

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

IN THE MATTER OF CANCELLED PERMIT)
55528 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN THE LAS VEGAS ARTESIAN)
GROUNDWATER BASIN (212), CLARK)
COUNTY, NEVADA.)

RULING

4517

GENERAL

I.

Application 55528 was filed on December 13, 1990, by Ronald Smilow to appropriate 0.0062 cubic feet per second from the Las Vegas Artesian Groundwater Basin for quasi-municipal and domestic purposes within four lots within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.19S., R.60E., M.D.B.&M. The point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 14.¹

FINDINGS OF FACT

I.

Under Permit 55528, Proof of Completion of Work was due to be filed in the Office of the State Engineer on or before May 30, 1993. On June 3, 1993, the permittee was notified that he had failed to comply with the terms of the permit in that the required Proof of Completion of Work had not been filed. The State Engineer finds that on August 19, 1993, Permit 55528 was cancelled for failure to comply with the permit terms.

II.

On or around August 30, 1993, the permittee filed a Proof of Completion of Work. However, since the permit had already been cancelled, the filing was returned to the permittee. The State Engineer finds that after an administrative hearing held to review the cancellation of the permit, the cancellation of Permit 55528 was rescinded, the permit reinstated and Proof of Completion filed with the Office of the State Engineer.

¹File No. 55528, official records in the Office of the State Engineer.

III.

On July 20, 1994, the Proof of Completion was returned to the permittee as it did not include all of the information required under the terms of the permit. The permittee was given 30 days to resubmit the corrected proof and was informed that failure to do so would result in cancellation of the permit. The State Engineer finds that the permittee was notified on November 3, 1994, January 10, 1995, and July 26, 1995, that he had failed to file the corrected Proof of Completion. The State Engineer further finds that on January 5, 1996, Permit 55528 was again cancelled for failure to comply with the permit terms.

IV.

The Nevada Revised Statutes allow for the holder of a cancelled permit to petition the State Engineer for a review of the cancellation within 60 days of the cancellation.² In circumstances where the required proof or application for extension of time is filed after the deadline, the late filing may be substituted for a written petition. On January 8, 1997, the State Engineer issued a notice by certified mail of a hearing scheduled for review of the cancellation. The certified notice was returned by the U.S. Postal Service as "unclaimed, address correction requested". The State Engineer finds it is the responsibility of the applicant or his successor in interest to keep this office informed of a current mailing address. The State Engineer further finds it is the responsibility of any subsequent purchaser of the property or interest in the permit to file a report of conveyance with the State Engineer.³

V.

The State Engineer finds that no one appeared at the time and place scheduled for the hearing.

²NRS 533.395.

³NRS 533.384.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.⁴

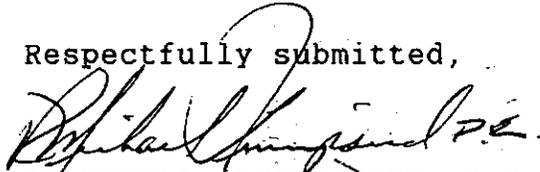
II.

NRS 533.390 requires that the State Engineer shall cancel a permit if the permittee fails to timely file Proof of Completion of works actually constructed. The State Engineer concludes that the permittee did not respond to repeated requests by the State Engineer to comply with the Proof of Completion filing requirements or appear at the time and place scheduled for the review of the cancellation; therefore, no evidence or testimony was presented which would support the State Engineer modifying or rescinding the cancellation.

RULING

The cancellation of Permit 55528 is affirmed.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/ab

Dated this 1st day of
April, 1997.

⁴NRS Chapters 533 and 534.