

IN THE MATTER OF APPLICATION NOS. 38389)
THROUGH 38396, 39959, and 39960, IN DIXIE)
VALLEY, CHURCHILL COUNTY, NEVADA)

R U L I N G

FINDINGS OF FACT

I

The following permits to appropriate water from separate underground sources for industrial (geothermal) purposes were issued on July 18, 1978, in the name of Sunoco Energy Development Company, each in the amount of 3.25 c.f.s. and not to exceed 2,352 acre-feet annually:

Permit 35156-Point of diversion located within the NW 1/4 NW 1/4 Section 32, T.25N., R.37E., M.D.B. & M.

Permit 35175-Point of diversion located within the NE 1/4 NW 1/4 Section 18, T.24N., R.37E., M.D.B. & M.

Permit 35176-Point of diversion located within the SE 1/4 SW 1/4 Section 7, T.24N., R.37E., M.D.B. & M.

Permit 35178-Point of diversion located within the NW 1/4 NW 1/4 Section 18, T.24N., R.37E., M.D.B. & M.

Permit 35181-Point of diversion located within the SW 1/4 SW 1/4 Section 7, T.24N., R.37E., M.D.B. & M.

Permit 35182-Point of diversion located within the NE 1/4 NE 1/4 Section 13, T.24N., R.36E., M.D.B. & M.

Permit 35183-Point of diversion located within the NW 1/4 SW 1/4 Section 7, T.24N., R.37E., M.D.B. & M.

Permit 35184-Point of diversion located within the NW 1/4 NW 1/4 Section 24, T.24N., R.36E., M.D.B. & M.

Permit 35189-Point of diversion located within the NW 1/4 NW 1/4 Section 12, T.24N., R.36E., M.D.B. & M.

The place of use allowed under all of the above described permits was Section 32, T.25N., R.37E., M.D.B. & M., Sections 5, 6, 7, 8, 17, 18, 19, 20, T.24N., R.37E., M.D.B. & M., Sections 12, 13, 24, T.24N., R.36E., M.D.B. & M.

II

The terms of those permits described under Section I above required that Proof of Commencement of Work be filed under each on or before February 18, 1979, that Proof of Completion of Work be filed on or before February 18, 1980, and that Proof of Beneficial Use be filed on or before February 18, 1985.

Upon the timely filing of an Application for Extension of Time on March 8, 1979, the deadline under each permit for the filing of Proof of Commencement of Work was extended to February 18, 1980.

In accordance with the provisions of NRS 533.390, on February 19, 1980, certified notice was mailed to the permit holder, with a certified copy to agent Richard W. Arden, giving notice that the permits were in poor standing for failure to timely file Proofs of Commencement of Work and Proofs of Completion of Work and well logs and allowing a thirty (30) day grace period for such filing. No filing was made within that grace period, and on March 24, 1980, Permits 35156, 35175, 35176, 35178, 35181, 35182, 35183, 35184, and 35189 were canceled for failure to comply with the provisions of the permits.

III

The following described applications were filed on June 20, 1979, by Sunoco Energy Development Company to change the point of diversion and place of use of those permits described under preceding Section I.

Application 38389 to change Permit 35189

Application 38390 to change Permit 35184

Application 38391 to change Permit 35183

Application 38392 to change Permit 35182

Application 38393 to change Permit 35178

Application 38394 to change Permit 35176

Application 38395 to change Permit 35156

Application 38396 to change Permit 35175

Subsequent to the above listed filings, on December 13, 1979, Application 39959 was filed to change the point of diversion and place of use of Permit 35181 as described under Section I. Also, on that same date, Application 39960 was filed to change the point of diversion of Application 38390, described above within this section.

The publication and protest periods specified under NRS 533.360 and NRS 533.365 ended on May 1, 1980, under Applications 38389 through 38396 and on May 2, 1980, under Applications 39959 and 39960.

CONCLUSIONS

The State Engineer has jurisdiction in this matter in accordance with the provisions of NRS 533.325 through NRS 533.390.

II

NRS 533.390 requires that a permit be canceled where there is a failure to comply with the requirements of that permit. Permits 35156, 35175, 35176, 35178, 35181, 35182, 35183, 35184, and 35189 were, therefore, properly canceled.

III

The base permit must be kept in good standing until such time as an application to change becomes ready for action by the State Engineer, i.e., the end of the protest period established under NRS 533.365.

IV

Permits 35156, 35175, 35176, 35178, 35181, 35182, 35183, 35184, and 35189, in being canceled on March 24, 1980, were canceled prior to the ready for action dates of May 1, 1980, under Applications 38389 through 38396 and May 2, 1980, under Application 39959.

V

Application 39960 was filed to change pending Application 38390. No favorable consideration can, therefore, be given to Application 39960 until favorable action is first taken on Application 38390.

RULING

Applications 38389, 38390, 38391, 38392, 38393, 38394, 38395, 38396, and 39959 are herewith denied on the grounds that the base permits which they seek to change were canceled prior to the date on which the applications became ready for action by the State Engineer. With the cancellation of the base permits, there ceased to exist any water rights to be changed, and the applications thereby were rendered moot and without basis.

Application 39960 is herewith denied on the grounds that with the foregoing denial of Application 38390, it too is rendered moot and without basis, there being no permitted water right to be changed.

Respectfully submitted,



William J. Newman

William J. Newman
State Engineer

WJN/BAR/ja

Dated this 29th day

of OCTOBER, 1980.