

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF FORFEITURE OF WATER)
RIGHTS UNDER PERMIT 22855, CERTIFICATE)
7947, OF THE WATERS OF AN)
UNDERGROUND SOURCE IN PAHRUMP)
VALLEY, NYE COUNTY, NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 22855 was filed by Earl Burson on November 16, 1965, to appropriate underground water for irrigation purposes. The proposed place of use was the W1/2 Section 12, T.21S., R.53E., M.D.B.&M. A permit was issued under Application 22855 on March 25, 1966, for 2.0 c.f.s. of water for irrigation purposes.¹ Certificate 7947 was issued under said permit on October 2, 1972, for 0.50 c.f.s. and 92.5 acre-feet per year for the irrigation of 18.5 acres within the N1/2 SE1/4 NW1/4, Section 12, T.21S., R.53E., M.D.B.&M.²

II.

Documents were submitted to the State Engineer's office to transfer the ownership from Earl Burson to Robert N. and Maybelle J. Hubbard.³

¹ State Exhibit No. 18-B: Public administrative hearings were held before the State Engineer in the matter of the subject permit and others on and at the following dates and places:

December 8, 1987
December 9, 1987
December 10, 1987

Pahrump, Nevada
Pahrump, Nevada
Pahrump, Nevada

Transcripts are a matter of Public record in the office of the State Engineer.

² State Exhibit No. 20-B, December 10, 1987, Transcript.

³ Public record in the office of the State Engineer. See File 22855.

III.

An application for Extension of Time to work a forfeiture and abandonment under Permit 22855, Certificate 7947, was submitted to the State Engineer's office on February 18, 1987, by Robert M. Hubbard.

IV.

Evidence and testimony were received into the record at public hearings before the State Engineer (see Footnote 1) and the State Engineer took administrative notice of various matters as more specifically set forth.⁴

V.

Testimony and evidence establish that the lands described under Permit 22855, Certificate 7947, were not cultivated or irrigated during the period 1982 through 1986 inclusive and that no water was diverted from the source and placed to beneficial use under Permit 22855, Certificate 7947, during this time period.⁵

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter of this action.⁶

II.

The water right under Permit 22855, Certificate 7947, is a "permitted right" and a "determined right" as described in NRS 534.090 and one therefore subject to the provisions of that statute.

⁴ See Transcript of December 10, 1987, page 293.

⁵ Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office, see Transcript, page 324, Testimony of Robert M. Hubbard, see Transcript pages 341 through 348 inclusive, State of Nevada Exhibit 5, Volumes I, II and III.

⁶ NRS 534.090.

III.

Forfeiture of a water right does not become final until expiration of a time of appeal of a ruling declaring such right forfeited.⁷

IV.

The record provides substantial evidence that, for the period between January 1, 1982, through December 31, 1986, (5 successive years), water from the underground source described has not been beneficially used for the purpose for which the water rights were acquired under Permit 22855, Certificate 7947.

V.

The application for Extension of Time for forfeiture and abandonment submitted by Robert M. Hubbard was filed after the 5 successive years of non-use.⁸ The State Engineer may not consider the application for Extension of Time.

RULING

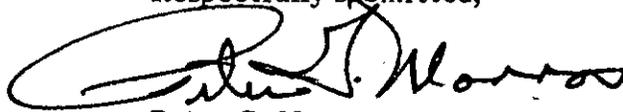
The right to appropriate and beneficially use water for the 18.5 acres of land described under the place of use under Permit 22855, Certificate 7947, has been forfeited because of failure for five successive years, on the part of the holder of the right, to beneficially use the underground water for the purposes for which the subject right was acquired. It is further the State Engineer's ruling that the application for Extension of Time to work a forfeiture for Permit 22855, Certificate 7947, was not

⁷ NRS 534.090(4) and NRS 533.450.

⁸ NRS 534.090(2).

timely filed in conformance with NRS 534.090(2); therefore, the State Engineer may not consider the Extension of Time request. The request for Extension of Time to work a forfeiture is denied.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/HR/bk

Dated this 20th day of
April, 1988.