

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

IN THE MATTER OF APPLICATION 36285 TO)  
APPROPRIATE THE PUBLIC WATERS FROM )  
MEADOW VALLEY WASH CREEK, CLARK )  
COUNTY, NEVADA. )

RULING  
# 4057

GENERAL

I.

Application 36285 was filed on December 13, 1978, by Nelda Cole to appropriate 5.4 cfs of water from Meadow Valley Wash Creek for irrigation purposes on 220 acres within a portion of Section 19, T.13S., R.66E., M.D.B.&M.<sup>1</sup> Application 36285 was permitted on October 22, 1987. The current owner of record for Permit 36285 is Charles Wayne Cole.

FINDINGS OF FACT

I.

The State Engineer specified that the Proof of the Application of Water to Beneficial Use and map in support of Proof of Beneficial Use would be filed on or before November 22, 1991, for Permit 36285.<sup>1</sup>

II.

By certified letter dated April 2, 1993, the State Engineer's Office notified owner-of-record, Charles Wayne Cole that the provisions of Permit 36285 required filing of the Proof of Beneficial Use and Cultural Map within 30 days of the date of the final certified notice. A properly endorsed receipt for the certified notice to Charles Wayne Cole is on file in the office of the State Engineer.<sup>2</sup> No proof of beneficial use or cultural map was received as a result of this notice.<sup>3</sup>

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<sup>1</sup> Public record in the office of the State Engineer.

<sup>2</sup> See certified mail Return Receipt No. P 019 035 819.

<sup>3</sup> A check of the record of the office of the State Engineer indicates that no Proof of Beneficial Use has been received.

III.

By certified letter dated August 19, 1993, the State Engineer's Office notified owner-of-record, Charles Wayne Cole that Permit 36285 had been cancelled for failure to submit the Proof of Beneficial Use and Cultural Map. A properly endorsed receipt for the certified notice to Charles Wayne Cole is on file in the office of the State Engineer.<sup>4</sup>

IV.

On September 2, 1993, the State Engineer's Office received a letter from Richard J. Baughman, P.E. requesting a review of the cancellation of Permit 36285. Mr. Baughman notified the State Engineer's Office that he was associated with Mr. Cole as his water right surveyor and that Mr. Baughman had not been notified of the April 2, 1993, final notice.<sup>5</sup>

V.

On December 13, 1978, original applicant Nelda Cole requested copies of all correspondence regarding Permit 36285 be sent to Dick Baughman. Since that time Mr. Baughman had acted as agent for the permittee by filing an Extension of Time in 1989 and a Proof of Completion of Work in 1991.

CONCLUSIONS

I.

The State Engineer has jurisdiction in this under the provisions of NRS 533.325 and NRS 533.435.<sup>6</sup>

II.

After reviewing the records in the State Engineer's Office, it was determined that Richard J. Baughman is affiliated with Cancelled Permit 36285 acting as agent for Charles Wayne Cole.

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<sup>4</sup> See certified mail Return Receipt No. P 319 851 833.

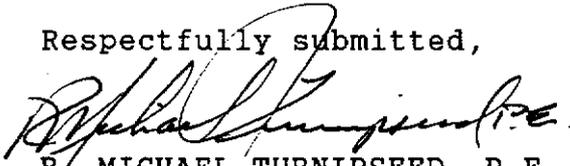
<sup>5</sup> Letter from Baughman dated August 30, 1993.

<sup>6</sup> NRS Chapters 533 and 534.

RULING

The cancellation of Permit 36285 is hereby rescinded with no loss of priority on the ground that noticing was not sent to all affiliated parties.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/DJL/pm

Dated this 16th day of

December, 1993.