

IN THE OFFICE OF THE STATE ENGINEER
OF THE STATE OF NEVADA

IN THE MATTER OF THE FORFEITURE OF)
WATER RIGHTS UNDER PERMIT 18242,)
CERTIFICATE 6510, FILED WITHIN THE)
DIAMOND VALLEY GROUNDWATER BASIN,)
EUREKA COUNTY, NEVADA.)

RULING
3937

GENERAL

I.

Application 18242 was filed by Harlow B. Andersen on August 13, 1959; to appropriate 5.5 c.f.s. of water from an underground source for irrigation purposes within the E1/2 NW1/4, NE1/4, NE1/4 SW1/4 and NW1/4 SE1/4, Section 7, T.22N., R.54E., M.D.B.&M. The point of diversion is described as being within SW1/4 NE1/4, Section 7, T.22N., R.54E., M.D.B.&M. A permit was approved under Application 18242 on April 7, 1960 for 5.5 c.f.s. of water for irrigation purposes. Certificate 6510 was issued under Permit 18242 on February 12, 1968 for 5.5 c.f.s., not to exceed 1,280.0 acre feet per season, for the irrigation of 320.0 acres of land within Lot 1, Lot 2, the NW1/4 NE1/4, NE1/4 NE1/4, SW1/4 NE1/4, SE1/4 NE1/4, NE1/4 SW1/4 and the NW1/4 SE1/4, Section 7, T.22N., R.54E., M.D.B.&M.¹

FINDINGS OF FACT

I.

At the time of the forfeiture determination, the ownership of the subject certificate stood in the names of Harlow B. Andersen in the records of the State Engineer's Office.²

II.

The owners of record in the Eureka County Assessor's Office of the lands described under the subject certificated place of use, during the same time frame were Harlow B. Andersen and Bonnie G. Andersen.²

¹ Public record in the office of the State Engineer under Permit 18242, Certificate 6510.

² Transcript of the hearing held January 23, 1990, in the matter of Permit 18242, Certificate 6510, hereinafter referred to as Transcript or Exhibit, See State's Exhibit 1.

III.

The State Engineer's Office has maintained pumpage, water level and water use inventories on an annual basis in the Diamond Valley Ground Basin since 1967. Records on file within the State Engineer's Office indicate that the subject certificate was not placed into beneficial use from 1983 through 1987, a period of five successive years of nonuse.²

IV.

Failure for five successive years on the part of the holder of any right to use beneficially all or part of the underground water for the purposes for which the right is acquired, works a forfeiture.³

V.

The entire duty and place of use of Permit 18242, Certificate 6510, representing 1280.0 acre feet for the irrigation of 320.0 acres of land within Lot 1, Lot 2, the NW1/4 NE1/4, NE1/4 NE1/4, SW1/4 NE1/4, SE1/4 NE1/4, NE1/4 SW1/4 and NW1/4 SE1/4 Section 7, T.22N., R.54E., M.D.B.&M., were subject to the forfeiture determination.²

VI.

After proper notice was given to all interested parties, an administrative hearing in the matter of the determination of forfeiture of Certificate 6510 was held before representatives of the State Engineer on January 23, 1990, in Eureka, Nevada.⁴

VII.

Harlow B. Andersen and supporting witnesses provided testimony and evidence which disclosed that water had been beneficially used within the certificated place of use under Permit 18242, Certificate 6510, during the 1986 irrigation season.⁵

³ NRS 534.090.

⁴ Transcript, page 4.

⁵ Transcript, pages 43-50.

CONCLUSIONS

I.

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

II.

The State Engineer concludes that the testimony brought forth during the course of the January 23, 1990, hearing, establishes that water was used beneficially for the purpose for which rights were established under Permit 18242, Certificate 6510 during the 1986 irrigation season, within the certificated place of use.

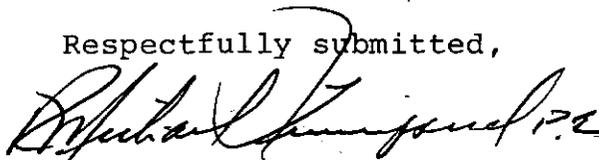
III.

The State Engineer concludes that the required five successive years of nonuse necessary to establish a forfeiture have not occurred within the subject time frame (1983-1988) of this forfeiture determination.

RULING

The right to appropriate and beneficially use the water to the lands described under the place of use under Permit 18242, Certificate 6510 has not been forfeited and said right is declared to be in good standing, for the period specific to this forfeiture determination.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MB/pm

Dated this 8th day of
February, 1993.

⁶ NRS 534.090.