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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 )  
Possible Forfeiture of Permit )  
12560, Certificate 4857 )  
\_\_\_\_\_ )

**RULING NO.**  
**4480**

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
PUBLIC HEARING  
WEDNESDAY, DECEMBER 18, 1996  
PAHRUMP, NEVADA

APPEARANCES:

For the Division: MARTA ADAMS, Deputy A.G.  
ROBERT COACHE

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

1 (The witness was excused.)

2 MR. PALM: Ms. Adams, any closing statement you  
3 would like to make?

4 MS. ADAMS: Very briefly. The purpose of this  
5 hearing is really to explore use or non-use at the place of  
6 use. Again, we are dealing with 60 acre feet under Permit  
7 12560.

8 Based on Mr. Coache's testimony we have shown that  
9 there has been no irrigation or beneficial use of the water  
10 during the period 1988 through 1993, and certainly within  
11 the period 1989 through 1993. And based on that, we would  
12 move the State Engineer to declare a forfeiture of the area  
13 of the place of use.

14 MR. PALM: Thank you. At this point I'm going to  
15 declare that the evidentiary portion of this hearing is  
16 closed.

17 The State Engineer has authorized me to enter a  
18 verbal ruling at this hearing. Therefore, I'm going to make  
19 findings of facts, conclusions, and the ruling on this  
20 record. And this ruling will apply specifically to the 60  
21 acre feet that is held by Lennon and Homka. This ruling  
22 will not apply to the other portions of this water right.

23 The facts of this case are: The pumpage inventory  
24 indicates that between the years 1988, 1989 and 1993 there  
25 was no use for the 60 acre feet of this water right. We

1 have the eyewitness testimony of Mr. Coache who performed  
2 the inventory for some of those years and also visited the  
3 property later, and testified that he has observed that  
4 there has been no use of this water right.

5 We have Mr. Coache's testimony saying that there  
6 is desert brush vegetation over this property, which  
7 indicates that a crop was not being grown. We also have  
8 Mr. Coache's testimony regarding the pump and the well at  
9 the point of diversion under this water right during the  
10 alleged period of forfeiture. And since then Mr. Coache has  
11 observed that this well has not been in operation.

12 Finally, we have Number Six, which is a parcel map  
13 indicating that the land use of this property is no longer  
14 irrigation but now has been divided into lots. And we have  
15 homes built there that are served by domestic wells.

16 When I consider all of this evidence and  
17 testimony, I find that there is clear and convincing  
18 evidence of the non-use of the water, of the 60 acre feet of  
19 water under Permit 12560, Certificate 4857.

20 Conclusions. Based on the above finding, I  
21 conclude that a period of continuous non-use exceeding five  
22 years has occurred on this property. I further conclude  
23 that the 60 acre feet held by Homka and Lennon should be  
24 declared forfeited.

25 Ruling. The right to use the 60 acre feet held by

1 Lennon and Homka is hereby declared forfeited on the grounds  
2 that there has occurred a continuous period of non-use  
3 exceeding five years in accordance with NRS 534.090.

4 With that, I'll declare this hearing closed.

5 (The hearing concluded at 10:10 a.m.)  
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STATE OF NEVADA,     )  
                              )     ss.  
CARSON CITY.         )

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, held at the Pahrump Community Center,  
Room A, 150 Highway 160, Pahrump, Nevada, on Wednesday,  
December 18, 1996, at 9:40 a.m., and took verbatim stenotype  
notes of the proceedings had upon the hearing in the matter  
of the Possible Forfeiture of Permit 12560, Certificate  
4857, and thereafter transcribed them into typewriting as  
herein appears,

That the foregoing transcript, consisting of  
pages 1 through 21, is a full, true and correct  
transcription of my stenotype notes of said hearing.

DATED at Carson City, Nevada, this 7th day of  
January, 1997.

  
KAREN YATES, RBR  
Nevada CCR No. 195