

**IN THE OFFICE OF THE STATE ENGINEER**

IN THE MATTER OF FORFEITURE AND/OR)  
ABANDONMENT OF WATER RIGHTS UNDER)  
PERMIT 17117, CERTIFICATE 5332, OF THE)  
WATERS OF AN UNDERGROUND SOURCE IN)  
PAHRUMP VALLEY, NYE COUNTY, NEVADA.)

**RULING**

**FINDINGS OF FACT**

I.

Application 17117 was filed by John William Ward on December 18, 1956, to appropriate underground water for irrigation purposes. The proposed place of use was Lot 3 (NE1/4 SE1/4) and the NW1/4 SE1/4, Section 25, T.21S., R.53E., M.D.B.&M. A permit was issued under Application 17117 on June 5, 1957, for 1.25 c.f.s. of water for irrigation purposes.<sup>1</sup> Certificate 5332 was issued under said permit on May 17, 1962, for 0.75 c.f.s. and 48.0 acre-feet per year for the irrigation of 9.6 acres.<sup>2</sup>

II.

Documents were submitted to the State Engineer's office on April 10, 1987, by David M. Stundon to transfer the ownership from John William Ward to David M. and Dorothy Stundon.<sup>3</sup>

III.

By letter dated November 30, 1987, the State Engineer's office assigned a portion of Permit 17117, Certificate 5332, to David M. and Dorothy M. Stundon, husband and wife, this portion being 0.4739 cubic feet per second (c.f.s.) and 30.3273 acre-feet annually for irrigation of 6.065 acres of land.

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<sup>1</sup> State Exhibit No. 2-A: 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. 4-A, December 8, 1987, Transcript.

<sup>3</sup> Public record in the office of the State Engineer. See File 17117.

IV.

The portion of Permit 17117, Certificate 5332, not assigned to David M. and Dorothy M. Stundon, remained in the name of Gary Dean White and Nancy L. White, that being 0.2761 c.f.s. and 17.6727 acre-feet annually for irrigation of 3.535 acres of land.

V.

An application for extension of time to work a forfeiture and abandonment under Permit 17117, Certificate 5332, was submitted to the State Engineer's office on April 10, 1987, by David M. Stundon.

VI.

Evidence and testimony 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>

VII.

Testimony and evidence establish that the lands described under Permit 17117, Certificate 5332, were not cultivated or irrigated during the period 1982 through 1986 inclusive and that no water was diverted from the source and placed to beneficial use under Permit 17117, Certificate 5332, 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 17117, Certificate 5332, 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.<sup>7</sup>

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<sup>4</sup> See Transcript of December 8, 1987, Page 18.

<sup>5</sup> Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office, see Transcript, Pages 61 through 65, inclusive. Testimony of David Stundon, see Transcript Pages 21 through 31, inclusive, 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.

IV.

The record provides substantial evidence that, for the period between January 1, 1982, through December 31, 1986 (5 successive years), water from the underground source described has not been beneficially used for the purpose for which the water rights were acquired under Permit 17117, Certificate 5332.

V.

The application for extension of time for forfeiture and abandonment submitted by David Stundon was filed after the 5 successive years of non-use.<sup>8</sup> The State Engineer may not consider the application for extension of time.

RULING

The right to appropriate and beneficially use water to the lands described under the place of use under Permit 17117, Certificate 5332, has been forfeited because of failure for five 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. It is further the State Engineer's ruling that the application for extension of time to work a forfeiture for Permit 17117, Certificate 5332, was not timely filed in conformance with NRS 534.090 (2); therefore, the State Engineer may not consider the extension of time request and therefore the request for extension of time to work a forfeiture is denied.

Respectfully submitted,



PETER G. MORROS  
State Engineer

PGM/HR/jjk

Dated this 18th day of  
March, 1988.

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<sup>8</sup> NRS 534.090(2).