

IN THE SUPREME COURT OF THE STATE OF NEVADA

J.W. BENTLEY; AND MARYANN
BENTLEY, TRUSTEES OF THE
BENTLEY FAMILY 1995 TRUST,
Appellants,
vs.
THE STATE OF NEVADA STATE
ENGINEER,
Respondent.

No. 68913

FILED

JAN 13 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE


This is an appeal from a district court order denying a petition for judicial review in a water rights matter. Ninth Judicial District Court, Douglas County; Nathan Tod Young, Judge.


Appellants argue that respondent improperly impaired their vested water rights by imposing a mandatory water rotation schedule on certain water rights holders, including appellants, in the absence of an agreement between those holders. In *Bentley v. State Engineer*, Docket Nos. 64773, 66303, and 66932, this court affirmed the imposition of a mandatory rotation schedule on the same vested water rights holders. In the meantime, respondent approved appellants' applications to change the manner and use of their water rights from irrigation to recreation, subject to the rotation schedule set forth in the decree, which was later affirmed in the consolidated appeals noted above.

The law-of-the-case doctrine prohibits reopening questions that have previously been decided "explicitly or by necessary implication." *Recontrust Co., N.A. v. Zhang*, 130 Nev., Adv. Op. 1, 317 P.3d 814, 818 (2014). Thus, findings made at one point in the litigation become the law of the case for subsequent stages of that same litigation. See *Biggins v.*

Hazen Paper Co., 111 F.3d 205, 208 (1st Cir. 1997) (“It is not open to the panel, in the normal case, to reconsider issues decided earlier in the same case by the en banc court.”). Because the en banc court has affirmed the imposition of a rotation schedule when the flow of the North Diversion of Sheridan Creek and its tributaries falls below 2.0 cfs during the irrigation season, we cannot review again the conclusion that the rotation schedule was not improper in this case. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Nathan Tod Young, District Judge
Matuska Law Offices, Ltd.
Attorney General/Carson City
Douglas County Clerk