

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ARTHUR W. BELL, IV; PERALDO
BROTHERS; CHRISTINE L. MATLEY
FAMILY TRUST; RAY CONLAN;
FRANCIS E. DUBOIS, III; FALLON
PAIUTE SHOSHONE INDIAN TRIBE;
CITY OF FALLON; FREY RANCH
PARTNERSHIP; DEBRA S. FREY;
CHARLES P. FREY, JR.; CALVIN R.
MOFFITT; STATE OF NV DIV OF L,
Division of Lands; STATE OF
NEVADA PAROLE DEPT., Division of
Wildlife; STILLWATER FARMS INC.;
THE LARRY FRITZ FAMILY TRUST;
TOWN OF FERNLEY,

Defendants,

and

BOARD OF DIRECTORS OF TCID
(TRUCKEE IRRIGATION DISTRICT),
Defendant-Appellant.

No. 05-16154

D.C. No.
CV-95-00757-
HDM

UNITED STATES OF AMERICA,
Plaintiff-Appellant,

v.

ARTHUR W. BELL, IV; PERALDO BROTHERS; CHRISTINE L. MATLEY FAMILY TRUST; RAY CONLAN; FRANCIS E. DUBOIS, III; FALLON PAIUTE SHOSHONE INDIAN TRIBE; CITY OF FALLON; FREY RANCH PARTNERSHIP; DEBRA S. FREY; CHARLES P. FREY, JR.; CALVIN R. MOFFITT; STATE OF NV DIV OF L, Division of Lands; STATE OF NEVADA PAROLE DEPT., Division of Wildlife; STILLWATER FARMS INC.; THE LARRY FRITZ FAMILY TRUST; TOWN OF FERNLEY,

Defendants,

and

BOARD OF DIRECTORS OF TCID
(TRUCKEE IRRIGATION DISTRICT)
Truckee-Carson Irrigation District,
Defendant-Appellee.

No. 05-16157

D.C. No.
CV-95-00757-
HDM

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ARTHUR W. BELL, IV; PERALDO BROTHERS; CHRISTINE L. MATLEY FAMILY TRUST; RAY CONLAN; FRANCIS E. DUBOIS, III; FALLON PAIUTE SHOSHONE INDIAN TRIBE; CITY OF FALLON; FREY RANCH PARTNERSHIP; DEBRA S. FREY; CHARLES P. FREY, JR.; CALVIN R. MOFFITT; STILLWATER FARMS, INC.; THE LARRY FRITZ FAMILY TRUST; TOWN OF FERNLEY; BOARD OF DIRECTORS OF TCID (TRUCKEE IRRIGATION DISTRICT), Truckee-Carson Irrigation District,
Defendants,

and

STATE OF NEVADA, DIVISION OF LANDS; STATE OF NEVADA DIVISION OF WILD LIFE,
Defendants-Appellants.

No. 05-16158

D.C. No.
CV-95-00757-
HDM

UNITED STATES OF AMERICA,
Plaintiff,

v.

ARTHUR W. BELL, IV; PERALDO BROTHERS; CHRISTINE L. MATLEY FAMILY TRUST; RAY CONLAN; FRANCIS E. DUBOIS, III; FALLON PAIUTE SHOSHONE INDIAN TRIBE; CITY OF FALLON; FREY RANCH PARTNERSHIP; DEBRA S. FREY; CHARLES P. FREY, JR.; CALVIN R. MOFFITT; STATE OF NV DIV OF L, Division of Lands; STATE OF NEVADA PAROLE DEPT., Division of Wildlife; STILLWATER FARMS INC.; THE LARRY FRITZ FAMILY TRUST; TOWN OF FERNLEY,
Defendants,

and

BOARD OF DIRECTORS OF TCID
(TRUCKEE IRRIGATION DISTRICT)
Truckee-Carson Irrigation District,
Defendant-Appellee.

No. 05-16187

D.C. No.
CV-95-00757-
HDM

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ARTHUR W. BELL, IV,
Defendant,

FRANCIS E. DUBOIS, III; FALLON
PAIUTE SHOSHONE INDIAN TRIBE,
Defendants,

FREY RANCH PARTNERSHIP; DEBRA
S. FREY; CHARLES P. FREY, JR.,
Defendants,

STATE OF NV DIV OF L, Division of
Lands; STATE OF NEVADA PAROLE
DEPT., Division of Wildlife;
STILLWATER FARMS, INC.,
Defendants,

TOWN OF FERNLEY; BOARD OF
DIRECTORS OF TCID (TRUCKEE
IRRIGATION DISTRICT), Truckee-
Carson Irrigation District,
Defendants,

and

No. 05-16189

D.C. No.
CV-95-00757-
HDM

PERALDO BROTHERS; CHRISTINE L.
MATLEY FAMILY TRUST; RAY
CONLAN,

Defendants-Appellants,

CITY OF FALLON,

Defendant-Appellant,

CALVIN R. MOFFITT,

Defendant-Appellant,

THE LARRY FRITZ FAMILY TRUST,

Defendant-Appellant.

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ARTHUR W. BELL, IV; PERALDO BROTHERS; CHRISTINE L. MATLEY FAMILY TRUST; RAY CONLAN; FRANCIS E. DUBOIS, III; FALLON PAIUTE SHOSHONE INDIAN TRIBE; CITY OF FALLON; FREY RANCH PARTNERSHIP; DEBRA S. FREY; CHARLES P. FREY, JR.; CALVIN R. MOFFITT; STATE OF NV DIV OF L, Division of Lands; STATE OF NEVADA PAROLE DEPT., Division of Wildlife; STILLWATER FARMS INC.; THE LARRY FRITZ FAMILY TRUST; TOWN OF FERNLEY,
Defendants,

and

BOARD OF DIRECTORS OF TCID
(TRUCKEE IRRIGATION DISTRICT)
Truckee-Carson Irrigation District,
Defendant-Appellant.

No. 05-16909

D.C. No.
CV-95-00757-
HDM

ORDER

Filed July 22, 2013

Before: Mary M. Schroeder, Marsha S. Berzon
and Jay S. Bybee¹, Circuit Judges.

ORDER

The mandate of June 30, 2010 is withdrawn. The Opinion filed on April 20, 2010, is amended as follows: on slip Opinion page 5872, replace the Conclusion with the following:

For the foregoing reasons, the judgment of the district court with respect to prejudgment and postjudgment interest is vacated and remanded for further consideration. The judgment with respect to amounts of recoupment for excess diversions in 1974, 1975, 1978, 1979, and spills in 1979 and 1980, as well as the denial of recoupment for excess diversions in the years 1973, 1976, 1985, and 1986, is vacated and remanded for recalculation of the effect of gauge error. The judgment with respect to spills from 1981–84 is vacated and remanded for a determination of the amount of water spilled during those years. The judgment of the district court is otherwise affirmed.

¹ Judge Bybee was drawn to replace Judge Shadur.