SECOND AMENDED

№ 55914
ASSIGNED

APPLICATION FOR PERMIT
TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

Date of filing in State Engineer's Office MAR 01 1991

Returned to applicant for correction APR 19 1991

Corrected application filed JUN 17 1991

Map filed JUN 17 1991 under 55906

The applicant Magma Nevada Mining Company

7400 North Oracle Road, Suite 200 (Street and No. or P.O. Box No.), of Tucson (City or Town),

Arizona 85704 (State and Zip Code No.), hereby make application for permission to appropriate the public waters of the State of Nevada, as hereinafter stated. (If applicant is a corporation, give date and place of incorporation; if a copartnership or association, give names of members.)

Delaware, November 13, 1990

1. The source of the proposed appropriation is underground (Name of stream, lake, spring, underground or other source)

2. The amount of water applied for is 5.0 second-feet (One second-foot equals 448.83 gals. per min.)

   (a) If stored in reservoir give number of acre-feet

3. The water to be used for Mining, Milling and Domestic (Irrigation, power, mining, manufacturing, domestic, or other use. Must limit to one use.)

4. If use is for:

   (a) Irrigation, state number of acres to be irrigated

   (b) Stockwater, state number and kinds of animals to be watered

   (c) Other use (describe fully under "No. 12. Remarks")

   (d) Power:

      (1) Horsepower developed

      (2) Point of return of water to stream

5. The water is to be diverted from its source at the following point SW¼ SE¼, Section 5, T.16N., R.62E (Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land, it should be so stated.) MDB&M or at a point from which the NE corner of Section 3, T.16N., R.62E. MDB&M bears N. 71° 31' 45" E., a distance of 13,351.34 feet

6. Place of use Sections 12,13,23,24,25 and 26 T.16N., R.61E., Sections 2 thru 22, (Describe by legal subdivision. If on unsurveyed land, it should be so stated.) 29 and 30 T.16N., R.62E., Sections 7,17,18,19 and 20 T.16N., R.63E., and Section 33 T.17., R.62E., MDB&M

7. Use will begin about January 1 (Month and Day) and end about December 31 (Month and Day), of each year.

8. Description of proposed works. (Under the provisions of NRS 535.010 you may be required to submit plans and specifications of your diversion or storage works.) drill well, install pump and convey (State manner in which water is to be diverted, i.e. diversion structure, ditches and flumes, drilled well with pump and motor, etc.) to place of use through pipeline system

9. Estimated cost of works $100,000

10. Estimated time required to construct works 3 years
If well completed, describe works.

11. Estimated time required to complete the application of water to beneficial use 5 years

12. Remarks: For use other than irrigation or stock watering, state number and type of units to be served or annual consumptive use.

Water will be used in mining and milling operations

By s/Alex Acosta
Alex Acosta, Magma
P.O. Box M
San Manuel, Arizona 85631

Compared bc/bc pm/se

Protested 7/12/91 by: City of Ely; 8/23/91 by; U.S. Dep. of the Interior, Nat'l, Park Service: Loran A. Robison for Mcgill Ruth Consolidated Sewer & Water Gen. Improv. Dist.

Pro. wdr. 10/28/91

APPROVAL OF STATE ENGINEER

This is to certify that I have examined the foregoing application, and do hereby grant the same, subject to the followng limitations and conditions:

This permit is issued subject to existing rights. It is understood that the amount of water herein granted is only a temporary allowance and that the final water right obtained under this permit will be dependent upon the amount of water actually placed to beneficial use. It is also understood that this right must allow for a reasonable lowering of the static water level. This well shall be equipped with a two (2) inch opening for measuring depth to water. If the well is flowing, a valve must be installed and maintained to prevent waste. A totalizing meter must be installed and maintained in the discharge pipeline near the point of diversion and accurate measurements must be kept of water place to beneficial use. The totalizing meter must be installed before any use of water begins, or before the Proof of Completion of Work is filed. This source is located within an area designated by the State Engineer, pursuant to NRS 534.030. The State retains the right to regulate the use of the water herein granted at any and all times.

This Permit does not extend the permittee the right of ingress and egress on public, private or corporate lands.

(CONTINUED ON PAGE 2)

The amount of water to be appropriated shall be limited to the amount which can be applied to beneficial use, and not to exceed 5.0 cubic feet per second, but not to exceed 3,620 acre-feet annually.

Work must be prosecuted with reasonable diligence and be completed on or before November 26, 1993

Proof of completion of work shall be filed on or before December 26, 1993

Application of water to beneficial use shall be made on or before November 26, 1996

Proof of the application of water to beneficial use shall be filed on or before December 26, 1996

Map in support of proof of beneficial use shall be filed on or before N/A

Completion of work filed

Proof of beneficial use filed

Cultural map filed

Certificate No. Issued

IN TESTIMONY WHEREOF, I R. MICHAEL TURNIPSEED, P.E. State Engineer of Nevada, have hereunto set my hand and the seal of my office, this 26th day of November, A.D. 19 91

State Engineer

(O)-5314 (Rev.)

Abrogated By 57935

(PERMIT TERMS CONTINUED)

This permit is issued under the preferred use provisions of NRS Chapter 534. The manner of use of water under this permit is by nature of its activity a temporary use and any application to change the manner of use granted under this permit will be subject to additional determination and evaluation with respect to the permanent effects on existing rights and the resource within the ground water basin.

The issuance of this permit does not waive the requirements that the permit holder obtain other permits from State, Federal and local agencies.

This permit is issued under the provisions of NRS 534.120(2) as a preferred use.

The total combined duty of Permits 43378, 43379, 43380, 43381, 55906, 55907, 55908, 55909, 55910, 55911, 55912, 55913, 55914 and 55915 shall not exceed 13,204 acre-feet annually.

The permittee shall comply with the monitoring plan approved by the State Engineer which will be subject to revision upon review of the data generated.

The data and analysis of the data shall be submitted to the State Engineer on a monthly basis, subject to any revision of the frequency of the data collected.

This permit is issued subject to the conditions set forth in the withdrawal of the City of Ely's protest dated October 28, 1991.