

74.

Assessor's Parcel Number: 1219-14-001-013

Recording Requested By:  
Name: Thomas J. Hall, Esq.

Address: 305 S. Arlington Avenue

City/State/Zip Reno, NV 89501

Real Property Transfer Tax: \_\_\_\_\_

DOUGLAS COUNTY, NV  
Rec: \$24.00  
Total: \$24.00  
THOMAS J HALL ESQ

**2015-857940**  
03/06/2015 02:30 PM  
Pgs=11



KAREN ELLISON, RECORDER

\$ \_\_\_\_\_

**Affidavit of Judgment Creditors Pursuant to NRS 17.150**

(Title of Document)

This page added to provide additional information required by NRS 111.312 Sections 1-2. (Additional recording fee applies)

*This cover page must be typed or legibly hand printed.*

1 Case No.: 08-CV-0363-D

**RECEIVED**

2 Dept. No.: I

**MAR 06 2015**

3 Thomas J. Hall, Esq.  
4 Nevada State Bar No. 675  
5 305 South Arlington Avenue  
6 Post Office Box 3948  
7 Reno, Nevada 89505  
8 Telephone: 775-348-7011  
9 Facsimile: 775-348-7211

Douglas County  
District Court Clerk

**FILED**

**2015 MAR -6 PM 12:36**

**BOBBIE R. WILLIAMS  
CLERK**

**BY M. BIAGGINI  
DEPUTY**

**IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR DOUGLAS COUNTY**

10 In the Matter of the Determination of  
11 the Relative Rights in and to the  
12 Waters of Mott Creek, Taylor Creek,  
13 Cary Creek (aka Carey Creek), Monument  
14 Creek, and Bulls Canyon, Stutler Creek  
15 (aka Stattler Creek), Sheridan Creek,  
16 Gansberg Spring, Sharpe Spring,  
17 Wheeler Creek No., 1 Wheeler Creek  
18 No. 2, Miller Creek, Beers Spring,  
19 Luther Creek and Various Unnamed  
20 Sources in Carson Valley, Douglas  
21 County, Nevada.

**AFFIDAVIT OF JUDGMENT  
CREDITORS PURSUANT  
TO NRS 17.150**

18 \_\_\_\_\_/  
19 J.W. BENTLEY and MARYANN BENTLEY,  
20 Trustees of the Bentley Family 1995  
21 Trust; JOY SMITH, DANIEL BARDEN,  
22 and ELAINE BARDEN,

Petitioners,

vs.

23 State of Nevada, Office of the  
24 State Engineer,

Respondent.

25 \_\_\_\_\_/  
26 STATE OF NEVADA )  
27 ) ss.  
28 COUNTY OF WASHOE )

1 I, Thomas J. Hall, Esq., being first duly sworn, deposes and  
2 says that:

3 1. I am an attorney licensed to practice law in all the  
4 courts in the State of Nevada.

5 2. I am counsel of record for the Intervenor as Judgment  
6 Creditors herein, namely Thomas Scyphers, Kathleen Scyphers,  
7 Frank Scharo, Sheridan Creek Equestrian Center, LLC, Donald  
8 Forrester, Kristina Forrester, Ronald Mitchell, Ginger Mitchell  
9 and Hall Ranches, LLC.

10 3. An Order granting costs was entered in the above-  
11 entitled action on July 14, 2014, in the amount of \$2,882.13. A  
12 certified copy of the Order is attached hereto as Exhibit 1.  
13

14 4. The Judgment Debtors' names and addresses are as  
15 follows:  
16

17 J.W. Bentley, Trustee  
18 Maryann Bentley, Trustee  
19 853 Sheridan Lane  
20 Gardnerville, Nevada 89460

Joy Smith, Trustee  
957 Sheridan Lane  
Gardnerville, Nevada 89460

21 Elaine V. Barden  
22 Daniel P. Barden  
23 Post Office Box 6310  
24 Gardnerville, Nevada 89460

25 5. I do not know the Debtors' drivers' license numbers nor  
26 the Debtors' social security numbers.

27 6. I do not know the Judgment Debtors' places of birth nor  
28 their dates of birth.

7. The Order granting costs entered on July 14, 2014,  
remains wholly unpaid in the amount of \$2,882.13 plus statutory

1 interest pursuant to NRS 17.130(1) in the amount of \$96.84, for a  
2 total amount due on this date of \$2,978.97.

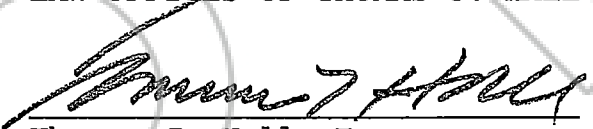
3 8. I make this Affidavit in compliance with the  
4 requirements of NRS 17.150.

5 9. I declare, under penalty of perjury, that the foregoing  
6 is true and correct.

7 Further, your Affiant sayeth naught.

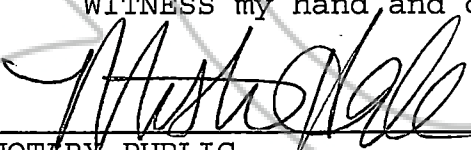
8 DATED this 6th day of March, 2015.

9  
10 LAW OFFICES OF THOMAS J. HALL

11   
12 Thomas J. Hall, Esq.  
13 Nevada State Bar No. 675  
14 305 South Arlington Avenue  
15 Post Office Box 3948  
16 Reno, Nevada 89505  
17 Telephone: 775-348-7011  
18 Facsimile: 775-348-7211

19 Subscribed and sworn to before me on this 6<sup>th</sup> day of March,  
20 2015, by Thomas J. Hall.

21 WITNESS my hand and official seal.

22   
23 NOTARY PUBLIC

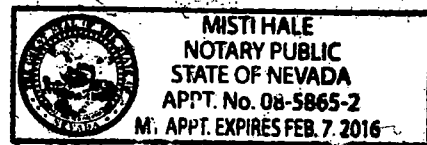


EXHIBIT LIST

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

EXHIBIT 1: Certified copy of Order granting costs entered July 14, 2014.

DRAFT

**EXHIBIT 1**

COPY

**EXHIBIT 1**

1 Case No. 08-CV-0363  
2 (Consolidated)

3 Dept. No. I

2014 JUL 14 PM 1:12

RECEIVED

JUL 14 2014

DOUGLAS COUNTY  
DISTRICT COURT CLERK

NATHAN TODYOUNG  
CLERK

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF DOUGLAS

9 In the Matter of the Determination of the relative  
10 rights in and to the waters of Mott Creek, Taylor  
11 Creek, Cary Creek (aka Carey Creek), Monument  
12 Creek, and Bulls Canyon, Stutler Creek (aka Stattler  
13 Creek), Sheridan Creek, Gansberg Spring, Sharpe  
14 Spring, Wheeler Creek No. 1, Wheeler Creek No. 2,  
15 Miller Creek, Beers Spring, Luther Creek and  
16 various unnamed sources in Carson Valley, Douglas  
17 County, Nevada.

ORDER

14 J. W. BENTLEY and MARY ANN  
15 BENTLEY, TRUSTEES OF THE  
16 BENTLEY FAMILY 1995 TRUST; JOY  
17 SMITH, DANIEL BARDEN and ELAINE  
18 BARDEN,

Petitioners,

v.

19  
20 STATE OF NEVADA, OFFICE OF THE  
21 STATE ENGINEER,

Respondent.

22  
23 THIS MATTER comes before the Court upon Intervenors' Memorandum of Costs and  
24 Petitioners' Motion to Retax and Settle Costs. The Memorandum of Costs is brought by the  
25 following individuals and entities participating in defense of the State Engineer, to wit: Thomas  
26 Scyphers, Kathleen Scyphers, Frank Scharo, Sheridan Creek Equestrian Center, LLC, Donald  
27 Forrester, Kristina Forrester, Ronald Mitchell, Ginger Mitchell, and Hall Ranches, LLC

28  
NATHAN TODYOUNG  
DISTRICT JUDGE  
DOUGLAS COUNTY  
P.O. BOX 218  
MINDEN, NV 89423

1 (collectively identified herein as "Intervenors") Intervenors are represented by Thomas J. Hall,  
2 Esq.

3  
4 The Motion to Retax and Settle Costs was brought by Petitioners J.W. Bentley and Mary  
5 Ann Bentley ("Bentleys"), represented by Michael L. Matuska, Esq., of Matuska Law Offices,  
6 Ltd. Petitioners Joy Smith, Daniel Barden and Elaine Barden ("Smith and Barden"), represented  
7 by Jessica C. Prunty, Esq., of Dyer, Lawrence, Penrose, Flaherty, Donaldson & Prunty, have  
8 joined the motion.

9 While opposing the Motion to Retax and Settle Costs, Intervenors have reduced their  
10 requested costs. Having now examined all relevant pleadings and papers herein, the Court enters  
11 the following order, good cause appearing,  
12

13 THAT the Intervenors' request of costs in the amount of \$2,882.13 is GRANTED.

14 Intervenors' final request for costs total \$2,882.13. As reflected throughout the record,  
15 all petitions filed by Petitioners were brought forward under NRS 533.450. Pursuant to NRS  
16 533.450 (7), in relevant part:

17  
18 Costs must be paid as in civil cases brought in district court,  
19 except by the State Engineer or the State.

20 Intervenors claim, "costs must be awarded as a matter of course in special proceedings pursuant  
21 to NRS 18.020." However, this Court previously concluded that there is a distinction between  
22 the specific process of litigating the entry of a decree pertinent to a stream system and a petition  
23 for judicial review regularly arising as the State Engineer subsequently implements each portion  
24 of the litigation results.<sup>1</sup> Therefore, the award of costs are not a matter of statutory right pursuant  
25

26 / / /

27  
28  

---

<sup>1</sup>Expressed in the Order delivered on April 10, 2014.



1 to NRS 18.020 (4), but are instead discretionary pursuant to NRS 18.050 as incorporated through  
2 NRS 533.450 (7).

3  
4 NRS 18.050 sets forth,

5 Except as limited by this section, in other actions in the district  
6 court, part or all of the prevailing party's costs may be allowed  
7 and may be apportioned between the parties, or on the same or  
8 adverse sides. If, in the judgment of the court, the plaintiff  
9 believes he or she was justified in bringing the action in the  
10 district court, and the plaintiff recovers at least \$700 in money or  
11 damages, or personal property of that value, the court may allow  
12 the plaintiff part or all of his or her costs.

13 The decision to permit or deny a prevailing party their costs rests with the district court and it  
14 will not be overturned absent abuse of discretion. *Village Builders 96, L.P. v. U.S. Labs., Inc.*,  
15 121 Nev. 261, 276, 112 P.3d 1082, 1092 (2005).

16 Petitioners contend an intervening party is not allowed costs; however, this claim is  
17 without merit. Generally, an intervening plaintiff stands in the same position as the original  
18 plaintiff for the purpose of taxing costs. *Kleiman v. Aetna Casualty & Sur. Co.*, 581 A.2d 1263  
19 (D.C. 1990).

20 According to 10 C.J.S. §52,

21 For the purpose of obtaining an award of costs, an intervening  
22 party stands in the same position as the original litigants. A  
23 successful intervenor is entitled to costs caused by contesting his  
24 or her claim, against the party making the contest.

25 Here, as the record reflects, Intervenor's have been parties to the proceedings for over five  
26 years. Further, the water rights in contest belong to Intervenor's. After the intervention had taken  
27 place, Intervenor's became parties to the action, interested with the respondent in reviewing the  
28 claims of the petitioner, and as such parties they are entitled to avail themselves all of the  
procedures and remedies to which the respondent would be entitled for the purpose of defeating

1 the action or resisting the claim of the plaintiff. *Moore v. District Court*, 77 Nev. 357, 364, P.2d  
2 1073 (1961). Accordingly, Intervenor is a party to the action and entitled to request an award  
3 of such costs.  
4

5 Lastly, Petitioners claim that Intervenor failed to document their costs and that their  
6 costs are excessive. Statutes permitting the recovery of costs are to be strictly construed because  
7 they are in derogation of the common law. *Berosini, Ltd. v. PETA*, 114 Nev. 1348, 1353, 971  
8 P.2d 383, 385 (1998). After careful consideration, the Court finds the Intervenor's Amended  
9 Memorandum of Costs are reasonable and justified.  
10

11 Intervenor is awarded their costs of \$2,882.13.

12 IT IS SO ORDERED.

13 Dated this 14 day of July, 2014.

14  
15   
16 NATHAN TOD YOUNG  
District Judge

17 Copies served by mail this 14 day of July, 2014, to:

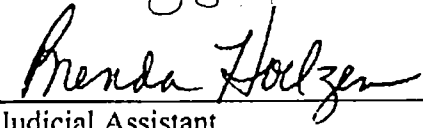
18 Bryan L. Stockton, Esq.  
19 Deputy Attorney General  
20 100 North Carson Street  
Carson City, NV 89701

21 Michael L. Matuska, Esq.  
22 937 Mica Drive, #16A  
Carson City, NV 89705

23 Jessica C. Prunty, Esq.  
24 2805 Mountain Street  
Carson City, NV 89703

25 Thomas J. Hall, Esq.  
26 P.O. Box 3948  
27 Reno, NV 89505-3948

**CERTIFIED COPY**  
The document to which this certificate is attached is a full, true and correct copy of the original in file and of record in my office.  
DATE March 6, 2015  
BOBBIE R. WILLIAMS' Clerk of Court  
of the State of Nevada, in and for the County of Douglas,  
By M. Bragg Deputy

  
Brenda Holzer  
Judicial Assistant

NATHAN TOD YOUNG  
DISTRICT JUDGE  
DOUGLAS COUNTY  
P.O. BOX 218  
MINDEN, NV 89423

COPY



**CERTIFIED COPY**

The document to which this certificate is attached is a full, true and correct copy of the original in file and of record in my office.

DATE March 6, 2015

**BOBBIE R. WILLIAMS** Clerk of Court  
of the State of Nevada, in and for the County of Douglas,

By M. Blas Deputy