

**IN THE OFFICE OF THE STATE ENGINEER**

IN THE MATTER OF FORFEITURE OF WATER)  
RIGHTS UNDER PERMIT 21128, CERTIFICATE)  
7308, OF THE WATER OF AN UNDERGROUND)  
SOURCE IN PAHRUMP VALLEY, NYE)  
COUNTY, NEVADA. )

**RULING**

**FINDINGS OF FACT**

I.

Application 21128 was filed by Clover Burson on March 15, 1963, to appropriate underground water for irrigation purposes. The proposed place of use under Application 21128 was the NW1/4, Section 11, and the SW1/4 Section 2, all in T.21S., R.53E., M.D.B.&M. A permit was issued under Application 21128 on February 26, 1965, for 2.7 c.f.s. of water for irrigation and domestic purposes.<sup>1</sup> Certificate 7308 was issued under said permit on March 20, 1970, for 0.65 c.f.s. and 200.5 acre-feet per year for the irrigation of 40.1 acres.<sup>2</sup>

II.

Documents were submitted to the State Engineer's office on April 2, 1979, by Clover Burson to transfer a portion of the ownership of Permit 21128, Certificate 7308, to Katrina Development Corporation. Documents were submitted to the State Engineer's office on June 13, 1979, by Katrina Development Corporation to transfer a portion of the ownership of Permit 21128, Certificate 7308, to Rachelle Development.<sup>3</sup>

III.

The portion of Permit 21128, Certificate 7308, remaining in the name of Katrina Development Corporation and Rachelle Development, is 0.28 cubic feet per second (c.f.s.) and 86.84 acre-feet annually for irrigation of 17.35 acres of land.<sup>3</sup>

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<sup>1</sup> State Exhibit No. 14-D: 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 8, 1987	Pahrump, Nevada
December 9, 1987	Pahrump, Nevada
December 10, 1987	Pahrump, Nevada

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

<sup>2</sup> State Exhibit No. 16-D, December 9, 1987, Transcript.

<sup>3</sup> Public Record in the office of the State Engineer. See File 21128.

IV.

Evidence and testimony relating to forfeiture of Permit 21128, Certificate 7308, was 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>4</sup>

V.

Testimony and evidence establish that the lands described under the place of use of Permit 21128, Certificate 7308, were not cultivated and irrigated during the period of 1982 through 1986, inclusive and that no water was diverted from the source and placed to beneficial use under Permit 21128, Certificate 7308, 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 21128, Certificate 7308, is a "permitted right" and a "determined right" as described in NRS 534.090 and is therefore subject to the provisions of that statute.

III.

Forfeiture of a water right does not become final until expiration of time of appeal of a ruling declaring such right forfeited.<sup>7</sup>

IV.

The record provides substantial evidence that, during the period between January 1, 1982, through December 30, 1986, (five (5) successive years) water from the underground source described was not beneficially used for the purpose for which the water rights were acquired under Permit 21128, Certificate 7308.

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<sup>4</sup> See Transcript of December 9, 1987, Page 189.

<sup>5</sup> Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office, see Transcript, Page 226 and pages 277 through 278, inclusive, and State of Nevada Exhibit 5, Volumes I, II and III.

<sup>6</sup> NRS 534.090.

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

RULING

The right to appropriate and beneficially use water to the lands described under the place of use under Permit 21128, Certificate 7308, has been forfeited because of failure for five (5) 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", enclosed within a large, hand-drawn oval.

Peter G. Morros  
State Engineer

PGM/HR/bk

Dated this 28th day of

March, 1988.