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STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES
BEFORE THE HEARING OFFICER, JONATHAN C. PALM

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In the Matter of the)
PERMIT NUMBERS 14054,)
15702, AND 17137.)
_____)

Ruling No.
4445

REPORTER'S TRANSCRIPT OF PROCEEDINGS
HEARING ON POSSIBLE FORFEITURE OF WATER RIGHTS
WEDNESDAY, OCTOBER 9, 1996
LAS VEGAS, NEVADA

Reported By: KAREN YATES, RPR
Nevada CCR No. 195

1 from Mr. DeWitt stating that in March and April of 1993 the
2 property was cleared, a new concrete pivot pad was
3 installed, and an underground power line was installed.
4 Then in May of 1993 a cover crop was planted and irrigated.

5 I find that the process of preparing for
6 irrigation began in March of 1993. Actual application of
7 water to beneficial use began in May of 1993.

8 Given the fact that the letter showing the
9 initiation of the forfeiture proceedings was dated June 13,
10 1993, I find that irrigation occurred prior to the
11 initiation of the forfeiture proceedings.

12 I will enter my conclusions: Under the rule
13 adopted by the Nevada Supreme Court in the Town of Eureka
14 case, substantial use of water after the statutory period of
15 non-use cures claims to forfeiture, as long as no claim or
16 proceeding of forfeiture has begun. In this case I did not
17 make a finding as to the actual occurrence of a forfeiture,
18 and I don't think it's necessary.

19 I found that the water was placed to beneficial
20 use prior to the initiation of the forfeiture proceedings
21 and, therefore, I conclude that if indeed a statutory period
22 of non-use occurred and a forfeiture existed, it was cured
23 in 1993 before the proceedings began.

24 The cure consisted of clearing the property,
25 preparing the underground power line, and the new pivot pad.

1 I also found that actual beneficial use of the water began
2 in May of 1993. These activities are all clearly prior to
3 June of 1993 when the forfeiture proceeding began.

4 Therefore, I conclude that if there was a
5 forfeiture of these water rights, then it was cured in 1993.

6 At this time I will enter the ruling. The right
7 to beneficially use water under Permit 15702, Certificate
8 6444, is not declared forfeited on the ground that the water
9 rightholder cured the forfeiture prior to the notice of the
10 forfeiture proceeding.

11 With that, I will declare this hearing closed.

12 MR. BENESCH: Thank you.

13 (The hearing concluded at 4:25 p.m.)
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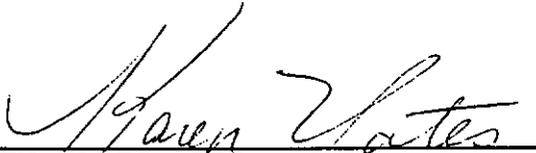
STATE OF NEVADA,)
)
CARSON CITY.) ss.

I, KAREN YATES, a Certified Court Reporter in
and for the State of Nevada, do hereby certify:

That I was present at a meeting of the Nevada
Department of Conservation and Natural Resources, Division
of Water Resources, on Wednesday, October 9, 1996, at the
Grant Sawyer State Office Building, Las Vegas, Nevada, and
took verbatim stenotype notes of the proceedings had upon
the hearing in the matter of Permits 14054, 15702, and
17137, and transcribed them into typewriting as herein
appears,

That the foregoing transcript, consisting of
pages 1 through 107, is a full, true and correct
transcription of my stenotype notes of said hearing.

DATED at Carson City, Nevada, this 16th day of
October, 1996.



KAREN YATES, RPR
Nevada CCR No. 195