

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 44779)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
LITTLE FISH LAKE VALLEY, NYE COUNTY,)
NEVADA.)

RULING

GENERAL

Application 44779 was filed on October 29, 1981, by the United States, Bureau of Land Management, to appropriate 0.01 c.f.s. of water from an underground source for livestock and wildlife purposes within the NE1/4 SE1/4 Section 14, T.13N., R.50E., M.D.B.&M. The point of diversion is described as being within the NE1/4 SE1/4 Section 14, T.13N., R.50E., M.D.B.&M.¹

The application was assigned on February 23, 1983, to William Card and subsequently approved on October 17, 1983, subject to certain conditions. One condition was that the Proof of Completion of Work and well log be filed on or before November 17, 1984.¹

FINDINGS OF FACT

I.

On November 20, 1984, a final notice was sent to William Card by certified mail advising him that the required Proof of Completion of Work had not been received by the State Engineer and allowed 30 days for filing said proof or a request for an extension of time. A receipt of mail delivery was returned to this office but nothing was filed under Permit 44779 within the time period allowed.

II.

On January 25, 1985, a notice was sent to the permittee by certified mail advising him that the permit had been cancelled and further advising him that NRS 533.395 provides him an opportunity to petition the State Engineer for a review of the cancellation within 60 days of the date of the cancellation.

III.

A letter dated February 20, 1985, requesting a hearing to reconsider the cancellation of the permit was submitted to the State Engineer by Thomas Van Horne, an attorney representing Mr. Daniel Russell. The letter further stated that Mr. Russell had purchased the property the water right was appurtenant to from Mr. Card but the proper deeds of transfer had not yet been filed with the State Engineer.

¹ Public record in the office of the State Engineer.

IV.

On May 7, 1985, a notice was sent to Mr. Card and Mr. Van Horne by certified mail setting the time and place for the requested hearing. On May 17, 1985, a letter was sent to Mr. Van Horne postponing the hearing until July 10, 1985, so that the hearing could be held at a time and place more convenient to the petitioner. The postponement was granted at the request of Mr. Van Horne.¹

V.

Neither the permittee nor Mr. Van Horne appeared at the time and place set for the hearing and no further communication has been received by the State Engineer regarding cancelled Permit 44779.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and subject matter of this action and determination pursuant to NRS 533.325.

II.

In reviewing cancellations, the State Engineer is required to receive evidence and take testimony as to the applicant's good faith and due diligence toward placing the water to beneficial use. Upon reviewing and considering the evidence, the State Engineer may affirm, modify or rescind the cancellation.²

RULING

The cancellation of Permit 44779 is hereby affirmed on the grounds that no evidence or testimony was presented as to why the terms and conditions of the permit have not been met nor was there any demonstration of due diligence to place the water to beneficial use.

Respectfully submitted,


PETER G. MORROS
State Engineer

PGM/CT/bl

Dated this 17th day of
December, 1985.

² NRS 533.395.