

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

IN THE MATTER OF APPLICATIONS 36454,)
36460 AND 44229 FILED TO CHANGE THE)
POINT OF DIVERSION AND PLACE OF USE)
OF A PORTION OF THE WATERS OF AN)
UNDERGROUND SOURCE HERETOFORE)
APPROPRIATED UNDER PERMIT 19598,)
CERTIFICATE 7303, IN PENOYER)
VALLEY, LINCOLN COUNTY, NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 36454 was filed on January 15, 1979, by Nevada Farms, Inc., to change the point of diversion and place of use of 1.0 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation and domestic purposes within the NE1/4 NE1/4 Section 5, T.4S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the SW1/4 SE1/4 Section 5, T.4S., R.55E., M.D.B.&M.¹

Application 36460 was filed on January 15, 1979, by Nevada Farms, Inc., to change the point of diversion and place of use of 2.09 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation and domestic purposes within the NW1/4 Section 33, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the SW1/4 NW1/4 Section 33, T.3S., R.55E., M.D.B.&M.¹

Application 44229 was filed on August 3, 1981, by Nevada Farms, Inc., to change the point of diversion and place of use of 0.3 c.f.s., a portion of water from an underground source heretofore appropriated under Permit 19598, Certificate 7303. The proposed use is for irrigation and domestic purposes within the SE1/4 Section 29, T.3S., R.55E., M.D.B.&M. The proposed point of diversion is described as being within the NE1/4 SE1/4 Section 29, T.3S., R.55E., M.D.B.&M.¹

¹ Public record in the office of the State Engineer.

II.

The ownership Permit 19598, Certificate 7303 was assigned from Nevada Farms, Inc. to D.C. Day by a Grant, Bargain and Sale Deed dated July 24, 1978.² This deed was filed with the State Engineer on October 23, 1979.

III.

The ownership of Applications 36454 and 36460 was assigned from Nevada Farms, Inc. to Melvin V. Brown by a quit claim deed dated August 10, 1979.³ This deed was filed with the State Engineer on September 7, 1979.

IV.

D.C. Day protested Application 44229 filed by Nevada Farms, Inc. on the following grounds:⁴

That it would impair and conflict with the value of existing rights; that it would be against public policy to grant said application, and contrary to statute; that the granting of said application would interfere with the customary use of Protestant's water rights pursuant to Permit No. 19598, Certificate No. 7303.

This protest was filed on October 13, 1983.

V.

On December 27, 1985 Applications 36454, 36460 and 44229 were denied on the grounds that the applicant had failed to establish any ownership interest in Permit 19598, Certificate 7303, the right proposed to be changed.⁵

² Public records in the office of the State Engineer under Permit 19598. (See Certified Copy of Document No. 62904 from the Lincoln County Recorders Office.)

³ Public records in the office of the State Engineer under Application 36438. (See Certified Copy of Document No. 64961 from the Lincoln County Recorders Office.)

⁴ Public records in the office of the State Engineer, under Application 44229.

⁵ See Ruling No. 3296 dated December 27, 1985, public record in the office of the State Engineer.

VI.

The State Engineer received a petition requesting a decision as to the ownership of permit 19598, Certificate 7303.⁶ A hearing was held on February 10, 1989 in regard to this matter.⁷

VII.

The State Engineer's records reflect assignment of Permit 19598, Certificate 7303, from D.C. Day to Penoyer Farms, Ltd. as per document 094209, Book 90, Page 591 of Lincoln County dated April 13, 1990. This document was filed in the State Engineer's Office July 12, 1990.⁸

VIII.

The States Engineer's records reflect the assignment of Application 44229 from Nevada Farms, Inc. to Penoyer Farms Ltd. as per original document executed March 22, 1990. This document was filed in the State Engineer's Office July 12, 1990.⁹

IX.

The State Engineer's records reflect that a deed was submitted on May 14, 1982 and resubmitted on October 22, 1984 transferring Application 36454 from V. Melvin Brown to Penoyer Farms Ltd.¹⁰

⁶ Public records in the office of the State Engineer, under Permit 19598.

⁷ Public records in the office of the State Engineer. See transcript of proceedings public hearing Friday, February 10, 1989.

⁸ Public records in the office of the State Engineer, under Permit 19598.

⁹ Public records in the office of the State Engineer, under Application 44229.

¹⁰ Public Records of the State Engineer under Application 36437. (See Certified Copy of Document No. 75453 from the Lincoln County Records Office.)

X.

The State Engineer's records reflect that a deed was submitted on August 27, 1987 transferring the place of use under Application 36460 from V. Melvin Brown to Penoyer Farms, Ltd.¹¹

CONCLUSION

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.¹²

II.

At this time Permit 19598, Certificate 7303 and Applications 36454, 36460 and 44229 are in the name of Penoyer Farms, Ltd.

RULING

The denial of Applications 36454, 36460 and 44229 by Ruling #3296 is hereby rescinded and Applications to change 36454, 36460 and 44229 are hereby reinstated on the grounds that the applicant has established ownership interest in Permit 19598, Certificate 7303, the right proposed to be changed and Applications 36454, 36466 and 44229.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/RM/pm

Dated this 2nd day of
October, 1990

11 Public Records of the State Engineer under Application 36460.
(See Certified Copy of Document No. 64767 from the Lincoln County
Recorders Office.)

12 Chapter 533.385 of the Nevada Revised Statutes.