

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

IN THE MATTER OF THE REVIEW OF CANCELLED)
PERMIT 47940, TO APPROPRIATE THE)
UNDERGROUND WATERS OF THE LAS VEGAS)
ARTESIAN BASIN, CLARK COUNTY, NEVADA.)

RULING
4034

GENERAL

I.

Application 47940 was filed on March 28, 1984, by George Bernadot, to appropriate 2.0 cubic feet per second (cfs) of water from an underground source for industrial and domestic purposes. The proposed place of use is located within the N $\frac{1}{4}$ Section 28, T.23S., R.61E., M.D.B.&M. The proposed point of diversion is located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 28. Permit 47940 was approved on January 25, 1985 for 2.0 cfs, but not to exceed 108 million gallons annually (MGA) for industrial and domestic purposes (gravel operation).¹

II.

Proof of Completion of work was first due on February 25, 1987 and four extensions of time have been granted. The proof of beneficial use was first due on February 25, 1990 and one extension of time has been granted.¹

III.

On May 1, 1991, the permittee submitted an application for extension of time for filing the proof of completion of work and the proof of beneficial use. In a letter dated January 7, 1992, the State Engineer denied the request for extension of time and cancelled Permit 47940. The State Engineer stated that the record lacks evidence that there has been satisfactory progress to complete the diversion of works. The State Engineer found that the permittee had not shown good cause to grant an extension of time and that the owner had not proceeded in good faith and with reasonable diligence.¹

IV.

On January 28, 1992, the permittee filed a written petition requesting the State Engineer to hold a hearing to reconsider the

¹ File No. 47940, official records in the office of the State Engineer.

cancellation of Permit 47940. On January 13, 1993, a hearing was held on this matter.¹

FINDINGS OF FACT

I.

At the hearing, the Agent for the permittee testified that during the summer of 1991, prior to the cancellation of Permit 47940, the well had been drilled to a depth of 780 feet and equipped with a 7½ hp submersible pump. A generator and a totalizing meter were installed but, due to vandalism, were subsequently removed. The agent indicated that the proof of completion of work can be filed at any time.² The State Engineer finds that satisfactory progress has been made to complete the construction of the well and all the appropriate appurtenances.

II.

At the hearing, the permittee testified that he had been involved in long standing negotiations with the Bureau of Land Management (BLM) regarding the property located within the place of use of Permit 47940. The permittee has finally reached an agreement whereby the BLM will allow the gravel operation to proceed. The State Engineer finds upon receipt of the request for extension of time, there is good cause shown to grant an extension of time to file the proof of beneficial use.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter.³

II.

The State Engineer may, after receiving and considering evidence regarding a cancelled permit, affirm, modify, or rescind the cancellation.⁴

² Transcript pp. 2-3, Public Administrative Hearing before the State Engineer January 13, 1993.

³ NRS 533 and 534.

⁴ NRS 533.395(2).

III.

If the State Engineer rescinds the cancellation of a permit, the effective date of the appropriation under the permit is vacated and replaced by the date of filing the written petition with the State Engineer.⁵

IV.

The State Engineer concludes that the permittee has proceeded in good faith and with reasonable diligence to complete the installation of the works of diversion. The State Engineer further concludes that the cancellation of Permit 47940 should be rescinded.

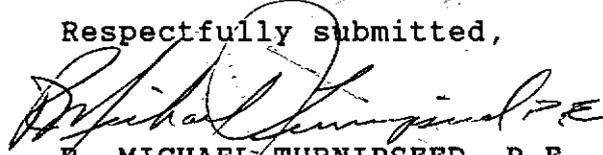
V.

The State Engineer concludes that there is good cause shown to warrant the approval of a request for extension of time for filing the proof of beneficial use.

RULING

The cancellation of Permit 47940 is hereby rescinded and the effective date of appropriation is hereby changed to January 28, 1992, the date of filing the written petition. The permittee is granted until October 1, 1993 to file the proof of completion of work and the request for extension of time for filing the proof of beneficial use.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/JCP/pm

Dated this 23rd day of
August, 1993.

⁵ NRS 533.395(3).