

IN THE MATTER OF THE REINSTATEMENT OF)
APPLICATION 38125 TO APPROPRIATE WATER)
FROM AN UNDERGROUND SOURCE WITHIN THE)
SMOKE CREEK DESERT, WASHOE COUNTY,)
NEVADA)

R U L I N G

21

FINDINGS OF FACT

I

Application No. 38125 was filed on May 8, 1979, in the name of John Espil Sheep Company, Inc., to appropriate 5.2 c.f.s. of water from an underground source to be located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, T.32N., R.19E., M.D.B. & M., for irrigation and domestic use on 320 acres located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of said Section 30, and NW $\frac{1}{4}$ Section 32, T.32N., R.19E. The application was submitted under the signature of Tom Espil as agent for the John Espil Sheep Company, Inc.

II

Application 38125 was returned for correction under certified notice dated October 12, 1979, with the requirement that an amended application and supporting map be received by the State Engineer's office no later than December 11, 1979. On December 7, 1979, an application was received in the name of John Espil Sheep Company, Inc., under signature of Tom Espil along with a map to support the application prepared by Gerald Stanton, Nevada Water Rights Surveyor No. 481. The application form had no "amended" stamp at the top of the form itself and included no indication that it was submitted as an amendment to original Application 38125. Because the State Engineer's office was not aware that this application was intended as an amendment to Application 38125, it was assumed to be a new application and was returned under cover of a letter dated December 21, 1979, to Mr. Thomas Espil indicating that the application could not be accepted unless accompanied by the statutory \$35.00 filing fee.

III

Application 38125 was canceled on December 12, 1979, for failure by the applicant to refile an amended application and supporting map within the statutory time limitation.

IV

On January 30, 1980, the application which was returned to Mr. Espil under cover of the December 21, 1979 letter, was received by the State Engineer's office along with the original copy of that December 21 letter. The letter bore the handwritten statement: "The filing fee

has been paid previously. Please continue processing this application." Mr. Espil was then personally contacted by a representative of the State Engineer's office, and it was determined through conversation that the application which Mr. Espil had submitted on December 7, 1979, was intended to be an amendment to Application 38125.

CONCLUSIONS

I

The State Engineer has jurisdiction in this matter under the provisions of NRS 533.325.

II

The amendment to Application 38125 and the supporting map which were both received on December 7, 1979, were received within the deadline established by State Engineer's return for correction notice dated October 12, 1979.

RULING

The cancellation of Application 38125 is herewith rescinded on the basis that an acceptable amended application and supporting map were received within the deadline established by the State Engineer's return for correction notice. Application 38125 will be processed toward publication in accordance with the provisions of NRS 533.360.

Respectfully submitted,



William J. Newman
State Engineer

WJN/BAR/gk

Dated this 26th day
of JUNE, 1980.