

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF FORFEITURE OF WATER)
RIGHTS UNDER PERMIT 24071, CERTIFICATE)
7811, OF THE WATERS OF AN UNDERGROUND)
SOURCE IN PAHRUMP VALLEY, NYE COUNTY,)
NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 24071 was filed by John O. Parko on August 17, 1967, to appropriate underground water for irrigation and domestic purposes. The proposed place of use was the NW1/4, SW1/4, SW1/4 SW1/4, and the SE1/4 SW1/4 within Section 36, T.21S., R.53E., M.D.B.&M. A permit was issued under Application 24071 on March 11, 1968 for 2.025 c.f.s. of water for irrigation and domestic purposes.¹ Certificate 7811 was issued under said permit on March 22, 1972 for 0.73 c.f.s. and 194 acre-feet per year for the irrigation of 38.8 acres.²

II.

Evidence and testimony were 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.³

¹ State Exhibit No. 3. A public administrative hearing was held before the State Engineer in the matter of the subject permit on August 9, 1989, at Las Vegas, Nevada. Transcripts are a matter of Public record in the office of the State Engineer.

² State Exhibit No. 2, August 9, 1989. Transcript.

³ See Transcript of August 9, 1989 pages 8 and 14.

III.

The entire 194 acre-feet of water for the irrigation of the 38.8 acres under the place of use of Permit 24071, Certificate 7811, was subject to the forfeiture determination.⁴

IV

Evidence and testimony establish that the lands described under Permit 24071, Certificate 7811, were cultivated or irrigated during the irrigation season of 1985, and that water was diverted from the source and placed to beneficial use under Permit 24071, Certificate 7811, during this time period.⁵

CONCLUSIONS

The State Engineer has jurisdiction in the subject matter of this action.⁶

II.

The water right under Permit 24071, Certificate 7811, is a "permitted right" and a "determined right" as described in NRS 534.090 and one therefore subject to the provisions of that statute.

III.

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

4 State Exhibit No. 4.

5 Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office, see Transcript, Pages 7 through 17 inclusive. Testimony of John O. Parko, See Transcript, pages 18 through 43, inclusive.

6 NRS 534.090.

7 NRS 534.090(4) and NRS 533.450.

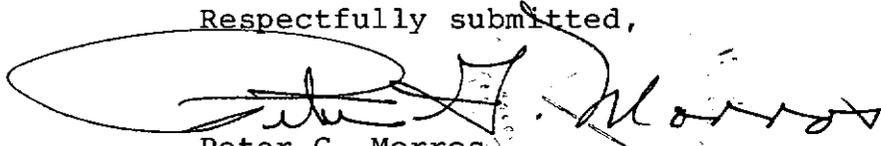
IV.

The record provides substantial evidence that, for the irrigation season of 1985, water from the underground source described was beneficially used for the purpose for which the water right was acquired under Permit 24071, Certificate 7811. There is insufficient evidence to establish a period of (5) Five consecutive years to non-use.

RULING

The record indicates that there is insufficient evidence to establish a forfeiture of the right to beneficially use water on the 38.8 acres of land in the SE1/4 SW1/4 Section 36, T.21S., R.53E., M.D.B.&M., that being the place of use under Permit 24071, Certificate 7811.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/GWQ/pm

Dated this 29th day of
September, 1989.