

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

IN THE MATTER OF CANCELLED PERMIT )  
61984 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE PAHRUMP VALLEY )  
HYDROGRAPHIC BASIN (162), NYE )  
COUNTY, NEVADA. )

RULING

# 4941

GENERAL

I.

Application 61984 was filed on March 29, 1996, by Rocco Pasquarello to appropriate 0.05 cubic feet per second (4,000 gallons per day or less) of underground water for commercial purposes within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 16, T.20S., R.53E., 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 16.<sup>1</sup>

II.

Information contained within the original application form indicates that the application was prepared by Richard L. Hafen, acting as agent for Rocco Pasquarello.<sup>1</sup>

FINDINGS OF FACT

I.

Permit 61984 was approved by the State Engineer with the condition that the Proof of Completion of Work must be filed in the office of the State Engineer on or before April 3, 1999. On April 7, 1999, the State Engineer noticed the permittee and his agent by certified mail that the deadline for filing the required Proof of Completion of Work had expired. The permittee and his agent were then allowed thirty days from the date of the letter to submit the required Proof of Completion of Work or an application for extension of time with the caution that a failure to do so would result in the cancellation of Permit 61984. Properly

<sup>1</sup> File No. 61984, official records in the office of the State Engineer.

endorsed receipts for the certified mailings to the permittee and his agent were returned to the office of the State Engineer. Upon the expiration of the thirty day filing period established by the April 7, 1999, certified notice, it was determined that the permittee had failed to file the required Proof of Completion of Work or an application requesting an extension of time in the office of the State Engineer.<sup>1</sup> The State Engineer finds that the permittee failed to comply with the permit terms issued under Permit 61984 and that Permit 61984 was cancelled accordingly.

**II.**

On August 3, 1999, the State Engineer cancelled Permit 61984 due to the permittee's failure to comply with the terms of the permit. Under the provisions of NRS § 533.395(2), the holder of a cancelled water right permit may within sixty days of the cancellation, submit a written petition to the office of the State Engineer requesting a review of the cancellation. A petition requesting a review of the cancellation of Permit 61984 signed by Rocco Pasquarello was timely received in the office of the State Engineer on August 23, 1999. The State Engineer finds that the cancellation of Permit 61984 can be reviewed at a public administrative hearing.

**III.**

By hearing notice dated October 14, 1999, the office of the State Engineer advised the permittee and his agent of the time and location of the administrative hearing in the matter of the review of cancelled Permit 61984. The record of this hearing reveals that neither the permittee or his agent attended this hearing.

**IV.**

A second administrative hearing in the matter of the review of the cancellation was scheduled for April 12, 2000, to be held before a representative of the office of the State Engineer in Las Vegas, Nevada. A notice of hearing, stating the specific time and location of the hearing was sent by certified mail to the

permittee and his agent at their respective addresses of record. The notice of hearing also cautioned the parties that a failure to appear at the scheduled time and place may result in an affirmation of the cancellation. Receipts for the certified mailing endorsed by the subject parties were returned to the office of the State Engineer.<sup>1</sup> The State Engineer finds that the subject parties were properly noticed of the time and location of the administrative hearing scheduled for the review of cancelled Permit 61984.

V.

The holder of a cancelled water right may within sixty days of the cancellation file a written petition with the office of the State Engineer requesting a review of the cancellation at a public administrative hearing. At the hearing, the permittee is afforded the opportunity to enter testimony and evidence into the record of the hearing. The State Engineer, after an evaluation of the information contained within this record may modify, rescind, or affirm the original cancellation of the permit.<sup>2</sup> The State Engineer finds that the November 18, 1999, and the April 12, 2000, public administrative hearings provided the permittee with the opportunity to present additional information to the State Engineer to support a rescission of the cancellation of Permit 61984.

VI.

A representative of the office of the State Engineer was present at the time and place of the hearings set forth in the hearing notices received by the permittee and his agent. The record of this hearing indicates that neither the permittee nor his agent were present at the hearing. A two-week period was granted from the date of the hearing for the permittee to contact the office of the State Engineer to explain his failure to attend the hearing. This time period expired without any communications

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<sup>2</sup> NRS § 533.395(2).

received from the permittee regarding this matter.<sup>1</sup> The State Engineer finds that the permittee has failed to attend the public hearings scheduled for the review of this cancelled permit and has not submitted any additional information to support a rescission of the cancellation of Permit 61984.

**CONCLUSIONS**

**I.**

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

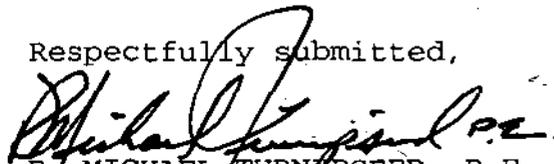
**II.**

Permit 61984 was cancelled due to the permittee's failure to comply with the terms of the permit. In accordance with NRS § 533.395(2), a hearing in the matter of the review of cancelled Permit 61984 was scheduled. The purpose of a hearing was to allow the permittee an opportunity to present additional information regarding the permit and its cancellation to the office of the State Engineer. Upon consideration of this information, the State Engineer may modify, rescind, or affirm the cancellation. The State Engineer concludes that the permittee has not provided any additional information to support a rescission of the cancellation, therefore, the cancellation of Permit 61984 must be affirmed.

**RULING**

The State Engineer's cancellation of Permit 61984 is hereby affirmed.

Respectfully submitted,

  
R. MICHAEL TURNPSEED, P.E.  
State Engineer

RMT/MDB/cl

Dated this 29th day of  
June, 2000.

<sup>1</sup> NRS chapters 533 and 534.