

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

IN THE MATTER OF FORFEITURE OF WATER)
RIGHTS UNDER PERMIT 15816, CERTIFICATE)
4331, OF THE WATERS OF AN UNDERGROUND)
SOURCE IN PAHRUMP VALLEY, NYE COUNTY,)
NEVADA.)

RULING

4193

GENERAL

I.

Application 15816 was filed by Frank A. Buol on October 1, 1954, to change the place of use of the public waters of the State of Nevada previously appropriated under Permit 12700, for irrigation and domestic purposes. The proposed place of use was the W $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T.20S., R.53E., M.D.B.&M. A permit was issued under Application 15816 on December 30, 1954, for 0.50 cfs of water for irrigation and domestic purposes.¹ Certificate 4331 was issued under said permit on February 20, 1956, for 0.10 cfs and 33 acre-feet per year for the irrigation of 6.565 acres.²

II.

Deeds were submitted to the State Engineer's office transferring the ownership of Permit 15816, Certificate 4331, to the Horseshoe Club Operating Co.³

III.

Evidence and testimony were received at public hearings before the State Engineer (see Footnote 1) and the State Engineer took

¹ State Exhibit No. 7-C. 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.

² State Exhibit No. 8-C, December 13, 1988.

³ Public record of the State Engineer, see File 15816.

administrative notice of various matters as more specifically set forth.⁴

IV.

The portion of Permit 15816, Certificate 4331, subject to a forfeiture determination is 18.725 acre-feet annually for the irrigation of 3.745 acres within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T.20S., R.53E., M.D.B.&M.⁵ The water right appurtenant to the remaining 2.82 acres is not the subject of this or any other forfeiture proceeding.

FINDINGS OF FACT

I.

Testimony and evidence establish that 3.745 acres within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, T.20S., R.53E., M.D.B.&M., described under Permit 15816, Certificate 4331, were cultivated or irrigated during the period 1982 through 1987, inclusive, and that water was diverted from the source and placed to beneficial use under Permit 15816, Certificate 4331, during that time period.⁶

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter of this action.⁷

II.

Failure for a period of five consecutive years, to use beneficially the underground water for the purpose for which it is acquired works a forfeiture of the water right.⁷

⁴ See Transcript of December 13, 1988, page 18.

⁵ State Exhibit No. 9-C.

⁶ Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office; see Transcript pages 58 through 61, inclusive, State of Nevada Exhibit 2, Volumes I, II and III. No response was made by any other party. See Transcript page 62.

⁷ NRS 534.090.

III.

The water right under Permit 15816, Certificate 4331, is a "permitted right" and a "determined right" as described in NRS 534.090 and one, therefore, subject to the provisions of that statute.

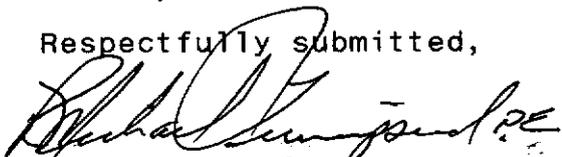
IV.

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 been beneficially used on the 3.745 acres, for the purpose for which the water rights were acquired under Permit 15816, Certificate 4331.

RULING

The right to beneficially use water on the 3.745 acres of land under Permit 15816, Certificate 4331, has not been forfeited because the record provides substantial evidence that, for the period between 1982 and 1987, water from the underground source described has been beneficially used for the purposes for which the water rights were acquired.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/GWQ/pm

Dated this 22nd day of
June, 1995.