

IN THE OFFICE OF THE STATE ENGINEER  
IN THE STATE OF NEVADA

IN THE MATTER OF FORFEITURE OF WATER )  
RIGHTS UNDER PERMIT 24689, CERTIFICATE)  
8143 TO APPROPRIATE WATERS FOR )  
IRRIGATION AND DOMESTIC PURPOSES FROM )  
AN UNDERGROUND SOURCE IN THE PAHRUMP )  
VALLEY, NYE COUNTY, NEVADA. )

RULING  
#3795

FINDINGS OF FACT

I.

Application 24689 was filed September 16, 1968 to appropriate 2.0 c.f.s. of water from an underground source for irrigation and domestic purposes on 149 acres within the SE1/4 Section 12, T.21S., R.53E., M.D.B.&M. The point of diversion is described as being within the SE1/4 SE1/4 Section 12, T.21S., R.53E., M.D.B.&M.<sup>1</sup>

II.

The State Engineer issued Permit 24689 for Application 24689 on July 25, 1969 for 2.0 c.f.s., but not to exceed a yearly duty of 5.0 acre-feet per acre of land irrigated from any and/or all sources.<sup>1</sup>

The State Engineer issued Amended Permit 24689 on September 11, 1969 to correct Permit 24689 and limit the place of use to 140.68 acres. Other permit information and terms remained the same.<sup>1</sup>

III.

The State Engineer issued Certificate 8143 for Permit 24689 on September 19, 1973. The certificate was issued for 2.0 c.f.s. but not to exceed 188.0 acre-feet annually. The land to which the water is appurtenant is described as being 37.6 acres in the SE1/4 SE1/4 of Section 12, T.21S., R.53E., M.D.B.&M.<sup>2</sup>

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<sup>1</sup> Public record in the office of the State Engineer under Permit 24689.

<sup>2</sup> Public record in the office of the State Engineer under Permit 24689 and under Certificate 8143.

IV.

The State Engineer has determined from the Pahrump Valley Ground Water Pumpage Inventory that water was put to beneficial use on only 10 acres of the 37.6 acres under Certificate 8143 in the years 1980 through 1989.<sup>3</sup>

V.

By assignment, Permit 24689, Certificate 8143, now stands in the name of James H. Fincher.<sup>1</sup>

VI.

On April 1, 1990, James H. Fincher, current owner of Permit 24689, Certificate 8143, filed an affidavit with the State Engineer stating:

- 1) that 10 acres under the permit were farmed in accordance within the provisions of Nevada Revised Statutes (NRS) 534.090 (1);
- 2) that 27.6 acres under the permit were not farmed in accordance with NRS 534.090 (1); and
- 3) that he would relinquish 27.6 acres of water rights from the 37.6 acres of the certificate with no protest or conditions whatsoever.<sup>1</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.<sup>4</sup>

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<sup>3</sup> Public record in the office of the State Engineer in the Pahrump Ground Water Pumpage Inventory.

<sup>4</sup> NRS 534.090.

II.

NRS 534.090 (1) provides that:

1. Except as provided in subsections 2 and 3, failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, and unadjudicated right, or a permitted right, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purposes for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse. Upon the forfeiture of a right to the use of ground water, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon notice by registered or certified mail to the person of record whose right has been declared forfeited, that person fails to appeal such ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final.<sup>4</sup>

III.

The State Engineer concludes from the available information and data that for a period in excess of 5 successive years water has not been beneficially used on 27.6 acres in the SE1/4 SE1/4 Section 12, T.21S., R.53E., M.D.B.&M., under Permit 24689, Certificate 8143.

IV.

The State Engineer concludes from available information and data that water was used for irrigation purposes on 10 acres in the SE1/4 SE1/4 Section 12 under Permit 24689, Certificate 8143.

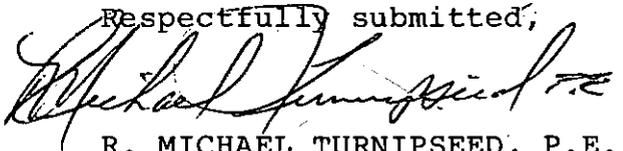
RULING

The State Engineer rules that a portion of the right to appropriated water appurtenant to 27.6 acres under Permit 24689, Certificate 8143 has been forfeited because of the failure for 5 successive years to use water beneficially for the purpose for which the rights were acquired.

The State Engineer rules that a portion of the right to appropriate water appurtenant to 10 acres under Permit 24689, Certificate 8143, which is 0.53 c.f.s., 50 acre-feet, is not forfeited at this time.

The State Engineer rules that the Application for Extension of Time to Work a Forfeiture submitted November 13, 1990 for Permit 26489, Certificate 8143 is approved to December 31, 1991.

Respectfully submitted;



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/CAB/pm

Dated this 15th day of  
April, 1991.