

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF FORFEITURE OF WATER)
RIGHTS UNDER PERMIT 29397, CERTIFICATE)
8991, OF THE WATERS OF AN)
UNDERGROUND SOURCE IN PAHRUMP)
VALLEY, NYE COUNTY, NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 29397 was filed by Clovis L. and Julia C. Cates on May 19, 1975, to change the point of diversion and the place of use of a portion of Permit 24712, for irrigation and domestic purposes. The proposed place of use was within the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 7, T.20S., R.53E., M.D.B.&M. A permit was issued under Application 29397 on December 11, 1975, for 0.042 c.f.s. of water for irrigation and domestic purposes.¹ Certificate 8991 was issued under said permit on March 4, 1977, for 0.042 c.f.s. and 25.0 acre-feet per year for the irrigation of 5 acres.²

II.

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.³

III.

The entire 25.0 acre-feet of water for the irrigation of the 5 acres under the place of use of Permit 29397, Certificate 8991 was subject to a forfeiture determination.⁴

¹ State Exhibit No. 13-E. Public administrative hearing were held before the State Engineer in the matter of the subject permit and others on and at the following dates and places:

December 13, 1988	Pahrump, Nevada
December 14, 1988	Pahrump, Nevada

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

² State Exhibit No. 14-E, December 14, 1988, transcript.

³ See transcript of December 14, 1988, page 23.

IV.

Testimony and evidence establish that the lands described under Permit 29397, Certificate 8991, 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 29397, Certificate 8991, 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 29397, Certificate 8991, is a "permitted right" and a "determined right" as described in NRS 534.090 and therefore subject to the provisions of that statute.

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, 1987 (6 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 29397, Certificate 8991.

⁴ State Exhibit No. 15-E.

⁵ Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office; see transcript pages 70 through 73 inclusive, State of Nevada Exhibit 2, Volumes I, II and III; and State of Nevada Exhibit No. 11. Testimony of Julia C. Cates, see transcript, pages 74 through 77, inclusive.

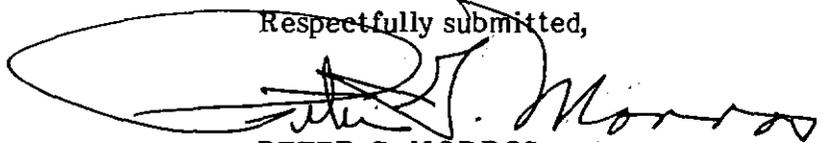
⁶ NRS 534.090.

⁷ NRS 534.090(4) and NRS 533.450.

RULING

The right to appropriate and beneficially use water to the lands described under the place of use under Permit 29397, Certificate 8991, 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.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", is written over a large, hand-drawn oval. The signature is fluid and cursive.

PETER G. MORROS
State Engineer

PGM/GWQ/bk

Dated this 26th day of

July, 1989.