

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

IN THE MATTER OF THE FORFEITURE OF)
WATER RIGHTS UNDER PERMIT 17648,)
CERTIFICATE 6054 FILED WITHIN THE)
DIAMOND VALLEY GROUNDWATER BASIN)
(153), EUREKA COUNTY, NEVADA.)

RULING

4184

GENERAL

I.

Application 17648 was filed by Gladys J. Holmes on September 3, 1958, to appropriate 2.0 cfs of water from an underground source for irrigation and domestic purposes within portions of the E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 7, T.22N., R.54E., M.D.B.&M. The point of diversion is described as being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 7, T.22N., R.54E., M.D.B.&M. Permit 17648 was approved on January 19, 1959, for 2.0 cfs of water for irrigation and domestic purposes. Certificate 6054 was issued under Permit 17648 on May 26, 1966, for 1.79 cfs, not to exceed 320.0 acre feet annually, for the irrigation of 80.0 acres of land within the SE $\frac{1}{4}$ of Section 7, T.22N., R.54E., M.D.B.&M.¹

II.

At the time of the forfeiture determination, the ownership of the subject certificate stood in the name of Gladys Holmes in the records of the State Engineer's Office.²

III.

The owner of record in the Eureka County Assessor's Office of the lands described under the subject certificated place of use, during the same time frame was Monte and Joan Shangle.²

¹ Public record in the office of the State Engineer under Permit 17648, Certificate 6054.

² Transcript of the hearing held January 24, 1990, in the matter of Permit 17648, hereinafter referred to as Transcript or Exhibit, see State's Exhibit 1.

IV.

After proper notice was given to all interested parties, an administrative hearing in the matter of the determination of forfeiture of Certificate 6054 was held before representatives of the State Engineer on January 24, 1990, in Eureka, Nevada.³

FINDINGS OF FACT

I.

The State Engineer's Office has maintained pumpage, water level and water use inventories on an annual basis in the Diamond Valley Groundwater Basin since 1967. Records on file within the State Engineer's Office indicate that the place of use of Permit 17648, Certificate 6054 was not irrigated from 1982 through 1988, a period of seven successive years of nonuse.²

Joan Shangle testified that water had been used for landscaping and the watering of approximately one dozen head of livestock.⁴ There is no evidence on the record of any irrigation of the place of use for the years 1982 through 1988.

The State Engineer finds that the water under Permit 17648, Certificate 6054 was not used for the irrigation of the place of use for a period exceeding five consecutive years.

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter of this action.⁵

II.

Failure for five successive years on the part of the holder of any right to use beneficially all or part of the underground water for the purposes for which the right is acquired, works a forfeiture.⁶

³ Transcript, page 4.

⁴ Transcript, pages 9, 10, 17.

⁵ NRS 534.090.

⁶ NRS 534.090.

III.

The State Engineer concludes that the record of evidence and testimony brought forth during the course of the January 24, 1990, hearing, establishes that water was not beneficially used for the purpose for which rights were established under Permit 17648, Certificate 6054, during the 1982 through 1988 irrigation seasons.

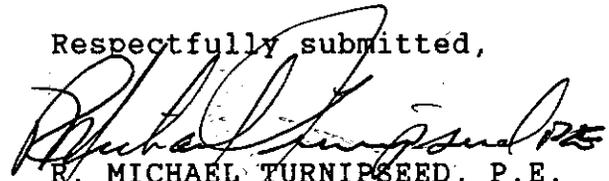
IV.

The State Engineer concludes that the required five successive years of nonuse necessary to establish a forfeiture have occurred within the subject time frame (1982-1988) of this forfeiture determination.

RULING

The right to beneficially use the water to irrigate the lands described under the place of use of Permit 17648, Certificate 6054 is declared forfeited.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MB/pm

Dated this 2nd day of
May, 1995.