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STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
DIVISION OF WATER RESOURCES  
BEFORE JONATHAN C. PALM, HEARING OFFICER

In the Matter of Applications  
for Water Right Forfeitures in  
Amargosa Valley.

ORIGINAL  
RULING  
#4186

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TRANSCRIPT OF PROCEEDINGS  
PUBLIC HEARING  
MAY 1, 1995

APPEARANCES:

For the State:	Mr. Mark Beutner Mr. Bill Quinn Mr. Jason King Mr. Robert Coache
For the Applicant:	BRENT T. KOLVET, ESQ. Attorney at Law 888 W. Second St. #200 Reno, Nevada
For the Protestants:	Michael M. DeLee HCR 69, Box 530 Amargosa Valley, Nevada
Reported by:	SHELDON L. HENSLEY, CCR, RPR Nevada CCR #316

1           The State Engineer has authorized me to enter an  
2 oral ruling at this hearing. Therefore after analysis of the  
3 evidence and testimony, I am submitting this for this record  
4 the findings of fact, conclusions and ruling.

5           Findings of fact: The record contains much evidence  
6 supporting the fact that water was not used on the places of  
7 use under permits 14055, certificate 4858; permit 16586,  
8 certificate 5754; permit 17835, certificate 6159; permit  
9 17951, certificate 6160; permit 17853, certificate 5789; and  
10 permit 17854, certificate 5790.

11           The evidence which I'll summarize in a minute  
12 supports the nonuse of water during the alleged period of  
13 forfeiture, 1985 through 1992. The State Engineer's annual  
14 inventories, Exhibit Number 10, shows that no irrigation of  
15 the land for the years 1985 through 1992.

16           The aerial photographs for the years 1987, 1989,  
17 1990, 1993, which are Exhibits 19 through 22 respectively,  
18 clearly show an abundance of sagebrush and creosote bush on  
19 the places of use. This precludes the possibility that the  
20 land was cleared, a crop was planted and the land was  
21 irrigated during any of those years and the years in between.

22           The testimony of various witnesses supports the  
23 above mentioned exhibits. The testimony of Robert Coache and  
24 Jason King of the staff of the State Engineer indicates that  
25 no water was used on the places of use and this was noted on

1 the annual inventories. They both testified that the land of  
2 the places of use was covered with creosote and desert brush.

3 Mr. Robert Bement testified that the aerial photos  
4 and his ground observations showed the presence of creosote  
5 bush that is approximately 7 to 20 years old. Mr. Bement  
6 testified that the places of use have not been irrigated for  
7 seven to 20 years or longer. There is no evidence or  
8 testimony on the record that the water was put to beneficial  
9 use under any of these permits and certificates.

10 In consideration of the above, I find there is clear  
11 and convincing evidence that a continuous period of nonuse  
12 exceeding five years has occurred on the places of use of  
13 these certificated water rights.

14 Conclusions. 1: The State Engineer has  
15 jurisdiction in this matter in accordance with the Nevada  
16 Revised Statutes 534.090.

17 Number 2: NRS 534.090 provides that the failure to  
18 use underground water for the purpose for which it was  
19 acquired works a forfeiture of that water right if the water  
20 had not been placed for a beneficial use for a continuous  
21 period of five years.

22 Number 3: A continuous period of nonuse exceeding  
23 the statutory five years has occurred on the places of use of  
24 the above mentioned certificated water rights. Therefore I  
25 conclude that the right to use the water under these water

1 rights have been forfeited.

2 Ruling: The right to use water under permit 14055,  
3 certificate 4858; permit 16586, certificate 5754; permit  
4 17835, certificate 6159; permit 17951, certificate 6160;  
5 permit 17853, certificate 5789; and permit 17854, certificate  
6 5790, is hereby declared forfeited on the grounds that the  
7 water under said certificate has not been placed to beneficial  
8 use for a continuous period exceeding five years.

9 With that, I'll declare this hearing closed.

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(Proceedings Concluded)

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1 STATE OF NEVADA, )  
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I, SHELDON L. HENSLEY, Nevada Certified Court Reporter Number 316, do hereby certify:

That I was present at the hearing for forfeiture of water rights in the Amargosa Valley in Beatty, Nevada, on Monday, May 1, 1995, for the purpose of reporting in verbatim stenotype notes the within-entitled proceedings;

That the foregoing transcript, consisting of pages 1 through 153, is a full, true and correct transcription of said proceedings.

Dated at Carson City, Nevada, this 13th day of May, 1995.



SHELDON L. HENSLEY, CCR, RPR  
Nevada CCR #316