

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF FORFEITURE AND/OR
ABANDONMENT OF WATER RIGHTS UNDER)
PERMIT 21048, CERTIFICATE 7544, PERMIT)
21050, CERTIFICATE 7669, PERMIT 21051,))
CERTIFICATE 7719, OF THE WATER OF AN)
UNDERGROUND SOURCE IN PAHRUMP)
VALLEY, NYE COUNTY, NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 21048 was filed by Lela Mae White on February 14, 1963, to appropriate underground water for irrigation and domestic purposes. The proposed place of use was the W1/2 SW1/4, Section 25; S1/2 SE1/4, Section 26; N1/2 N1/2, Section 35, T.21S., R.53E., M.D.B&M. A permit was issued under Application 21048 on March 23, 1965, for 5.4 c.f.s. of water for irrigation and domestic purposes.¹ Certificate 7544 was issued under said permit on February 3, 1971, for 2.01 c.f.s. and 305.65 acre-feet per year for the irrigation of 61.13 acres.²

II.

Application 21050 was filed by Lily E. Cheek on February 14, 1963, to appropriate underground water for irrigation and domestic purposes. The proposed place of use was the S1/2 NE1/4, N1/2 SE1/4, SE1/4 SE1/4, Section 35, T.21S., R.53E., Government Lot 4 Section 1, and Government Lots 1, 5 and 6 of Section 2, T.22S., R.53E., M.D.B.&M. A

¹ State Exhibit No. 2-C: 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
December 9, 1987
December 10, 1987

Pahrump, Nevada
Pahrump, Nevada
Pahrump, Nevada

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

² State Exhibit No. 4-C, December 8, 1987, Transcript.

permit was issued under Application 21050 on March 23, 1965, for 5.4 c.f.s. of water for irrigation and domestic purposes.³ Certificate 7669 was issued under said permit on September 20, 1971, for 2.63 c.f.s. and 188.5 acre-feet per year for the irrigation of 37.7 acres.⁴

III.

Application 21051 was filed by Delbert R. Morris on February 14, 1963 to appropriate underground water for irrigation and domestic purposes. The proposed place of use was Government Lots 1, 2, 3, 5, 6, 9, 10, S1/2 NW1/4, NE1/4 SW1/4 Section 1, T.22S., R.53E., M.D.B.&M. A permit was issued under Application 21051 on April 28, 1964, for 5.4 c.f.s. of water for irrigation and domestic purposes.⁵ Certificate 7719 was issued under said permit on February 10, 1972, for 3.46 c.f.s. and 220.8 acre-feet per year for the irrigation of 44.16 acres.⁶

IV.

By letter dated January 6, 1986, the State Engineer's office assigned Permits 21048, 21050, and 21051, Certificates 7544, 7669, and 7719, to Preferred Equities Corporation.

V.

A final subdivision map approving Calvada Valley Unit No. 14 was signed by the Division of Water Resources on September 12, 1986. The approved subdivision included the place of use as described under Permits 21048, 21050 and 21051, Certificates 7544, 7669 and 7719, respectively.⁷ Calvada Valley Unit No. 14 subdivision was approved based on the relinquishment of a water right from Permit 19029, Certificate 7031.⁸

³ State Exhibit No. 2-D, December 8, 1987, Transcript.

⁴ State Exhibit No. 4-D, December 8, 1987, Transcript.

⁵ State Exhibit No. 2-E, December 8, 1987, Transcript.

⁶ State Exhibit No. 4-E, December 8, 1987, Transcript.

⁷ Public records in the office of the State Engineer. See files 21048, 21050 and 21051.

⁸ Public record in the office of the State Engineer. See file 19029.

VI.

Applications for extensions of time to work a forfeiture and abandonment under Permits 21048, 21050, and 21051, Certificates 7544, 7669, and 7719, were submitted to the State Engineer's office on December 29, 1986 by Resource Concepts, Inc.⁷

VII.

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.⁹

VIII.

Testimony and evidence establish that the lands described under Permits 21048, 21050, and 21051, Certificates 7544, 7669, and 7719, 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 Permits 21048, 21050, and 21051, Certificates 7544, 7669, and 7719, during this time period.¹⁰

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter of this action.¹¹

II.

The water rights under Permits 21048, 21050, and 21051, Certificates 7544, 7669, and 7719, are "permitted rights" and "determined rights" as described in NRS 534.090 and are therefore subject to the provisions of that statute.

⁷ Public record in the office of the State Engineer. See files 21048, 21050, and 21051.

⁹ See Transcript of December 8, 1987, Page 18.

¹⁰ Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office, see Transcript, Pages 61 through 63, 68 through 71, and 75. Testimony of James L. Thorne, see Transcript, Pages 114 through 120, and State of Nevada Exhibit 5, Volumes I, II and III.

¹¹ NRS 534.090.

III.

The record provides substantial evidence that, for the period between January 1, 1982, through December 31, 1986, (five (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 Permits 21048, 21050, and 21051, Certificates 7544, 7669 and 7719, respectively.

IV.

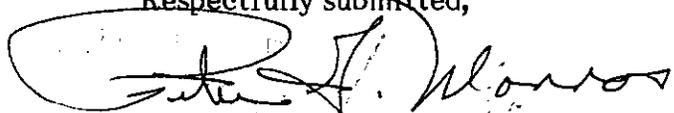
The applications for extension of time for forfeiture and abandonment that were timely submitted under Permits 21048, 21050 and 21051, Certificates 7544, 7669 and 7719, respectively, were for water rights on land that had an approved subdivision upon it. Approval of the applications for extensions of time for forfeiture and abandonment under Permits 21048, 21050 and 21051, Certificates 7544, 7669 and 7719, respectively, would be tantamount to approving an additional appropriation. The State Engineer has denied numerous applications to appropriate water for the underground source within Pahrump Valley.¹²

¹² Public record in the office of the State Engineer, State Engineer Ruling Nos. 1854, 1897, 1918, 1919, 2713, 2787, 2836, 3216, 3248 and 3462.

RULING

The right to appropriate and beneficially use water to the lands described under the place of use under Permits 21048, 21050, and 21051, Certificates 7544, 7669, and 7719, 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 applications for extension of time for forfeiture and abandonment are rejected on the grounds that granting thereof would conflict with existing rights and be detrimental to the public interest.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/HR/bk

Dated this 30th day of

September, 1988.