

IN THE MATTER OF THE REINSTATEMENT)
OF CANCELLED PERMITS 29394 AND)
29395 FOR THE APPROPRIATION OF WATER)
FROM BLUE DICK SPRING AND AN UNDER-)
GROUND SOURCE IN LIDA VALLEY,)
ESMERALDA COUNTY, NEVADA.)

R U L I N G

FINDINGS OF FACT

I

Permit 29394 was issued on December 24, 1975, in the name of The Blue Dick Milling Company for the appropriation of 2.0 c.f.s. of water not to exceed an annual duty of 1.5 million gallons from the Blue Dick Spring located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 33, T.5S., R.40E., M.D.B.&M., for milling and domestic use.

Permit 29395 was issued on December 24, 1975 in the name of The Blue Dick Milling Company for the appropriation of 2.0 c.f.s. of water not to exceed an annual duty of 1.5 million gallons from an underground source (the Blue Dick Mine Well) located within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33, T.5S., R.40E., M.D.B.&M., for mining, milling and domestic purposes.

II

The terms of both permits originally required proofs of application of water to beneficial use be filed in the office of the State Engineer on or before July 24, 1980. Through the timely annual submission of applications for extension of time for the filing of the required proof of beneficial use and by the granting of such extensions by the State Engineer as provided for under NRS 533.410, the deadline was ultimately extended to July 24, 1982.

III

July 24, 1982 was a Saturday.

IV

As is required under NRS 533.410, upon expiration of the last established deadline of July 24, 1982, for the filing proofs of beneficial use, notices of the requirement for such filing were sent by certified mail to the Blue Dick Milling Company. Said notices which were dated July 23, 1982, and bore the address of 17230 Celtic Granada Hills, CA 91344, allowed a statutory thirty (30) day grace period within which to comply. A receipt for the notice for Permit 29394 bearing the signature of K. Dolan was returned to the office of the State Engineer on July 28, 1982. Neither of the required proofs were received within the grace period and Permits 29394 and 29395 were subsequently cancelled on August 24, 1982 for failure to comply with the terms of the permits.

V

A review of the files under Permits 29394 and 29395 revealed that the last known address for the Blue Dick Mining Company was 17230 Celtic St., Granada Hills, CA 91344.

VI

Proofs of beneficial use for Permits 29394 and 29395 were received in the office of the State Engineer on August 25, 1982 along with the required filing fees.

CONCLUSIONS

I

The State Engineer has jurisdiction in this matter under the provisions of Chapter 533 of NRS.

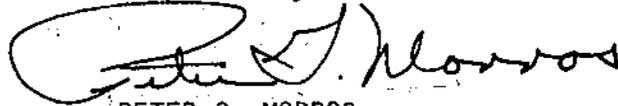
II

Upon the expiration of the deadline for the filing of proof of beneficial use under any permit, the State Engineer is directed by NRS 533.410 to give notice by certified or registered mail to the permit holder, and to allow a thirty (30) day grace period within which to file said proof. It is the policy of the State Engineer that whenever due dates occur on weekends or legal holidays, the due date is automatically extended until 5:00 P.M. of the next working day. Thirty days from July 26, 1982 was August 25, 1982.

RULING

The cancellation of Permits 29394 and 29395 is hereby rescinded on the basis that proper final notice required under NRS 533.410 was not given to the permit holder because of the error in the street name and the proofs of beneficial use were submitted in a timely fashion because the final notices were dated prior to the expiration of time allowed under the permits.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/KN/b1

Dated this 12th day of

November, 1982