

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF THE REINSTATEMENT)
OF CANCELLED PERMIT 51584 IN RUBY)
VALLEY, ELKO COUNTY, NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 51584 was filed on November 23, 1987, by David Neff to change the point of diversion of 5.4 c.f.s. of water from an underground source heretofore appropriated under Permit 40451 to irrigate 320 acres of land within the W $\frac{1}{2}$ Section 23, T.32N., R.60E., M.D.B.&M. The new point of diversion is described as being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, T.32N., R.60E., M.D.B.&M.

The above application was approved and a permit was issued on April 7, 1988.

II.

By a certified mail notice dated November 1, 1988, the permittee was advised that the Proof of Completion of Work had not been filed within the time limits established in the permit and the permit was in poor standing. Said notice stated that the required documents had to be submitted on or before thirty (30) days from the date of the notice or the permit would be cancelled.

III.

On February 10, 1989, Permit 51584 was cancelled for failure to submit the Proof of Completion of Work.

IV.

Upon the receipt of the cancellation notice, the permittee submitted a letter to the Division of Water Resources dated April 3, 1989, stating that he had attempted to comply with the requirement of the permit but had mistakenly thought abrogated Permit 40451 was still in effect.

A review of the records under abrogated Permit 40451 disclose that a Proof of Beneficial Use had been filed on October 27, 1988. The submitted Proof of Beneficial Use clearly was intended to be filed in support of Permit 51584 not Permit 40451 which was abrogated when Permit 51584 was approved.

CONCLUSION

I.

The State Engineer has jurisdiction in this matter in accordance with NRS 533.380, 533.395 and 533.410.

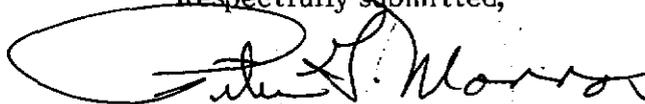
II.

A clerical error on the part of the permittee resulted in the cancellation of Permit 51584. The record reflects substantial evidence that the Proof of Beneficial Use was timely submitted under Permit 51584.

RULING

The cancellation of Permit 51584 is hereby rescinded with no loss in priority and the processing of the submitted Proof of Beneficial Use will proceed.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/CT/bk

Dated this 5th day of

June, 1989.