

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF FORFEITURE OF WATER)  
RIGHTS UNDER PERMIT 16604, CERTIFICATE)  
5207, OF THE WATERS OF AN)  
UNDERGROUND SOURCE IN PAHRUMP)  
VALLEY, NYE COUNTY, NEVADA. )

RULING

FINDINGS OF FACT

I.

Application 16604 was filed by H.D. Tudor on July 11, 1955, to appropriate underground water for irrigation and domestic purposes. The proposed place of use was the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 22, and the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  NW $\frac{1}{4}$ , NW $\frac{1}{4}$  SW $\frac{1}{4}$ , SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 23, T.20S., R.52E., M.D.B.&M. A permit was issued under Application 16604 on November 2, 1955, for 3.0 c.f.s. of water for irrigation and domestic purposes.<sup>1</sup> Certificate 5207 was issued under said permit on September 27, 1961, for 1.0 c.f.s. and 626 acre-feet per year for the irrigation of 125.2 acres.<sup>2</sup>

II.

Deeds were submitted to the State Engineer's office transferring the ownership of Permit 16604, Certificate 5207, from Henry D. and Eleanor Tudor to R.L. and Mabel D. Wood.<sup>3</sup>

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<sup>1</sup> State Exhibit No. 7-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 13, 1988	Pahrump, Nevada
December 14, 1988	Pahrump, Nevada

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

<sup>2</sup> State Exhibit No. 8-D, December 13, 1988, transcript.

<sup>3</sup> Public record of the State Engineer, see File 16604.

III.

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.<sup>4</sup>

IV.

The entire 626 acre-feet of water for the irrigation of the 1252 acres under the place of use of Permit 16604, Certificate 5207 was subject to a forfeiture determination.<sup>5</sup>

V.

Testimony and evidence establish that the lands described under Permit 16604, Certificate 5207, were not cultivated or irrigated during the period 1973 through 1978 inclusive, and that no water was diverted from the source and placed to beneficial use under Permit 16604, Certificate 5207, during this time period.<sup>6</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter of this action.<sup>7</sup>

II.

The water right under Permit 16604, Certificate 5207 is a "permitted right" and a "determined right" as described in NRS 534.090 and therefore subject to the provisions of that statute.

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<sup>4</sup> See transcript of December 13, 1988, page 18.

<sup>5</sup> State Exhibit No. 9-D.

<sup>6</sup> Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office; see transcript pages 23 through 26, inclusive, State of Nevada Exhibit 2, Volumes I, II and III.

<sup>7</sup> NRS 534.090.

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>8</sup>

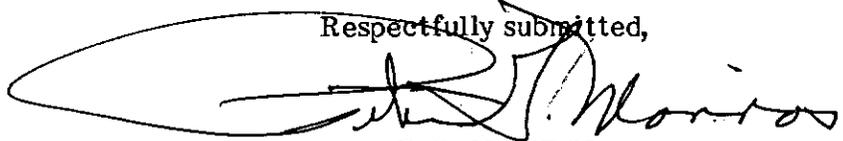
IV.

The record provides substantial evidence that, for the period between January 1, 1973, through December 31, 27, 1978 (6 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 16604, Certificate 5207.

**RULING**

The right to appropriate and beneficially use water to the lands described under the place of use under Permit 16604, Certificate 5207, 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.

Respectfully submitted,



PETER G. MORROS  
State Engineer

PGM/GWQ/bk

Dated this 26th day of  
July, 1989.

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<sup>8</sup> NRS 534.090(4) and NRS 533.450.