1162 n.32, 146 P.3d 1130, 1140 n.32 (2006) (citing University of Nevada v. Tarkanian, 95 Nev. 389, 394, 594 P.2d 1159, 1162 (1979), for the proposition that "the duty of this court is to resolve actual controversies and not to opine on moot questions or abstract propositions"). Moreover, contrary to appellants' contention that the issues presented here are capable of repetition yet evading review, the documents before us demonstrate the trial of this case was scheduled to begin on January 9, 2012, and appellants assert that respondents will seek a permanent rotation schedule as a remedy at trial. Thus, once a decision is rendered in the district court following trial, appellants, if aggrieved, will be able to obtain a review of the issues they have raised regarding the district court's imposition of a rotation schedule. See Personhood Nevada v. Bristol, 126 Nev. ___, 245 P.3d 572 (2010) (discussing the capable-of-repetition-yet-evading-review exception to the mootness doctrine).

Accordingly, we grant respondents' motion and
ORDER this appeal DISMISSED.

Cherry, J.
Cherry

Pickering, J.
Pickering

Hardesty, J.
Hardesty

cc: Hon. David R. Gamble, District Judge
William E. Nork, Settlement Judge
Matuska Law Offices, Ltd.
Thomas J. Hall
Attorney General/Carson City
Douglas County Clerk