

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

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O R D E R

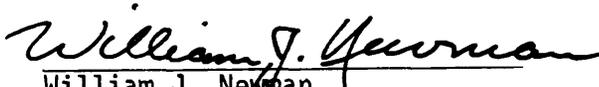
Mr. M. E. Swanger  
Dyer, Nevada 89010

On July 18, 1955, Application 16622 was filed by Hughie D. Noble to appropriate 5.0 c.f.s. of water from an underground source for irrigation and domestic purposes in Fish Lake Valley, Esmeralda County, Nevada. Point of diversion was described as the SW $\frac{1}{4}$  NW $\frac{1}{4}$  Section 22, T.4S., R.36E., M.D.B. & M., and the place of use is within the NW $\frac{1}{4}$  of Section 22, T.4S., R.36E., M.D.B. & M. The water was to be used for irrigation and domestic purposes from January 1 to December 31 of each year. On October 3, 1958, by Quitclaim Deed filed as a matter of record under Application 16622, title was transferred from Hughie D. Noble to M. E. Swanger. The Deed was filed with the Office of the State Engineer on October 6, 1958. On October 5, 1959, a permit was issued under 16622 for 2.5 c.f.s. for irrigation and domestic purposes. Under the conditions of the permit, due dates for the filing of the Proof of Commencement of Work, Proof of Completion of Work, and Proof of Beneficial Use, were set. The Proof of Commencement of Work was filed on May 4, 1961, and the Proof of Completion of Work was filed on May 4, 1962. No Proof of Beneficial Use was filed under Permit 16622.

On November 29, 1965, Application 22873 was filed by M. E. Swanger to change the point of diversion under Permit 16622. A permit was issued under this application to change on May 13, 1966, for 2.5 c.f.s. for irrigation purposes. The permit allowed the change of the point of diversion from that described under Permit 16622 to the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 22, T.4S., R.36E., M.D.B. & M. The Proofs of Commencement, Completion, and Beneficial Use were due on September 13, 1966, under the terms of the permit. On October 18, 1966, an Extension of Time was granted for the filing of the Proofs of Commencement, Completion, and Beneficial Use to

November 13, 1966. On November 21, 1966, a certified notice was sent to the agent of the owner of record, Mr. James C. Perkins, Jr., Box 649, Tonopah, Nevada 89049, indicating that under the provisions of the permit, the Proofs of Commencement, Completion, and well log, together with the Proof of Beneficial Use and cultural map were due in the Office of the State Engineer on or before November 13, 1966, plus a 30-day grace period. No notice was forwarded to the owner of record, Mr. M. E. Swanger. The certified Mail Receipt No. 767284 on file under Permit 22873 indicates that the agent, Mr. James C. Perkins, Jr., received the certified notice on November 22, 1966. Permit 22873 was cancelled on December 22, 1966, for failure of the applicant to comply with the provisions of the permit and no further proceedings were had thereunder. The certified notice clearly indicated that no further extensions of time would be considered for the filing of the Proofs of Commencement, Completion, and Beneficial Use, together with the cultural map. The State Engineer has been requested by letter of February 20, 1981, to consider rescinding the cancellation of Permit 22873 on the grounds that the permittee, Mr. M. E. Swanger, did not receive notice by certified mail as required under NRS 533.390, that the Proofs of Commencement, Completion, and Beneficial Use, together with cultural map were due in the Office of the State Engineer on or before November 13, 1966.

It is therefore ordered by the State Engineer that the permittee under cancelled Permit 22873, provide evidence to the State Engineer to show the amount of water used, the capacity of the well, and the limit and extent of the beneficial use by crop and acreage of water authorized under Permit 22873 as of November 13, 1966. This evidence, data, and information must be submitted within ninety days of the date of this Order for the purpose of consideration by the State Engineer of the request of rescinding the cancellation of Permit 22873.

  
William J. Newman  
State Engineer

Dated at Carson City, Nevada

this 3rd day of APRIL, 1981.