

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

IN THE MATTER OF APPLICATION 62479 FILED)
TO APPROPRIATE THE PUBLIC WATERS)
FROM AN UNDERGROUND SOURCE WITHIN)
THE PAHRUMP VALLEY HYDROGRAPHIC BASIN)
(162), NYE COUNTY, NEVADA.)

RULING

4960

GENERAL

I.

Application 62479 was filed on September 26, 1996, by William Faye Allison and Donna L. Allison to appropriate 0.44 cubic foot per second (cfs), not to exceed 92.4 acre-feet annually, of water from an underground source within the Pahrump Valley Groundwater Basin, Nye County, Nevada. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T.21S., R.53E., M.D.B.&M. The application was filed for irrigation and domestic purposes. The proposed place of use is described as being within the S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T.21S., R.53E., M.D.B.&M.¹

II.

On July 29, 1975, Certificates 8548 and 8549 were issued under Permit 23840 for the irrigation of 18.48 acres (92.4 acre-feet annually) and 19.0 acres (95.0 acre-feet annually), respectively. The place of use of Certificate 8548, in the name of William Faye Allison and Donna L. Allison, is describe as being located in the S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T.21S., R.53E., M.D.B.&M. The place of use of Certificate 8549, in the names of Earl R. Burson and John E. Thein, Jr., and Theresa Ann Thein, is described as being located in the N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 12, T.21S., R.53E., M.D.B.&M. The point of diversion for Certificates 8548 and 8549 is described as being located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 12, T.21S., R53E., M.B.D.&M.²

III.

On December 27, 1989, the State Engineer ruled that 45 acre-feet annually under Permit 23840, Certificate 8549, was declared forfeited and no appeal was timely taken

¹ File No. 62479, official records in the office of the State Engineer.

² File No. 23840, official records in the office of the State Engineer.

from that decision.³ On July 5, 1996, the State Engineer ruled that Certificates 8548 and 8549 were declared forfeited, and no appeal was timely taken from that decision therefore, the declaration of forfeiture is final.⁴

FINDINGS OF FACT

I.

William Faye Allison and Donna L. Allison acquired by grant bargain sale deed that portion of Permit 23840 located in the S½ NE¼ SW¼ of Section 12, T.21S., R53E., M.B.D.&M., from Earl Burson on July 1, 1969, that being the portion certificated under Certificate 8548. Proof of application of water to beneficial use was filed April 8, 1975, in the names of Earl Burson, and William Faye and Donna L. Allison. Certificates 8548 and 8549 were issued July 29, 1975 to William Faye and Donna L. Allison and Earl Burson, respectively. The State Engineer finds that William Faye Allison and Donna L. Allison were the owners of record of that portion of Permit 23840 under Certificate 8548, being 92.4 acre-feet.¹

II.

William Faye Allison and Donna L. Allison under the exemption provided for in State Engineer's Order 955 filed Application 62479 September 26, 1996.⁵ Order 955 allowed for the refile on a forfeited water right where the forfeiture occurred prior to January 1, 1988. The order provides that the new application had to be filed within sixty (60) days of the date the forfeiture was declared. The date of the forfeiture under Certificate 8548 was July 5, 1996. A period of 83 days transpired before Application 62479 was filed in the office of the State Engineer. The State Engineer finds the forfeiture of Certificate 8548 occurred prior to January 1, 1988, and under State Engineer's Order No. 955 the applicants were within their rights to file an application to appropriate water for irrigation purposes on land in the Pahrump Valley that had a certificated water right forfeited, but only within the time frame established in the order. The State Engineer further finds that the applicants failed to file Application 62479 in a timely manner.

³ State Engineer's Ruling No. 3661, dated December 27, 1989, official records in the office of the State Engineer.

⁴ State Engineer's Ruling No. 4369, dated July 5, 1996, official records in the office of the State Engineer.

⁵ State Engineer Order No. 955, dated October 26, 1987, official records in the office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

State Engineer's Order No. 955 provided owners of forfeited irrigation water rights an opportunity to return the water back to beneficial use by filing an application to appropriate, where the forfeiture occurred prior to January 1, 1988, but only within a 60-day time frame from the date the water right was declared forfeited . The forfeiture of Certificate 8548 was declared on July 5, 1996, and Application 62479 was filed on September 26, 1996, a period of eighty-three (83) days after the declaration of forfeiture of Certificate 8548. The State Engineer concludes that Application 62479 was not filed in a timely manner as provided in State Engineer's Order No. 955, therefore, it cannot be considered for approval.

RULING

Application 62479 is hereby denied for failure to file said application in a timely manner as provided under State Engineer's Order No .955.

Respectfully submitted,



HUGH RICCI, P.E.

State Engineer

HR/KWH/cl

Dated this 25th day of
August , 2000.

⁶ NRS chapters 533 and 534.