

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF FORFEITURE OF WATER)  
RIGHTS UNDER PERMIT 29967, CERTIFICATE)  
10429, OF THE WATERS OF AN)  
UNDERGROUND SOURCE IN PAHRUMP)  
VALLEY, NYE COUNTY, NEVADA. )

RULING

FINDINGS OF FACT

I.

Application 29967 was filed by Roy E. and Phyllis J. Archer on February 5, 1976, to change the point of diversion and the place of use of a portion of Permit 19441, Certificate 5866, for irrigation and domestic purposes. The proposed place of use was the E $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$ , Section 28, T.19S., R.53E., M.D.B.&M. A permit was issued under Application 29967 on September 22, 1976, for 0.057 c.f.s. of water for irrigation and domestic purposes.<sup>1</sup> Certificate 10429 was issued under said permit on November 5, 1982, for 0.057 c.f.s. and 21.9 acre-feet per year for the irrigation of 4.38 acres.<sup>2</sup>

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.<sup>3</sup>

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<sup>1</sup> State Exhibit No. 7-J. 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 13, 1988	Pahrump, Nevada
December 14, 1988	Pahrump, Nevada

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

<sup>2</sup> State Exhibit No. 8-J, December 13, 1988, transcript.

<sup>3</sup> See transcript of December 13, 1988, page 18.

III.

The entire 21.9 acre-feet of water for the irrigation of the 4.38 acres under the place of use of Permit 29967, Certificate 10429, was subject to a forfeiture determination.<sup>4</sup>

IV.

Testimony and evidence establish that the lands described under Permit 29967, Certificate 10429, 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 29967, Certificate 10429, during this time period.<sup>5</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter of this action.<sup>6</sup>

II.

The water right under Permit 29967, Certificate 10429, is a "permitted right" and a "determined right" as described in NRS 534.090 and one 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.<sup>7</sup>

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<sup>4</sup> State Exhibit No. 9-I.

<sup>5</sup> Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office; see transcript pages 52 through 54, inclusive, State of Nevada Exhibit 2, Volumes I, II and III; and State of Nevada Exhibit No. 11.

<sup>6</sup> NRS 534.090.

<sup>7</sup> NRS 534.090(4) and NRS 533.450.

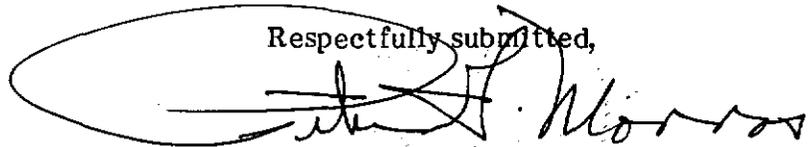
IV.

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 29967, Certificate 10429.

**RULING**

The right to appropriate and beneficially use water to the lands described under the place of use under Permit 29967, Certificate 10429, 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.