

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF FORFEITURE OF WATER)  
RIGHTS UNDER PERMIT 24180, CERTIFICATE)  
8642, OF THE WATERS OF AN)  
UNDERGROUND SOURCE IN PAHRUMP)  
VALLEY, NYE COUNTY, NEVADA. )

RULING

FINDINGS OF FACT

I.

Application 24180 was filed by Earl Burson on October 16, 1967, to appropriate underground water for irrigation purposes. The proposed place of use was the W1/2 Section 12, T.21S., R.53E., M.D.B.&M. A permit was issued under Application 24180 on March 26, 1968, for 2.7 c.f.s. of water for irrigation and domestic purposes.<sup>1</sup> Certificate 8642 was issued under said permit on November 7, 1975, for 0.74 c.f.s. and 179.45 acre-feet per year for the irrigation of 35.89 acres within the SW1/4 NW1/4, Section 12, T.21S., R.53E., M.D.B.&M.<sup>2</sup>

II.

Documents were submitted to the State Engineer's office to transfer the ownership of a portion from Earl Burson to Laramie L. Burson, Mary J. Burson, Gary L. Burson, Timothy F. Burson, Phillip R. Burson, Judith A. Burson Trahean, and Linda S. Burson Mackie, that being the W1/2 SW1/4 NW1/4, Section 12, T.21S., R.53E., M.D.B.&M.<sup>3</sup>

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<sup>1</sup> State Exhibit No. 18-C: 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 8, 1987	Pahrump, Nevada
December 9, 1987	Pahrump, Nevada
December 10, 1987	Pahrump, Nevada

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

<sup>2</sup> State Exhibit No. 20-C, December 10, 1987, Transcript.

<sup>3</sup> Public record in the office of the State Engineer. See Files 22855 and 24180.

III.

Documents were submitted to the State Engineer's office to transfer the ownership of a portion from Earl Burson to Robert N. and Maybelle J. Hubbard, that being the E1/2 SW1/4 NW1/4, Section 12, T.21S., R.53E., M.D.B.&M.<sup>3</sup>

IV.

An application for Extension of Time to work a forfeiture under Permit 24180, Certificate 8642, was submitted to the State Engineer's office by Robert N. Hubbard and received on February 18, 1987.

V.

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.

Testimony and evidence establish that the 17.95 acres of land in the E1/2 SW1/4 NW1/4, Section 12, T.21S., R.53E., M.D.B.&M. in the name of Hubbard and the 17.94 acres of land in the W1/2 SW1/4 NW1/4, Section 12, T.21S., R.53E., M.D.B.&M. in the name of Burson, et al., were not cultivated and irrigated during the period of 1982 through 1986, inclusive, and that no water was diverted from the source and placed to beneficial use under those portions of Permit 24180, Certificate 8642.<sup>5</sup>

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter of this action.<sup>6</sup>

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<sup>4</sup> See Transcript of December 10, 1987, page 293.

<sup>5</sup> Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office, see Transcript pages 325 and 326 and State of Nevada Exhibits 5 volumes I, II and III. Testimony of Robert Hubbard, see Transcript pages 342 through 348, inclusive. Testimony of Zolin G. Burson, see Transcript pages 349, 350, 351 and 353.

<sup>6</sup> NRS 534.090.

II.

The water right under Permit 24180, Certificate 8642, is a "permitted right" and a "determined right" as described in NRS 534.090 and one therefore subject to the provisions of that statute.

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>7</sup>

IV.

The record provides substantial evidence that, for the period between January 1, 1982, through December 31, 1986, (5 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 24180, Certificate 8642.

V.

The application for Extension of Time for forfeiture and abandonment submitted by Robert N. Hubbard was filed after the 5 successive years of non-use.<sup>8</sup> The State Engineer may not consider the application for Extension of Time.

**RULING**

The right to appropriate and beneficially use water for the 17.95 acres of land in the E1/2 SW1/4 NW1/4, Section 12, T.21S., R.53E., M.D.B.&M. (Hubbard) and the 17.94 acres of land in the W1/2 SW1/4 NW1/4, Section 12., T.21S., R.53E., M.D.B.&M. (Burson, et al.) being the place of use under Permit 24180, Certificate 8642, has been forfeited because of failure for five successive years, on the part of the holders of the right, to beneficially use the underground water for the purposes for which the subject right was

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<sup>7</sup> NRS 534.090(4) and NRS 533.450.

<sup>8</sup> NRS 534.090(2).

acquired. It is further the State Engineer's ruling that the application for Extension of Time to work a forfeiture for Permit 24180, Certificate 8642, submitted by Robert N. Hubbard was not timely filed in conformance with NRS 534.090(2); therefore, the State Engineer may not consider the Extension of Time request. The request for Extension of Time to work a forfeiture is denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Morros", is written over a large, loopy oval scribble.

Peter G. Morros  
State Engineer

PGM/HR/bk

Dated this 25th day of  
April, 1988.