

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

IN THE MATTER OF APPLICATIONS 30011 AND )  
30012 FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE WITHIN )  
GABBS VALLEY GROUNDWATER BASIN, MINERAL )  
COUNTY, NEVADA. )

RULING  
# 4137

GENERAL

I.

Application 30011 was filed on February 20, 1976, by Calmer J. and Enide Johnson to appropriate 5.4 cfs of water from an underground source for irrigation and domestic purposes on 320 acres within E½ Section 13, T.11N., R.33E., M.D.B.&M. Application 30011 was permitted on August 3, 1976. The current owners-of-record for Permit 30011 are Gary P. and Robin B. Armstrong.<sup>1</sup>

II.

Application 30012 was filed on February 20, 1976, by Calmer J. and Enide Johnson to appropriate 5.4 cfs of water from an underground source for irrigation and domestic purposes on 320 acres within W½ Section 13, T.11N., R.33E., M.D.B.&M. Application 30012 was permitted on August 3, 1976. The current owners-of-record for Permit 30012 are Gary P. and Robin B. Armstrong.<sup>2</sup>

III.

On March 4, 1992, a final notice was sent to Gary P. and Robin B. Armstrong, stating that the permittees had thirty days from the date of the notice to file proof of beneficial use or a request for extension of time for Permits 30011 and 30012. The notice was sent to an address in Fallon, Nevada.<sup>1,2</sup>

On April 8, 1992, the permittees filed requests for extension of time for filing the proof of beneficial use for Permits 30011 and 30012. On April 27, 1992, Permits 30011 and 30012 were

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<sup>1</sup> File No. 30011, public records in the office of the State Engineer.

<sup>2</sup> File No. 30012, public records in the office of the State Engineer.

cancelled because the requests for extension of time were received after the time allowed in the final notice.<sup>1,2</sup>

IV.

On March 30, 1994, the permittees filed requests for extension of time to file proof of beneficial use for Permits 30011 and 30012. No action has been taken on these requests.<sup>1,2</sup>

FINDINGS OF FACT

I.

On March 27, 1991, Gary P. Armstrong filed applications for extension of time for filing the proof of beneficial use for Permits 30011 and 30012. The extensions of time were granted to March 3, 1992. The address for the permittee as stated on the requests is, 2574 Casiano Road, Bel Air, California 90077.<sup>1,2</sup> This is the permittees' present address and the Fallon, Nevada address to which the March 4, 1992 notice was sent, is no longer current.

The final notice dated March 4, 1992, was not sent to the permittees' present address, even though the correct address was given on the request for extension of time, sent to the State Engineer's office on March 27, 1991. The State Engineer finds that the permittees were not properly noticed with respect to the final notice sent on March 4, 1992.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.<sup>3</sup>

II.

Because the Permittees were not properly sent a final notice that the proof of beneficial use was due, Permits 30011 and 30012 were cancelled in error, through no fault of the Permittees. Therefore, the cancellation of Permits 30011 and 30012 should be voided.

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<sup>3</sup>

NRS Chapter 533.

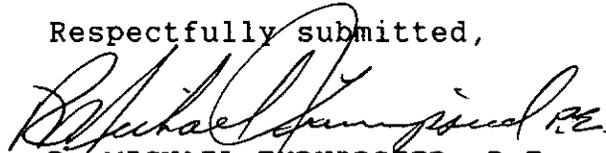
III.

The pending requests for extension of time to file proof of beneficial use under Permits 30011 and 30012 should be granted to March 3, 1995.

RULING

The cancellation of Permits 30011 and 30012 are hereby voided. The requests for extension of time to file proof of beneficial use are hereby granted to March 3, 1995.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/DJL/pm

Dated this 7th day of  
September, 1994.