

FINDINGS OF FACT

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I

Permit 30830 was issued August 17, 1977, in the name of the Jason Corporation for the appropriation of 6.0 c.f.s. of water from an underground source located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 5, T.14N., R.25E., M.D.B. & M., for irrigation use on 800 acres within the N $\frac{1}{2}$  N $\frac{1}{2}$  Section 5, T.14N., R.25E., M.D.B. & M., S $\frac{1}{2}$ , S $\frac{1}{2}$  N $\frac{1}{2}$  Section 32 and SW $\frac{1}{4}$ , S $\frac{1}{2}$  NW $\frac{1}{4}$  Section 33, T.15N., R.25E., M.D.B. & M.

II

Permit 30832 was issued August 17, 1977, in the name of the Jason Corporation for the appropriation of 0.0031 c.f.s. of water from an underground source located within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 8, T.14N., R.25E., M.D.B. & M., for stockwatering purposes for 100 head of cattle.

III

The terms of both Permit 30830 and 30832 required that Proof of Commencement of Work be filed in the State Engineer's Office before March 17, 1978. Since said proof had not been filed under either permit by that deadline, certified notice of proof being due was mailed to the permittee on March 17, 1978, in accordance with NRS 533.390 (2), and an additional statutory thirty (30) day grace period from the date of mailing was provided for filing.

IV

A single Proof of Commencement of Work was filed in the State Engineer's Office on April 14, 1978, within the statutory grace period allowed. Said proof included the number 30832 in the heading (upper left-hand corner), but included the number 30830 in the body of the proof. Also, the proof described the point of diversion as being located within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 5, T.14N., R.25E., M.D.B. & M., which is the legal description for Permit 30830. This contradiction was not noted at the time of submission and the Proof of Commencement of Work was filed by the State Engineer's Office under 30832.

V

Since only one (1) proof was timely received, and because it was filed by the State Engineer's Office under Permit 30832, on April 24, 1978, Permit 30830 was cancelled for failure to comply with the terms of the permit.

VI

The terms of both Permit 30830 and 30832 required that Proof of Completion of Work be filed in the State Engineer's office before March 17, 1979. Since such proof had not been filed under Permit 30832 by that deadline, certified notice was mailed to the permittee on March 19, 1979, in accordance with NRS 533.390 (2) and an additional thirty (30) day grace period from the date of mailing was provided for filing. No notice was mailed under Permit 30830 since it had been cancelled.

VII

On April 5, 1979, a Proof of Completion of Work was received by the State Engineer's Office. Said proof included the number 30830 in the heading and body, and described the point of diversion as being within the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 5, T.14N., R.25E., M.D.B.& M. (which is the description for cancelled Permit 30830). Under cover of a letter dated April 17, 1979 from the State Engineer's Office, the proof was returned to the permittee on the basis that Permit 30830 had been cancelled.

VIII

By letter dated April 19, 1979, from Thomas McMaster of the Jason Corporation, it was stated that an error had been made in the heading of the Proof of Commencement of Work submitted on April 11, 1978, in that the proof was intended to support Permit 30830 rather than 30832. The letter requested the reinstatement of Permit 30830 and the cancellation of Permit 30832.

CONCLUSIONS

The Proof of Commencement of Work received by the State Engineer's Office on April 14, 1978, was timely filed within the statutory grace period allowed.

II

Although the Proof of Commencement state "Permit 30832" in the heading, the body of the proof indicated that it was filed in support of Permit 30830, and further, included the legal description of the point of diversion for Permit 30830.

III

The Proof of Completion of Work submitted to the State Engineer's Office on April 5, 1979, was timely filed within the statutory grace period allowed under Permit 30832. Said proof contains the legal description of the point of diversion for Permit 30830.

IV

The Proof of Completion of Work describes the well as a 28" hole drilled and cased to a total depth of 501 feet. This is much larger than would normally be completed for stockwatering purposes, and which, therefore, further supports permittee's contention that the proofs submitted were intended to support Permit 30830 which was for irrigation purposes.

V

The evidence on file supports reinstatement of cancelled Permit 30830 and the cancellation of Permit 30832.

RULING

The State Engineer's cancellation of Permit 30830 is herewith rescinded, and the permit is reinstated to good standing. The Proof of Commencement of Work submitted on April 14, 1978, will be filed under Permit 30830, as will the Proof of Completion of Work originally submitted on April 5, 1979. The original terms of Permit 30830 regarding the deadline for proof of beneficial use remain in effect.

Permit 30832 is hereby cancelled, retroactively effective on April 18, 1978, for failure to comply with the terms of the permit.

Respectfully submitted,

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State Engineer

WJN/BAR/dh

Dated this 22nd day

of June, 1979.