

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATIONS 41875,)
41876 AND 41878 FILED TO APPROPRIATE)
THE PUBLIC WATERS FROM AN)
UNDERGROUND SOURCE WITHIN THE)
PUMPERNICKEL VALLEY GROUND WATER)
BASIN IN HUMBOLDT COUNTY, NEVADA.)

RULING

GENERAL

Application 41875 was filed on July 25, 1980, by Wilma J. McBride to appropriate 5.4 c.f.s. of water from an underground source to irrigate 280 acres of land within the E1/2 W1/2, W1/2 SW1/4 and SW1/4 NW1/4 Section 22, T.36N., R.41E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 22, T.36N., R.41E., M.D.B.&M.¹

Application 41876 was filed on July 25, 1980, by Rex B. McBride to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the E1/2 Section 22, T.36N., R.41E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NE1/4 Section 22, T.36N., R.41E., M.D.B.&M.¹

Application 41878 was filed on July 25, 1980, by Philip T. Jarone to appropriate 5.4 c.f.s. of water from an underground source to irrigate 320 acres of land within the W1/2 Section 10, T.33N., R.40E., M.D.B.&M. The point of diversion is described as being within the SW1/4 NW1/4 Section 10, T.33N., R.40E., M.D.B.&M.¹

FINDINGS

I.

Records and information available to the State Engineer indicate that Applications 41875, 41876 and 41878 were filed in support of Desert Land Entry applications.²

II.

By letter dated December 4, 1980, the United States Department of Interior, Bureau of Land Management, notified the State Engineer that the following Desert Land Entry Applications had been closed and the case files are dead.³

¹ Public record in the office of the State Engineer under applications to appropriate 41875, 41876 and 41878.

² Public records in the office of the State Engineer.

³ Public record in the office of the State Engineer under Applications 41875, 41876 and 41878.

<u>BLM ENTRY NO.</u>	<u>NAME</u>	<u>LAND DESCRIPTION</u>
N-30441	Wilma J. McBride	T.36N., R.41E., Sec. 22
N-30443	Rex McBride	T.36N., R.41E., Sec. 22
N-30444	Philip T. Jarone	T.33N., R.40E., Sec. 10

III.

The applicants under Applications 41875, 41876 and 41878 do not own or control the land described under the place of use of the applications.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.⁴

II.

Applications 41875, 41876 and 41878 were filed in support of Desert Land Entries. The Desert Land Entry applications described under II of Findings have been closed on the records of the Bureau of Land Management, therefore, the applicants do not own or control the land described under the place of use of the applications and cannot demonstrate the ability to place the water to beneficial use.

III.

To grant applications to appropriate the public waters for irrigation on lands the applicant does not own or control or where the applicant cannot demonstrate the ability to place the water to beneficial use, would not be in the public interest and welfare.

RULING

Applications 41875, 41876 and 41878 are herewith denied on the grounds that to grant the applications for irrigation purposes on lands that the applicant does not own or control and cannot demonstrate the ability to place the water to beneficial use, would not be in the public interest and welfare.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM/BD/bl

Dated this 25th day of

SEPTEMBER, 1984.

4 NRS Chapters 533 and 534.

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STATE OF NEVADA

DIVISION OF WATER RESOURCES

IN RE:)
)
 CANCELLATION OF PERMIT)
 NO. 26358 IN THE NAME OF)
 PAUL B. SIMKINS.)
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, SEPTEMBER 25, 1984
1:00 P.M.

AT THE DIVISION OF WATER RESOURCES
1515 EAST TROPICANA
SUITE 375
LAS VEGAS, NEVADA

REPORTED BY: LISA K. STEVENS
C.S.R. NO. 133

1 MS. THIEL: I DON'T HAVE ANY OTHER QUESTIONS.

2 DO YOU HAVE ANY OTHER QUESTIONS, TOM?

3 MR. SMALES: NO.

4 MS. THIEL: REFERRING TO THE PROVISIONS OF
5 533.395 AND IN CONSIDERATION OF YOUR TESTIMONY AND YOUR
6 EXHIBIT REGARDING THE CIRCUMSTANCES REGARDING THE
7 CANCELLATION OF PERMIT 26358, BEFORE I MAKE THE RULING, I
8 GUESS I SHOULD SAY THAT THE STATE ENGINEER HAS GIVEN ME
9 THE AUTHORITY TO ACT IN HIS BEHALF AND RULE ON WHETHER THIS
10 PERMIT CAN BE REINSTATED OR THE CANCELLATION UPHELD.

11 IN OTHER WORDS, IT IS, THEREFORE, MY
12 RULING BASED ON YOUR TESTIMONY THAT THE CANCELLATION OF
13 PERMIT 26358 IS HEREBY RESCINDED AND YOU WILL BE REQUIRED
14 TO FILE WITHIN 30 DAYS OF TODAY'S DATE EITHER AN APPLICATION
15 FOR EXTENSION OF TIME OR THE PROOF OF BENEFICIAL USE IN
16 ORDER TO KEEP YOUR PERMIT IN GOOD STANDING.

17 I'D LIKE TO ALSO DIRECT YOUR ATTENTION
18 TO THE PROVISIONS IN N.R.S. 533.395, SECTION 3. IT SAYS:

19 "IF THE DECISION OF THE
20 STATE ENGINEER MODIFIES OR RESCINDS
21 THE CANCELLATION OF A PERMIT, THE
22 EFFECTIVE DATE OF THE APPROPRIATION
23 DATE OF THE PERMIT IS VACATED AND
24 REPLACED BY THE DATE OF THE FILING
25 OF THE WRITTEN PETITION WITH THE STATE

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ENGINEER."

LOOKING AT THE DATE THAT YOU FILED, THAT
PETITION WAS RECEIVED IN OUR OFFICE APRIL 19, 1984, AND
THAT NOW BECOMES THE DATE OF PRIORITY OF YOUR PERMIT.

UNLESS THERE IS ANYTHING FURTHER, DO YOU
HAVE ANYTHING FURTHER TO ADD?

MR. MORIN: NO. IT'S JUST THAT I THINK I WOULD
HAVE LOST MY JOB IF I WOULD HAVE LOST THIS PERMIT.

MS. THIEL: NOTHING FURTHER, I'LL DECLARE THE
HEARING CLOSED.

(WHEREUPON, THE HEARING CONCLUDED.)

1 MS. THIEL: FOR THE RECORD, I'M ACTING IN
2 BEHALF OF THE STATE ENGINEER AND HE HAS GRANTED ME THE
3 AUTHORITY TO ACT AT THIS HEARING EITHER TO UPHOLD THE
4 CANCELLATION OR TO RESCIND IT.

5 IT'S MY RULING THAT THE CANCELLATION OF
6 PERMIT 44473 IS HEREBY RESCINDED AND YOU WILL BE REQUIRED
7 TO FILE WITHIN 30 DAYS OF TODAY'S DATE EITHER AN APPLICATION
8 FOR EXTENSION OF TIME WITH THE PROOF OF COMPLETION AND
9 WORK IN ORDER TO KEEP THIS PERMIT IN GOOD STANDING.

10 I'D ALSO LIKE TO DRAW YOUR ATTENTION TO
11 PROVISION 533.395, SECTION 3. I'LL QUOTE:

12 "IF THE DECISION OF THE
13 STATE ENGINEER MODIFIES OR RESCINDS
14 THE CANCELLATION OF A PERMIT, THE
15 EFFECTIVE DATE OF THE APPROPRIATION
16 UNDER THE PERMIT IS VACATED AND
17 REPLACED BY THE DATE OF THE FILING
18 OF THE WRITTEN PETITION WITH THE
19 STATE ENGINEER."

20 FOR THE RECORD, THE PETITION WAS RECEIVED
21 BY THE STATE ENGINEER ON FEBRUARY 23, 1984, AND THAT
22 BECOMES YOUR NEW DATE IN PRIORITY.

23 DO YOU HAVE ANYTHING FURTHER FOR THE
24 RECORD?

25 MR. LEWIS: WILL THAT ALSO LENGTHEN OUT MY

1 TIME TO HAVE PROOF OF COMPLETION OF WORK DONE?

2 MS. THIEL: NO. THE TIMES REMAIN AS THEY ARE
3 PRESENTLY WHICH IS OCTOBER 17, 1983 WHICH, OF COURSE, YOU
4 HAVE 30 DAYS FROM TODAY'S DATE TO FILE EITHER THE COMPLETION
5 OR THE EXTENSION OF TIME, AND YOUR PROOF OF BENEFICIAL USE
6 IS DUE OCTOBER 17, 1986, ALONG WITH THE AGRICULTURAL MAP.
7 THAT REMAINS THE SAME.

8 MR. LEWIS: AS YOU'RE AWARE, WE'RE ONLY THREE
9 WEEKS AWAY FROM THE TIME IN OCTOBER WHEN I HAVE TO HAVE MY
10 WELL DRILLED, AND AS I'VE MENTIONED TO YOU PREVIOUSLY --

11 MS. THIEL: WELL, YOU'LL BE FILING FOR AN
12 EXTENSION OR A PROOF OF COMPLETION WITHIN 30 DAYS OF TODAY'S
13 DATE, RIGHT?

14 MR. LEWIS: I NEED TO FILE FOR AN EXTENSION FOR
15 A YEAR PERIOD. IS THAT THE WAY YOU CAN DO IT?

16 MS. THIEL: YOU CAN FILE UP TO A YEAR. STATE
17 ENGINEER CAN GRANT YOU UP TO A YEAR'S TIME.

18 MR. LEWIS: SO IF I FILE NOW THIS APPLICATION
19 FOR EXTENSION, THEN POSSIBLY I COULD BE GIVEN AN EXTENSION
20 OF TIME FOR, UNTIL THIS TIME NEXT YEAR TO HAVE MY COMPLETION
21 OF MY WORK DONE? IS THAT THE WAY IT WILL WORK?

22 MR. SMALES: YES.

23 MR. LEWIS: THAT'S IMPORTANT TO US BECAUSE, LIKE
24 I SAY, OUR WELL SITE EVEN HAS PROBLEMS OF ACCESS. WE DON'T
25 HAVE WAYS OF CROSSING THE MUDDY RIVER ON THINGS LIKE THAT.

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MS. THIEL: OKAY.

MR. LEWIS: WHEN I FILE THIS, THEN THAT WILL GIVE ME AN EXTENSION FROM A YEAR'S TIME. IS THAT RIGHT, TOM, OR I CAN ASK FOR THAT MUCH TIME?

MR. SMALES: IT'S DUE OCTOBER --

MS. THIEL: 17TH, 1983.

MR. SMALES: IT COULD BE GRANTED UNTIL THAT TIME NEXT YEAR. THAT WILL GIVE YOU A FULL YEAR.

MR. LEWIS: SO OCTOBER 17TH OF '85. THEN THAT WILL BE BETTER.

MR. SMALES: RIGHT.

MS. THIEL: I DON'T THINK I HAVE ANYTHING ELSE. I'LL DECLARE THE HEARING CLOSED.

MR. LEWIS: THANK YOU.

(WHEREUPON, THE HEARING CONCLUDED.)

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STATE OF NEVADA
DIVISION OF WATER RESOURCES

IN RE:)
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CANCELLATION OF PERMIT
NO. 39029 IN THE NAME OF
DONALD F. AND RICHARD A.
CARLSTROM.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, SEPTEMBER 25, 1984
1:15 P.M.

AT THE DIVISION OF WATER RESOURCES
1515 EAST TROPICANA
SUITE 375
LAS VEGAS, NEVADA

REPORTED BY: LISA K. STEVENS
C.S.R. NO. 133

1 OBJECTIONS TO OUR ENTERING THIS INTO THE RECORD, THEN?

2 MR. CARLSTROM: PUTTING THIS IN THE RECORD?

3 NO. THAT'S FINE.

4 MS. THIEL: EXHIBIT 1 IS NOW ENTERED INTO THE
5 RECORD.

6 YOU ALSO HAD A BILL FROM STANDARD WHOLE-
7 SALE SUPPLY COMPANY TO CANYON MILLING.

8 MR. CARLSTROM: THAT WAS FOR COUPLINGS TO PUT
9 THE METER IN.

10 MS. THIEL: WE'LL MARK THAT FOR IDENTIFICATION
11 PURPOSES AS EXHIBIT NO. 2 FOR THE APPLICANT AND WE'LL ENTER
12 THAT INTO THE RECORD.

13 I'D ALSO LIKE TO TAKE ADMINISTRATIVE
14 NOTICE OF THE FILE OF 39029, IF YOU HAVE NO OBJECTIONS.

15 MR. CARLSTROM: THAT'S FINE.

16 MS. THIEL: WELL, I HAVE NO FURTHER QUESTIONS.

17 DO YOU HAVE ANY FURTHER QUESTIONS, TOM?

18 MR. SMALES: NO. I HAVE NO QUESTIONS.

19 MS. THIEL: I'D LIKE TO STATE AT THIS TIME THAT
20 THE STATE ENGINEER HAS GRANTED ME THE AUTHORITY TO ACT AT
21 THE CONCLUSION OF THIS HEARING IN HIS BEHALF, AND AFTER
22 REVIEWING THE FILE AND LISTENING TO YOUR TESTIMONY AND YOUR
23 EXHIBITS, IT IS MY RULING THAT THE CANCELLATION OF PERMIT
24 39029 IS HEREBY RESCINDED AND YOU WILL BE REQUIRED TO FILE
25 WITHIN 30 DAYS OF TODAY'S DATE EITHER AN APPLICATION FOR

1 EXTENSION OF TIME OR PROOF OF BENEFICIAL USE IN ORDER TO
2 KEEP YOUR PERMIT IN GOOD STANDING.

3 I WANT TO ALSO DRAW YOUR ATTENTION TO
4 THE PROVISIONS OF N.R.S. 533.395, SECTION 3, AND I'LL
5 QUOTE:

6 "IF THE DECISION OF THE
7 STATE ENGINEER MODIFIES OR RESCINDS
8 THE CANCELLATION OF A PERMIT, THE
9 EFFECTIVE DATE OF THE APPROPRIATION
10 UNDER THE PERMIT IS VACATED AND
11 REPLACED BY THE DATE OF THE FILING
12 OF THE WRITTEN PETITION WITH THE STATE
13 ENGINEER."

14 LOOKING INTO THE FILE, WE RECEIVED YOUR
15 WRITTEN PETITION ON JULY 2, 1984, SO THAT NOW BECOMES A NEW
16 DATE OF PRIORTY.

17 MR. CARLSTROM: WHAT DOES THAT MEAN TO ME
18 REALLY?>

19 MS. THIEL: WELL, DATE OF PRIORTY, SHOULD THIS
20 BASE IN THE WALKER LAKE VALLEY EVER GET TO THE POINT THAT
21 WE WOULD HAVE TO COME IN AND SHUT SOMEBODY OFF, YOU WOULD
22 GO BY DATE OF PRIORTY. OKAY?

23 MR. CARLSTROM: SO I'VE LOST A COUPLE OF YEARS
24 OF SENIORITY IS WHAT IT AMOUNTS TO?

25 MS. THIEL: THAT'S BASICALLY WHAT YOU'VE DONE.

1 MR. CARLSTROM: I MIGHT JUST GET BADLY MAULED
2 INSTEAD OF JUST KILLED OVER THIS DEAL.

3 MS. THIEL: DO YOU HAVE ANYTHING ELSE FOR THE
4 RECORD?

5 MR. CARLSTROM: THERE WAS ONE LITTLE THING I
6 WANTED TO -- YES, MAY I SUBMIT THIS AGAIN?

7 MS. THIEL: WE CAN DO THAT AFTER WE'VE CONCLUDED
8 WITH THE HEARING.

9 MR. CARLSTROM: OKAY.

10 MS. THIEL: SO IF YOU HAVE NOTHING ELSE, I'LL
11 DECLARE THE HEARING CLOSED.

12 (WHEREUPON, THE HEARING CONCLUDED.)

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