AMENDED

NO. 62794

APPLICATION FOR PERMISSION TO CHANGE POINT OF DIVERSION, MANNER OF USE AND PLACE OF USE OF THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED

Date of filing in State Engineer's Office JAN 28 1997

Returned to applicant for correction FEB 27 1997

Corrected application filed APR 24 1997

Map filed APR 25 1997 under 62792

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The applicant BHP Nevada Mining Company, hereby makes application for permission to change the Point of diversion and manner of use of a portion of water heretofore appropriated under Permit No. 55911 (PD-1)

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1. The source of water is underground sources - block 3

2. The amount of water to be changed 2.0 Second feet

3. The water to be used for Mining, milling domestic, and dewatering

4. The water heretofore permitted for Mining, milling and domestic

5. The water is to be diverted at the following point Block Appropriation in the SW¼ Sec. 9, T.16N., R.62E., M.D.B.&M. at a point whence the NE corner of Section 3, T.16N., R.62E., M.D.B.&M., bears N. 46° 01' 05" E., 13,148.26 feet distant.

6. The existing permitted point of diversion is located within the NE¼ SW¼ SEC. 9, T.16N., R.62E., M.D.B.&M., or at a point from which the NE corner of Section 3, T.16N., R.62E., M.D.B.&M. bears N 45° 17' 8" E. a distance of 11,951.23 feet.

7. Proposed place of use Sec. 12, 13, 23, 24, 25, and 26, T.16N., R.61E., Sec. 2 thru 22, 29, and 30, T.16N., R.62E., Sec. 7, 17, 18, 19, and 20, T.16N., R.63E., and Sec. 33, T.17N., R.62E., all in M.D.B.&M.

8. Existing place of use (same as above)

9. Use will be from January 1st to December 31st of each year.

10. Use was permitted from January 1st to December 31st of each year.

11. Description of proposed works Dewatering wells will be drilled, equipped with pumps totalizing flowmeter and a piping system to divert water to a sump and pump to process.

12. Estimated cost of works $100,000.00

13. Estimated time required to construct works 3 years

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

15. Remarks: This application is in support of REQUEST FOR WELL SPACING RULE CHANGE AND CHANGE POINTS OF DIVERSION FOR PERMITS 43380, 55911, 55912 AND 55913, dated January 17, 1997.

By s/K. L. Browne
P.O. Box 382
Ruth, Nevada 89319

Compared my/bk dl/cms

Protested

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APPROVAL OF STATE ENGINEER

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

This permit to change the point of diversion and manner of use of a portion of the waters of an underground source as heretofore granted under Permit 55911 is issued subject to the terms and conditions imposed in said Permit 55911 and with the understanding that no other rights on the source will be affected by the change proposed herein. 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 placed to beneficial use. The totalizing meter must be installed before any use of the 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.

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

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.

The total combined duty of water under Permits 43378, 43379, 43380, 43381, 55906, 55908, 55910, 55915, 58245, 58793, 61745, 62685, 62782-T, and 62792 through 62812, inclusive, will not exceed 13,204.0 AFA (acre-feet annually).

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

The State Engineer requires that a monthly record shall be kept of: (A) the volume of water pumped from each well, (B) the measurement of pumping water level (drawdown) from each production, dewatering and monitoring well, (C) the volume of water consumptively used for mining and milling uses projectwide, and (D) the volume of water used for dust control purposes projectwide. This record will be submitted to the State Engineer on a quarterly basis within 15 days after the end of each calendar quarter.

This permit is issued subject to the conditions set forth in the withdrawal of the City of Ely's protest dated October 28, 1991, under Permit 55906.

This permit is issued with the understanding that any application to change the point of diversion must remain within the Steptoe Valley Ground Water Basin as defined by the State Engineer.

This permit is issued with the understanding that an application to change any well drilled under State Engineer's Order No. 1143 must be filed on or before January 15 of the following year in which water was developed from that point of diversion. This application to change must set forth the exact location of the point of diversion and the amount of water pumped for the calendar year.

This permit is issued subject to all other conditions set forth in State Engineer's Order No. 1143 with the exception of the preceding two paragraphs.

(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 **2.0** cubic feet per second, **but not to exceed 1,448.0 acre-feet annually.**

Work must be prosecuted with reasonable diligence and be completed on or before:
November 26, 2002

Proof of completion of work shall be filed before:
December 26, 2002

Application of water to beneficial use shall be filed on or before:
November 26, 2005

Proof of the application of water to beneficial use shall be filed on or before:
December 26, 2005

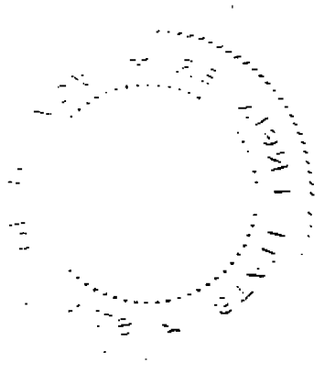
Map in support of proof of beneficial use shall be filed on or before:
N/A

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 **24th** day of **July**, A.D. **1998**

State Engineer

Completion of work filed _____

Proof of beneficial use filed _____

Cultural map filed _____

Certificate No. _____ Issued _____