

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF FORFEITURE OF WATER)
RIGHTS UNDER PERMIT 14996, CERTIFICATE)
4500, OF THE WATERS OF AN)
UNDERGROUND SOURCE IN PAHRUMP)
VALLEY, NYE COUNTY, NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 14996 was filed by H.D. Tudor on April 22, 1953, to appropriate underground water for irrigation and domestic purposes. The proposed place of use was the W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 23, and the E $\frac{1}{2}$ SE $\frac{1}{4}$ Section 22, T.20S., R.52E., M.D.B.&M. A permit was issued under Application 14996 on September 4, 1953, for 3.0 c.f.s. of water for irrigation and domestic purposes.¹ Certificate 4500 was issued under said permit on March 26, 1957, for 1.9 c.f.s. and 775 acre-feet per year for the irrigation of 155 acres.²

II.

Deeds were submitted to the State Engineer's office transferring the ownership of Permit 14996, Certificate 4500, from Henry D. and Eleanor Tudor to R.L. and Mabel D. Wood.³

III.

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.⁴

¹ State Exhibit No. 7-B. 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 13, 1988	Pahrump, Nevada
December 14, 1988	Pahrump, Nevada

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

² State Exhibit No. 8-B, December 13, 1988, transcript.

³ Public record of the State Engineer, see File 14996.

IV.

The entire 775 acre-feet of water for the irrigation of the 155 acres under the place of use of Permit 14996, Certificate 4500 was subject to a forfeiture determination.⁵

V.

Testimony and evidence establish that the 155 acres of land described under Permit 14996, Certificate 4500, were not cultivated or irrigated during the period 1973 through 1978 inclusive, and that no water was diverted from the source and placed to beneficial use under Permit 14996, Certificate 4500, during this time period.⁶

CONCLUSIONS

I.

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

II.

The water right under Permit 14996, Certificate 4500 is a "permitted right" and a "determined right" as described in NRS 534.090 and 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.⁸

⁴ See transcript of December 13, 1988, page 18.

⁵ State Exhibit No. 9-B.

⁶ Testimony of Robert Coache, Hydraulic Engineer for the Division of Water Resources, Southern Nevada Branch Office; see transcript pages 22 through 25 inclusive, State of Nevada Exhibit 2, Volumes I, II and III.

⁷ NRS 534.090.

⁸ NRS 534.090(4) and NRS 533.450.

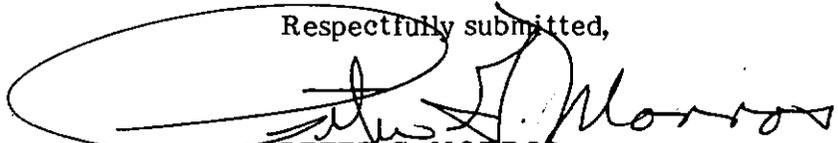
IV.

The record provides substantial evidence that, for the period between January 1, 1973, through December 31, 1978 (6 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 14996, Certificate 4500.

RULING

The right to appropriate and beneficially use water to the lands described under the place of use under Permit 14996, Certificate 4500, has been forfeited because of failure for five successive years, on the part of the holder of the right, to beneficially use the underground water for the purposes for which the subject right was acquired.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/GWQ/bk

Dated this 26th day of

July, 1989.