

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

ORDER

1045

Herbert Garms, Jr.  
Donna J. Garms  
Smith, NV 89430  
Certified Mail No. P 668 480 597

Gary J. Garms  
Tony J. Garms  
140 Hardie Lane  
Smith, NV 89430  
Certified Mail No. P 668 480 598

Donna J. Garms  
Rt. 2, Box 18  
Smith, NV 89430  
Certified Mail No. P 668 480 599

William B. and Edith F. Cary  
195 Hudson Aurora Road  
Smith, NV 89430  
Certified Mail No. P 668 480 600

The records in the Office of the State Engineer show that Herbert Garms, Jr. and Donna J. Garms are the owner of the well located in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 33, T.11N., R.25E., M.D.B.&M. described under Permit 25279, Certificate 8423. Certificate 8423 was issued for 2.52 c.f.s. not to exceed 636.0 acre-feet per year for 159.0 acres of lands in a place of use described as the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$ , and SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 28, and NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 33, T.11N., R.24E., M.D.B.&M. Records in the Lyon County Assessor's Office show that these lands belong to Gary and Tony Garms.

A field inspection made by the State Engineer's office on June 5, 1991, found that water from the well under Permit 25279, Certificate 8423 was being used to irrigate lands not in the above place of use. Specifically these lands were in the E $\frac{1}{2}$  SE $\frac{1}{4}$  Section 28, and the SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 33, T.11N., R.24E., M.D.B.&M. Records in the Lyon County Assessor's office show that these lands belong to William B. and Edith F. Cary, and Donna J. Garms, respectively. The inspection also showed that lands in the NW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 33 had been recently irrigated from a pond that was being supplied with water from the well under Permit 25279. Records in the Lyon County Assessor's office shows that lands in the NE $\frac{1}{4}$  Section 33 belongs to William B. and Edith F. Cary.

Records in the office of the State Engineer do not show a permit for the use of water from the well under Permit 25279 for irrigation of lands in the E $\frac{1}{2}$  SE $\frac{1}{4}$  Section 28, SE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 33, or NW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 33, all in T.11N., R.24E., M.D.B.&M.

NRS 534.020 provides that:

"All underground waters within the boundaries of the State belong to the public, and are subject to appropriation for beneficial use only under the laws of this state relating to the appropriation and use and not otherwise."

NRS 534.190 states:

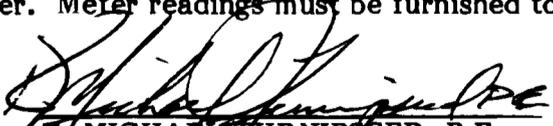
"Any person violating any of the provisions of NRS 534.010 to 534.180, inclusive, shall be guilty of a misdemeanor."

NRS 533.460 states:

"The unauthorized use of water to which another person is entitled, or the willful waste of water to the detriment of another, shall be a misdemeanor, and the possession or use of such water without legal right shall be prima facie evidence of the guilt of the person using or diverting it."

You are clearly exceeding the extent of the right under Permit 25279, Certificate 8423, and are hereby ordered to cease and desist any pumpage of water that exceeds the diversion rate and annual duty as set forth under Permit 25279, Certificate 8423, or uses of water to irrigate lands not specified as the place of use of Certificate 8423.

The holder of Permit 25279, Certificate 8423 shall install a totalizing meter on the well within 15 days from the date of this order. Meter readings must be furnished to the State Engineer upon request.

  
R. MICHAEL FURNIPSEED, P.E.  
State Engineer

Dated at Carson City, Nevada, this

21st day of June, 1991