

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

IN THE MATTER OF FORFEITURE OF WATER)
RIGHTS UNDER PERMIT 24504, CERTIFICATE)
8332, OF THE WATERS OF AN UNDERGROUND)
SOURCE IN PAHRUMP VALLEY, NYE COUNTY,)
NEVADA.)

RULING

4119

GENERAL

I.

Application 24504 was filed by Veta K. White on May 23, 1968, to appropriate underground water for irrigation and domestic purposes. A permit was issued under Application 24504 on January 20, 1969, for 5.4 c.f.s. of water for irrigation and domestic purposes. After the water was developed and put to beneficial use, Certificate 8332 was issued under said permit on August 5, 1974, for 4.15 c.f.s. and 690 acre-feet (AF) per year for the irrigation of 138.0 acres, located within the SE $\frac{1}{4}$ Section 11, T.21S., R.53E., M.D.B.&M.¹

II.

Documents were submitted to the State Engineer's office on January 7, 1969, transferring Permit 24504 in its entirety from Veta K. White to Hollis L. Harris.¹

III.

Documents were submitted to the State Engineer's office on November 2, 1981, transferring 6.46 acres from Hollis L. Harris to Douglas M. and Ann L. Hafen.¹

IV.

Documents were submitted to the State Engineer's office on November 2, 1981, transferring 6.46 acres from Douglas M. and Ann L. Hafen to the State of Nevada to compensate for the drilling of individual domestic wells within the Vickie Ann Turner Subdivision.¹

¹ Public record in the office of the State Engineer. Filed under 24504.

V.

An application for extension of time to prevent the working of a forfeiture under Permit 24504, Certificate 8332, was submitted to the State Engineer's Southern Nevada Branch Office on December 30, 1986, by Hollis L. Harris for the entire remaining portion of the water right, being 657.7 acre-feet for the irrigation of 131.54 acres.¹

VI.

A public administrative hearing was held before the State Engineer on December 9, 1987 to consider the matter of the forfeiture of the subject permit.² Evidence and testimony were received into the record at public hearings before the State Engineer² and the State Engineer took administrative notice of various matters as more specifically set forth.³

Testimony and evidence established that the land described under Permit 24504, Certificate 8332, was not cultivated or irrigated from 1982 through 1986, inclusive, and that no water was diverted from the source and placed to beneficial use under Permit 24504, Certificate 8332, during this time period.⁴ However, the State Engineer finds that an extension to prevent the working of a forfeiture was timely filed, and granted the extension to December 30, 1987.¹

VII.

An additional Extension of Time was timely filed on May 23, 1988 and was granted to December 30, 1988 to prevent the working of a forfeiture on Permit 24504, Certificate 8332.¹ The State Engineer finds that with the granting of two, one year extensions,

² State Exhibit No. 14-F, Transcripts of Public Administrative Hearing in the office of the State Engineer.

³ See Transcript of Public Administrative Hearing of December 8, 1987, p. 18.

⁴ Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office, see Transcript, pp. 226-230.

the non-use period would have to exceed 7 years in order for the forfeiture to occur.⁵

FINDINGS OF FACT

I.

The pumpage inventory for Pahrump Valley reflects zero pumpage from the well under Permit 24504, Certificate 8332 for the years 1989, 1990, 1991, 1992 and 1993.¹ Additionally, the file reflects no applications to extend the time for working the forfeiture for this period.¹ The State Engineer finds that the non-use period is 12 years of which only seven were excused by statute or extension of time.

II.

The State Engineer finds that a field investigation by staff of the Division of Water Resources conducted in April 1994 along with photographs shows with clear and convincing evidence that reuse of the water has not occurred.⁶

CONCLUSIONS

I.

The State Engineer has jurisdiction in the matter of this action.⁷

II.

Failure for a period of five consecutive years, to use beneficially the underground water for the purpose for which it is acquired works a forfeiture of the water right.⁷

III.

The water right under Permit 24504, Certificate 8332, is a "permitted right" and a "determined right" as described in NRS 534.090, and therefore, subject to the provisions of this statute.

⁵ NRS 534.090(1) allows for an Extension of Time to Work a Forfeiture for a one year period.

⁶ See report of Field Investigation dated April 4, 1994 from Robert Coache, in file 24504.

⁷ NRS 534.090.

IV.

The record provides substantial evidence that, for the period between January 1, 1982, through December 31, 1993, (12 successive years), water from the underground source described has not been beneficially used for the purpose for which the water right was acquired under Permit 24504, Certificate 8332. Therefore, a forfeiture has occurred with respect to Permit 24504, Certificate 8332.

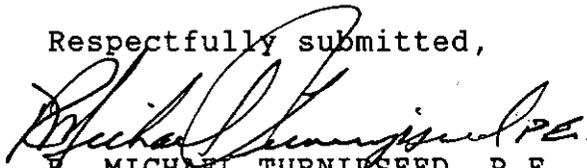
IV.

The holder of the Permit 24504, Certificate 8332, failed to put the water to beneficial use after being granted extensions of time to prevent a forfeiture for the years 1987 and 1988. Further examination of the records of the State Engineer's office reveal that no further extensions of time to prevent working a forfeiture, have been submitted.

RULING

The right to beneficially use the water under Permit 24504, Certificate 8332, is hereby declared forfeited because of failure for a period exceeding five (5) successive years, on the part of the holder of the right, to beneficially use the underground water for the purpose for which the subject right was acquired.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/KH/pm

Dated this 1st day of
June, 1994.