

ORIGINAL
RULING
4114

1 STATE OF NEVADA

2 DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

3 DIVISION OF WATER RESOURCES

4 BEFORE R. MICHAEL TURNIPSEED, STATE ENGINEER

5
6 In the Matter of Applications)
7 for Water Right Forfeitures in)
8 Amargosa Valley.)
9)

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11 TRANSCRIPT OF PROCEEDINGS

12 PUBLIC HEARING

13 MAY 18, 1994

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24 Reported by:

SHELDON L. HENSLEY, CSR316, RPR
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1 earn money, you are working for someone else.

2 MR. KOLVET: Mr. Turnipseed, unless there is a
3 question, just this dissertation we're hearing, I object to
4 this.

5 MR. TURNIPSEED: Please get to the question.

6 BY MS. SELBACH:

7 Q My question is: How can you work with a group
8 like A.R.I.?

9 MR. KOLVET: I ask that the question be stricken
10 and object to it as irrelevant.

11 MR. TURNIPSEED: Strike it from the record,
12 please.

13 MR. TOBIN: Can he answer it first and then
14 strike?

15 MR. TURNIPSEED: Are there any other questions of
16 this witness? We need to move on to the next witness and see
17 what this other gentleman has to tell us about the foundation
18 of the evidence that's before us.

19 Hearing none, we will be off the record just for a
20 second.

21 (Off the record.)

22 MR. TURNIPSEED: We will be back on the record
23 now.

24 Before we go to the next witness, I am going to
25 rule on one of these applications.

1 I think the State Engineer's records as they
2 pertain to Permit 17657 A-01, Certificate 6978, I'm sure that
3 our staff was looking at water use out of the permitted point
4 of diversion.

5 And I'm quite sure that that property from the
6 evidence that's before us already has been subdivided into
7 multiple parcels, you say 25 at least. And I'm sure that those
8 people-- I assume that they got water rights with the
9 property, and they think that they are exercising those rights
10 through their domestic wells.

11 I take it that the original well is not operable,
12 and I'm sure that's why our record shows zero for all those
13 years.

14 The evidence that's before us is to a certain
15 extent biased because at least we have been looking at the
16 original point of diversion versus the water use within that
17 original place of use, which is 145 acres.

18 I think I would get beat on appeal if the use is
19 the same and the place of use is the same, but the point of
20 diversion is at the wrong point, i.e., they have been changed
21 to the people's domestic well without going through the
22 administrative change.

23 So I'm going to rule now that the State's evidence
24 as it pertains to 17657 and the petitioner's evidence as it
25 pertains to 17657 fails to meet the standard of clear and

16
1 convincing evidence at least to the measure of water use and
2 place of use, albeit it's not out of the correct point of
3 diversion.

4 So anybody who has a piece of property under that
5 permit, I'm going to tell you now that there is a provision in
6 NRS 533.325 and 533.345, which you should follow to move your
7 water rights out of that original well into your individual
8 wells.

9 I'm going to give you 120 days to file the proper
10 deeds to show you own a portion of those water rights and 120
11 days to file your appropriate change applications and rule that
12 those water rights are in good standing for at least that
13 120-day period.

14 MR. KOLVET: Just so I understand the ruling that
15 you just made, if at the end of 120 days they do not comply
16 with what you've just provided, are they still back in this
17 proceeding?

18 MR. TURNIPSEED: We'll be back here again.

19 MAN IN AUDIENCE: How do I get a ruling, proper
20 paperwork?

21 MR. TURNIPSEED: You can go to our Southern Nevada
22 office and get the proper change applications. You can write
23 to Carson City and get the proper change applications. You
24 will probably need a water-right surveyor to prepare the
25 appropriate maps.

