

SUPREME COURT OF NEVADA

Eureka County v. Seventh Judicial District Court (Sadler Ranch, LLC)

2018 NV 37 (Nev. 2018) · No. 18-18822 · Decided May 17, 2018

SUMMARY

The Nevada Supreme Court granted a petition for a writ of mandamus in a dispute involving notice to junior water-rights holders in Diamond Valley. The court directed the district court to vacate its order denying the State Engineer's motion and to require notice to all affected junior appropriators before conducting a show-cause hearing.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Justice Hardesty; Justice Parraguirre; Justice Stiglich
JURISDICTION	Nevada
DECIDED	May 17, 2018
DOCKET	18-18822
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original proceeding on a verified petition for a writ of prohibition or, alternatively, a writ of certiorari or mandamus.
STANDARD OF REVIEW	Extraordinary writ relief; the court exercised its discretion to determine whether mandamus was warranted.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion
PARTIES	Eureka County, Alberta Morrison, Baumann Family Trust, Burnham Farms, LLC, Cheryl Morrison, Conley Land & Livestock, LLC, D.F. & E.M. Palmore Family Trust, Damele Farms, Inc., Debra L. Newton, Diamond Natural Resources Protection & Conservation Association, Diamond Valley Hay Company, Inc., Donald Morrison, Don Bergner, Eureka Management Co., Inc., Fred L. Etchegaray, Galen Byler, Gallagher Farms LLC, High Desert Hay, LLC, J.R. Martin Trust, J.W.L. Properties, LLC, J&T Farms, LLC, James Etcheverry, Jason King, P.E., Jayme L. Halpin, John J. Etchegaray, Kristi Miller, Kristina Bell, Lavon Miller, Linda Bergner, LW & MJ Etchegaray Family

Trust, Lynford Miller, Marian Byler, Mark Moyle Farms LLC, Mark T. and Jennifer R. Etcheverry Family Trust, Martin P. and Kathleen A. Etcheverry Family Trust, Mary Jean Etchegaray, Matt Morrison, Michel and Margaret Ann Etcheverry Family, LP, Patricia Norton, Sandi Halpin, Scott Bell, Stewardship Farming, LLC, Susan Miller, Tim Halpin, William H. Norton v. The Seventh Judicial District Court of the State of Nevada, in and for the County of Eureka, Gary Fairman

TOPICS

writ of certiorari

appellate procedure

civil procedure

administrative law

PRACTICE AREAS

civil procedure

water rights

administrative law

extraordinary writs

QUESTIONS PRESENTED

1. Whether the district court should be directed by writ of mandamus to vacate its order denying the State Engineer's motion to require notice to affected appropriators.
2. Whether notice must be provided to all junior water-right holders in Diamond Valley before the district court conducts a show cause hearing.

HOLDINGS

1. The petition for extraordinary writ relief was granted, and the clerk was directed to issue a writ of mandamus vacating the district court's order denying the State Engineer's motion and requiring notice to all junior water-right holders in Diamond Valley before any show cause hearing.

FACTUAL BACKGROUND

The underlying dispute concerned water rights in Diamond Valley and a contemplated show cause hearing involving Sadler Ranch, LLC. The State Engineer sought an order requiring Sadler Ranch to provide notice to affected appropriators, including junior water-right holders. The district court denied that motion.

PROCEDURAL HISTORY

Petitioners sought extraordinary writ relief from the Seventh Judicial District Court's order denying the State Engineer's motion to require Sadler Ranch, LLC, to provide notice to affected appropriators before a show cause hearing. The Nevada Supreme Court granted the petition for rehearing, withdrew its earlier opinion, and again granted the petition, directing issuance of a writ of mandamus.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Issue a writ of mandamus vacating the district court's order denying the State Engineer's motion for Sadler Ranch to provide notice to all affected appropriators in Diamond Valley, and direct the district court to enter an order requiring notice to all junior water-right holders in Diamond Valley before conducting any show cause hearing.

OPINION

PER CURIAM.

72317: Case View Nevada Appellate Courts Appellate Case Management System C-Track, the browser based CMS for Appellate Courts Case Search Participant Search Cases Case Search Participant Search 18-18822: This document is currently unavailable. If you need a copy of this document, please contact Clerk's Office at (775)684-1600. Disclaimer: The information and documents available here should not be relied upon as an official record of action.Only filed documents can be viewed.

Some documents received in a case may not be available for viewing.Some documents originating from a lower court, including records and appendices, may not be available for viewing.For official records, please contact the Clerk of the Supreme Court of Nevada at (775) 684-1600. Case Information: 72317 Short Caption:EUREKA CTY. VS. DIST. CT. (SADLER RANCH, LLC)Court:Supreme Court Lower Court Case(s):Eureka Co. - Seventh Judicial DistrictClassification:Original Proceeding - Civil - Cert/Man/Pro Disqualifications:Case Status:Notice in Lieu of Remittitur Issued/Case Closed Replacement:Panel Assigned: Panel To SP/Judge:SP Status: Oral Argument:Oral Argument Location: Submission Date:10/13/2017How Submitted:On Record And Briefs + Party Information RoleParty NameRepresented By PetitionerAlberta MorrisonDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerBaumann FamilyTrustDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerBurnham Farms, LLCDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerCheryl MorrisonDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerConley Land & Livestock, LLCDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerD.F. & E.M.

Palmore Family TrustDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerDamele Farms, Inc.Debbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerDebra L. NewtonDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerDiamond Natural Resources Protection & Conservation AssociationDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald

Carano LLP/Reno) PetitionerDiamond Valley Hay Company, Inc.Debbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerDonald MorrisonDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerDon BergnerDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerEureka CountyTheodore Beutel (Eureka County District Attorney) Karen A. Peterson (Allison MacKenzie, Ltd.)

Willis M. Wagner (Greenberg Traurig, LLP/Sacramento) PetitionerEureka Management Co., Inc.Debbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerFred L. EtchegarayDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerGalen BylerDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerGallagher Farms LLCDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerHigh Desert Hay, LLCDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerJ.R.

Martin TrustDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerJ.W.L. Properties, LLCDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerJ&T Farms, LLCDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerJames EtcheverryDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerJason King, P.E.Justina Alyce Caviglia (Attorney General/Carson City) PetitionerJayme L. HalpinDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerJohn J. EtchegarayDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerKristi MillerDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerKristina BellDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerLavon MillerDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerLinda BergnerDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerLW & MJ Etchegaray Family TrustDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerLynford MillerDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerMarian BylerDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerMark Moyle Farms LLCDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerMark T. and Jennifer R. Etcheverry Family TrustDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerMartin P. and Kathleen A. Etcheverry Family TrustDebbie A. Leonard

(McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerMary Jean EtchegarayDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerMatt MorrisonDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerMichel and Margaret Ann Etcheverry Family, LPDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerPatricia NortonDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerSandi HalpinDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerScott BellDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerStewardship Farming, LLCDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerSusan MillerDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerTim HalpinDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) PetitionerWilliam H. NortonDebbie A. Leonard (McDonald Carano LLP/Reno) Michael A. T. Pagni (McDonald Carano LLP/Reno) Real Party in InterestJudith AllenRobert William Marshall (Parsons Behle & Latimer/Reno) Gregory H. Morrison (Parsons Behle & Latimer/Reno) Real Party in InterestRoger AllenRobert William Marshall (Parsons Behle & Latimer/Reno) Gregory H. Morrison (Parsons Behle & Latimer/Reno) Real Party in InterestSadler Ranch, LLCDavid H. Rigdon (Taggart & Taggart, Ltd.)

Paul G. Taggart (Taggart & Taggart, Ltd.) Rachel L. Wise (Taggart & Taggart, Ltd.) RespondentGary Fairman RespondentThe Seventh Judicial District Court of the State of Nevada, in and for the County of Eureka Docket Entries DateTypeDescriptionPending?Document
02/08/2017Filing FeeFiling fee paid. E-Payment \$250.00 from Karen A Peterson.
02/08/2017Petition/WritFiled Verified Petition for Writ of Prohibition or in the Alternative, Writ of Certiorari or Mandamus.17-04512 02/08/2017AppendixFiled Appendix to Petition for Writ - Volumes 1-2.17-04632 02/08/2017Notice/IncomingFiled Notice of Verified Petition for Writ of Prohibition or in the Alternative, Writ of Certiorari or Mandamus.17-04633
03/01/2017MotionFiled Real Party in Interest's Motion to Dismiss Petition for Writ of Prohibition or, in the Alternative, Writ of Certiorari or Mandamus.17-06991 03/06/2017MotionFiled Petitioner Eureka County's Response in Opposition to Motion to Dismiss.17-07420
03/08/2017Notice/IncomingFiled Petitioner Diamond Natural Resources Protection & Conservation Association's Joinder in Opposition to Motion to Dismiss Petition for Writ of Prohibition or, in the Alternative, Petition for Writ of Prohibition or, in the Alternative, Writ of Certiorari or Mandamus.17-07832 03/10/2017MotionFiled Real Party in Interest's Reply to Eureka County's Response in Opposition to Motion to Dismiss Petition for Writ of Prohibition or, in the Alternative, Writ of Certiorari or Mandamus.17-08222 03/16/2017MotionFiled Real Party In

Interest Sadler Ranch, LLC's Motion to Dismiss Writ Petition.17-08806
03/16/2017Order/ProceduralFiled Order/Answer Writ Petition.

Answer due: 30 days. fn1[The March 1 and March 16, 2017, motions to dismiss this petition are denied.]17-08905 03/20/2017Notice/IncomingFiled State Engineer's Joinder to Verified Petition.17-09191 04/03/2017MotionFiled Real Party in Interest Ruby Hill Mining Company, LLC's Response to Order Directing Answer.17-10980 04/04/2017Order/ProceduralFiled Order Approving Joinder.

Real Party in interest Jason King, P.E., the Nevada State Engineer, Department of Conservation and Natural Resources, Division of Water Resources has filed a joinder to the petition for writ relief by petitioners. Cause appearing, we approve the joinder.

The clerk shall amend the caption consistent with the caption of this order. King shall have 5 days from the date of this order to provide this court with written proof of service of the joinder on the respondent judge.17-11150 04/06/2017Petition/WritFiled Answer of Roger B. and Judith B. Allen, Real Parties in Interest, to Verified Petition for Writ of Prohibition or, in the Alternative, Writ of Certiorari or Mandamus.17-11462 04/10/2017Notice/IncomingFiled Amended Certificate of Service (State Engineer's Joinder to Verified Petition).17-11766 04/17/2017MotionFiled Real Party in Interest's Response to Order Directing Answer (Election to Not File an Answer).17-12572 04/18/2017AppendixFiled Real Party in Interest's Appendix to Answer to Writ Petition (Sadler Ranch, LLC) Volume 1.17-12769 04/18/2017AppendixFiled Real Party in Interest's Appendix to Answer to Writ Petition (Sadler Ranch, LLC) Volume 2.17-12771 04/18/2017AppendixFiled Real Party in Interest's Appendix to Answer to Writ Petition (Sadler Ranch, LLC) Volume 3.17-12772 04/18/2017AppendixFiled Real Party in Interest's Appendix to Answer to Writ Petition (Sadler Ranch, LLC) Volume 4.17-12773 04/18/2017AppendixFiled Real Party in Interest's Appendix to Answer to Writ Petition (Sadler Ranch, LLC) Volume 5.17-12782 04/18/2017Petition/WritFiled Real Party in Interest's Answer to Petition for Writ (Sadler Ranch, LLC).17-12797 04/25/2017Order/ProceduralFiled Order.

Petitioners' Reply in Support of the Petition due: 15 days.17-13693 05/10/2017Petition/WritFiled Nevada State Engineer's Reply to Answer to Petition.17-15712 05/10/2017Petition/WritFiled Petitioner Eureka County's Reply in Support of Verified Petition for Writ of Prohibition or in the Alternative, Writ of Certiorari or Mandamus.17-15735 05/10/2017AppendixFiled Petitioner Eureka County's Appendix to Reply in Support of Verified Petition for Writ of Prohibition or in the Alternative, Writ of Certiorari or Mandamus VOLUME 1.17-15739 06/06/2017Notice/IncomingFiled Real Party in Interest Sadler Ranch, LLC's Request for Judicial Notice.17-18695 06/14/2017MotionFiled Petitioner's Opposition to Real Party in Interest Sadler Ranch, LLC's Request for Judicial Notice.17-19645 06/21/2017MotionFiled Real Party in

Interest's Reply to Opposition to Real Party in Interest Sadler Ranch, LLC's Request for Judicial Notice.17-20525 07/21/2017Order/ProceduralFiled Order Granting Motion.

Real party in interest Sadler Ranch, LLC, has filed a motion requesting that this court take judicial notice. We grant the motion. We decline to take judicial notice of the documents as appended to Sadler's motion because they are incomplete and do not bear the file-stamp of the district court clerk. Sadler shall have 15 days from the date of this order to file complete and file-stamped copies of the documents that are the subject of the motion.17-24303 08/03/2017MotionFiled Real Party in Interest Sadler Ranch, LLC's Response to Order Granting Motion.17-25898 08/29/2017Order/ProceduralFiled Order.

Numerous parties filed a single response noting that their interests "are aligned with those of Petitioners" and they "therefore support the granting of the writ." We elect to treat this document as a joinder in the petition and conclude that these parties should be designated as petitioners, rather than real parties in interest, in the caption of this matter.

The clerk shall conform the caption on this court's docket to the caption on this order. Ruby Hill Mining Company, LLC's Notice due: 5 days. fn2[If any party objects to this modification of the caption, that party shall notify this court, in writing, within five days from the date of this order.]17-28890 08/31/2017MotionFiled Response of Real Party in Interest Ruby Hill Mining Company, LLC Notifying This Court That It Neither Joins Nor Opposes the "Verified Petition for Writ of Prohibition or in the Alternative, Writ of Certiorari or Mandamus" and Further Notifying This Court That it Should be Removed From the Caption in This Matter.17-29317 09/19/2017Order/ProceduralFiled Order.

We direct the clerk of this court to remove Ruby Hill Mining Company, LLC from the caption of this matter.17-31549 10/13/2017Order/ProceduralFiled Order Submitting for Decision Without Oral Argument.17-34953 12/28/2017Opinion/DispositionalFiled Authored Opinion. "Petition granted." Direct the clerk of this court to issue a writ of mandamus vacating the district court's order denying the State Engineer's motion for Sadler Ranch to provide notice to all affected appropriators in Diamond Valley and direct the district court to enter an order requiring that notice be provided to all junior water rights holders in Diamond Valley prior to any show cause hearing being conducted in the district court.

Before: Hardesty/Parraguirre/Stiglich. Author: Hardesty, J. Majority: Hardesty/Parraguirre/Stiglich. 133 Nev. Adv. Opn. No. 111. NNP17-JH/RP/LS (OPINION WITHDRAWN PER ORDER FILED 5/17/18) 12/28/2017WritIssued Writ with letter. Original and one copy of writ and two copies of the opinion mailed to Attorney Karen Peterson for service upon Judge Gary Fairman.17-44800 01/09/2018WritFiled Returned Writ.

Original Writ returned. Served on Judge Gary Fairman on January 5, 2018.18-01150 01/17/2018Post-Judgment PetitionFiled Real Party in Interest Sadler Ranch, LLC's Petition for Rehearing.18-02243 01/17/2018Filing FeeFiling fee paid. E-Payment \$150.00 from Paul G. Taggart 05/17/2018Post-Judgment OrderFiled Order Granting Petition for Rehearing.

We grant the petition for rehearing and withdraw our opinion that appears at 133 Nev., Adv. Op. 111 (Dec. 28, 2017).18-18818 05/17/2018Opinion/DispositionalFiled Authored Opinion. "Petition granted." Direct the clerk of this court to issue a writ of mandamus vacating the district court's order denying the State Engineer's motion for Sadler Ranch to provide notice to all affected appropriators in Diamond Valley and direct the district court to enter an order requiring that notice be provided to all junior water rights holders in Diamond Valley prior to any show cause hearing being conducted in the district court.

Before: JH/RP/LS. Author: Hardesty, J. Majority: Hardesty/Parraguirre/Stiglich. 134 Nev. Adv. Opn. No. 37. NNP17-JH/RP/LS18-18822 05/17/2018WritIssued Writ with letter. Original and one copy of writ and two copies of opinion mailed to Attorney Karen Peterson for service upon Judge Gary Fairman.18-18912 05/30/2018WritFiled Returned Writ. Original Writ returned.

Served on Judge Gary Fairman on May 24, 2018.18-20600 06/06/2018Notice/IncomingFiled Notice of Substitution of Counsel. Deputy Attorney General has assumed responsibility for representation of respondent Jason King in place of Senior Deputy Attorney General Justina A. Caviglia.18-21469 06/11/2018RemittiturIssued Notice in Lieu of Remittitur.18-22044 06/11/2018Case Status UpdateNotice in Lieu of Remittitur Issued/Case Closed.

Combined Case View