

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

IN THE MATTER OF THE CANCELLATION)
OF PERMIT 51126 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE FROM WITHIN THE)
LAS VEGAS VALLEY ARTESIAN)
GROUNDWATER BASIN (212), CLARK)
COUNTY, NEVADA.)

RULING

4749

GENERAL

I.

Application 51126 was filed on July 20, 1987, by Lori M. Christie, Victor S. Murphy and Jeanette E. Murphy to appropriate 0.1 cubic foot per second (cfs) of underground water for quasi-municipal purposes within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 33, T.19S., R.60E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 33. Information contained within the remarks section of the application indicates that it was filed to provide water service for five residences, on Lot 4 as shown on Parcel Map File 9, page 92, and Lots 1 and 2 as shown on Parcel Map File 7, page 42.¹

II.

Permit 51126 was approved on February 26, 1988, and under the terms of the permit the Proof of Completion was first due to be filed in the office of the State Engineer on or before March 26, 1990, and the Proof of Beneficial Use were first due to be filed in the office of the State Engineer on or before March 26, 1993.¹ Multiple extensions of time were granted with the Proof of Completion and the Proof of Beneficial use last due to be filed on or before March 26, 1998.

¹ File No. 51126, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

Every water right application which is submitted in proper form to the office of the State Engineer must contain the mailing address of the applicant. Permit 51126 was filed under the names of Lori M. Christie, Victor S. Murphy and Jeanette E. Murphy, with a common mailing address stated on the application form as 8371 Lori Marie Circle, Las Vegas, Nevada. The State Engineer on numerous occasions has corresponded to the permittees in matters related to Permit 51126 by certified mail addressed to the permittees at the Lori Marie Circle address since 1987. On the application the applicants specifically requested that their agent, David Causey, be kept advised of all action taken with regard to the application. In response to previous correspondence, the permittees have timely responded under the signature of Lori M. Christie.¹ The State Engineer finds that since 1987 the permittees have received and responded to certified correspondence accepted by Lori M. Christie at their address of record.

II.

The permittees and their agent were noticed by certified mail dated March 27, 1998, that the required Proof of Completion and Proof of Beneficial Use had not been filed in accordance with the terms established under Permit 51126. The permittees were given 30 days in which to file the required proofs or an application for extension of time. The receipt for the certified notice to the permittees was returned to the office of the State Engineer endorsed with the signature of Lori M. Christie. The receipt for the certified notice to the agent of record was also returned endorsed with his signature. No response to this final notice was

received in the office of the State Engineer, and accordingly Permit 51126 was cancelled by the State Engineer due to the permittees failure to comply with the terms of the permit.¹ Under the provisions of NRS § 533.395(2), the holder of a cancelled permit may within 60 days of the cancellation of the permit file a written petition with the State Engineer requesting a review of the cancellation at a public hearing.²

A petition for review of the cancellation of Permit 51126 was received from Lori M. Christie on July 24, 1998, and a public hearing in this matter was scheduled for September 30, 1998, to be held in the State Engineer's Southern Nevada Branch Office in Las Vegas.¹ A certified notice was sent to the permittees and their agent at the addresses provided to this office informing them of the time and place of the hearing.¹ Contained within this notice was a warning that a failure to appear at the hearing may result in an affirmation of the cancellation of Permit 51126. The receipt for the certified mailing to the permittee was returned to the office of the State Engineer endorsed by Lori M. Christie.¹ A properly endorsed receipt for the certified mailing was also received from the agent of record with his signature.¹ A representative of the office of the State Engineer was present at the time and place set forth in the hearing notice. The State Engineer finds that no appearance was made by either the permittees or their agent at the time and place established for the public administrative hearing.¹

III.

A second certified notice was sent to the permittees and their agent on February 10, 1999, informing both parties that a

² NRS § 533.395(2).

second public hearing in the matter of the review of cancelled Permit 51126 was scheduled for March 24, 1999, in Las Vegas.¹ Again the permittees were cautioned that a failure to appear at the hearing may result in an affirmation of the cancellation. The receipt for the certified notice to the permittees was returned to the State Engineer's office endorsed by Lori M. Christie.¹ A properly endorsed receipt was also received from their agent.¹ The State Engineer finds that the permittees and their agent were properly noticed of the time and place of the March 24, 1999, public hearing and forewarned that their failure to appear at the hearing may result in an affirmation of the cancellation.

IV.

A second hearing for the review of cancelled Permit 51126 was held at 9:20 a.m. on March 24, 1999, in Las Vegas, Nevada. A representative of the office of the State Engineer was present at the allotted time and place to receive evidence and testimony to support a modification or rescission of the cancellation of the permit, however, no appearance was made by the permittees or their agent.¹ The State Engineer finds that the permittees have failed to provide any additional information which would support a reconsideration of the cancellation of Permit 51126, therefore, the State Engineer's cancellation must be affirmed.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

³ NRS Chapters 533 and 534.

II.

Permit 51126 was cancelled by the State Engineer due to the permittees' failure to comply with the terms of the permit. A petition for review of this cancellation was received by the office of the State Engineer and a public hearing was scheduled to allow the permittees an opportunity to present additional information which would support a modification or recession of the cancellation. The permittees were properly noticed of the time and place of two separate hearings which were scheduled for this matter with the understanding that their failure to attend may result in an affirmation of the cancellation. On both occasions, the permittees failed to attend or submit any explanation for their absence. The State Engineer concludes that no additional evidence or testimony was provided to support a modification or recession of the cancellation of Permit 51126, therefore, the cancellation must be affirmed.

RULING

The cancellation of Permit 51126 is hereby affirmed.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/MDB/cl

Dated this 15th day of
July, 1999.