

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

IN THE MATTER OF PETITION)
REQUESTING REVIEW AND)
STAY OF CANCELLATION OF)
PERMITS 66555, 66556 and 66557.)

**RULING
5609**

GENERAL

I.

On August 4, 2005, the State Engineer held a public administrative hearing on Applications for Extension of Time to file proof of beneficial use of the waters appropriated under Permits 66555, 66556 and 66557. On March 16, 2006, the State Engineer issued State Engineer's Ruling No. 5598, pursuant to which the State Engineer denied the Applications for Extension of Time and cancelled Permits 66555, 66556 and 66557.

FINDINGS OF FACT

I.

On March 28, 2006, in accordance with Nevada Revised Statute § 533.395, the Permittee filed a Petition Requesting Review and Stay of Cancellation of Permits 66555, 66556 and 66557.¹ In its petition, Nevada Land & Resource, LLC indicated that if the State Engineer did not believe an additional administrative hearing was necessary, it requested that the State Engineer proceed to decision on the petition. The State Engineer finds, since an administrative hearing was already held regarding the Applications for Extension of Time, an additional hearing is unnecessary.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

¹ File No. 66555, official records in the Office of the State Engineer.

² NRS chapters 533 and 534.

II.

The Permittee argues that when change Applications 66555, 66556 and 66557 were granted the base rights that they changed were totally abrogated and any requests for extensions of time must be viewed separate and apart from requests for extensions of time filed by the previous permit holder under the abrogated permits. Nevada Revised Statute § 533.040(2) provides that when a change application is granted the new permit retains the priority date of the base right. The State Engineer concludes that, by retaining the priority date, the new permit takes with it the history of the original water right filing. If the State Engineer were to accept the Permittee's argument, a water right holder could continually file for change applications for decades without ever placing the water to beneficial use contrary to Nevada water law. The State Engineer concludes requests for extensions of time the permits were properly denied.

RULING

The cancellation of Permits 66555, 66556 and 66557 is hereby affirmed.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/jm

Dated this 10th day of
April, 2006.