

IN THE MATTER OF THE REINSTATEMENT)
OF APPLICATIONS 38627 AND 38628)
IN THE SARCOBATUS FLAT, NYE COUNTY,)
NEVADA.)

R U L I N G

FINDINGS OF FACT

I

Applications 38627 and 38628 were filed on July 20, 1979, in the name of Charles Brooks to appropriate water from separate underground sources located respectively within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 28 and within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 21, T.7S., R.44E., M.D.B.&M., both in the amount of 5.4 c.f.s. and for the irrigation of 320 acres. The applications were filed by Ivan E. Nanney as agent for the applicant.

II

No map was submitted with Applications 38627 and 38628. Therefore, in accordance with NRS 533.355, certified notice dated November 14, 1979, was sent to both Ivan Nanney and applicant, Charles Brooks, allowing a 60-day period to January 12, 1980, within which to file a supporting map prepared by a licensed Nevada State Water Right Surveyor. No map was received within that deadline, and therefore both applications were cancelled on January 15, 1980. The \$25.00 publication fee under each was subsequently refunded to agent Ivan Nanney on March 3, 1980.

III

Permits 28416 and 28417 were previously issued on January 29, 1975, in the name of Nancy R. and Robert W. Weikel. Both permits were cancelled on November 6, 1975, for failure to comply with the provisions of the permits.

The points of diversion and place of use described under Permits 28416 and 28417 correspond to those described under Applications 38627 and 38628, respectively.

IV

A quitclaim deed, dated January 5, 1980, which conveys the interest of Permits 28416 and 28417 from Nancy R. and Robert W. Weikel to Charles Brooks, was received by the State Engineer's office on January 11, 1980, and was subsequently found to be acceptable for assignment of the Weikel interest.

CONCLUSIONS

I

The State Engineer has jurisdiction under this matter in accordance with the provisions of NRS 533.325 through NRS 533.355.

II

The deed for assignment of cancelled Permits 28416 and 28417 to Charles Brooks was received by the office of the State Engineer prior to the January 12, 1980 deadline for the filing of a map to support pending Applications 38627 and 38628.

III

The map on file under cancelled Permits 28416 and 28417 accurately describes the proposed points of diversion and place of use under Applications 38627 and 38628.

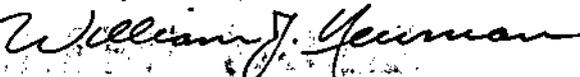
IV

It is the policy of the State Engineer's office that any map already on file, which describes accurately and completely the point of diversion and place of use of a subsequently filed application, is acceptable for support of that new application as long as the name of the new applicant corresponds with the owner of record of the prior filing.

RULING

The cancellation of Applications 38627 and 38628 is herewith rescinded on the grounds that those maps already on file under cancelled Permits 28416 and 28417 were acceptable for support of the new applications, and the cancellations were therefore inappropriate. A 30-day period from the date of this ruling is herewith allowed for resubmission of the \$50.00 publication fee which was refunded to agent Ivan Nanney upon cancellation of the applications. Upon resubmission of the fee, the State Engineer's office will resume processing of Applications 38627 and 38628 toward notice of application as provided under NRS 533.360.

Respectfully submitted,


William J. Newman
State Engineer

WJN:BAR:jw

Dated this 3rd day of November, 1980.