

IN THE MATTER OF THE REINSTATEMENT OF)
CANCELLED PERMITS 29247 AND 29248 ON)
SEPARATE UNDERGROUND SOURCES IN CLOVER)
VALLEY, LINCOLN COUNTY, NEVADA)

RULING

FINDINGS OF FACT

Permit 29247 was issued on November 14, 1975, with a date of priority of appropriation of February 28, 1975, in the amount of 0.22 c.f.s. of water, not to exceed 0.73 mga per annum, for quasi-municipal and domestic service to two homes with landscaping. The source is underground with the point of diversion and place of use being located within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10, T.4S., R.67E., M.D.B. & M.

Permit 29248 was issued on November 14, 1975, with a date of priority of appropriation of February 28, 1975, in the name of Clover Creek Ranch to appropriate 3.5 c.f.s. of water, not to exceed 5.0 acre-feet per acre of land per annum, for the irrigation of 120 acres. The source is underground and is located within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 10, T.4S., R.67E., M.D.B. & M. The place of use is located within the NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 10, and the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, T.4S., R.67E., M.D.B. & M.

As required under the terms of the two permits, a Proof of Commencement of Work was filed under each on June 24, 1976 and a Proof of Completion of Work was filed under each on July 13, 1978. The permits further required that Proof of Beneficial Use be filed on June 14, 1979. Upon the timely filing of an Application for Extension of Time, that deadline was extended to June 14, 1980.

II

When the deadline for the filing of Proof of Beneficial Use of June 14, 1980 had expired, no proof had at that time been submitted under either permit. Therefore, in accordance with the provisions of NRS 533.390, on June 16, 1980 a certified notice was mailed to the permit holder with a copy of that notice also mailed to agent Phil Hulse, whereby they were notified that the permits were in poor standing and that a thirty (30) day grace period from the date of said notice was allowed for the filing of either the Proof of Beneficial Use or an Application for Extension of Time. The required proof or extension application was not received on either permit within thirty days of that notice and both permits were subsequently cancelled on July 22, 1980 for failure to comply with the provisions of the permits.

III

On August 1, 1980, separate Applications for Extension of Time for the filing of Proof of Beneficial Use under Permits 29247 and 29248 were

received by the Las Vegas Branch Office of the Division of Water Resources. Said extension applications were accompanied by a cover letter under the signature of Richard F. Palombi. Mr. Palombi's letter stated that the date on the final notice from this office under both permits had been July 16, 1980, that it was his interpretation that the 30-day grace period commenced with the date on that notice, that he believed that he had until August 16, 1980 within which to file the required proofs or extension application, and he requested that Permits 29247 and 29248 be reinstated to valid permits. Upon examination of the final notice under both permits, it was discovered that although the notices were, in fact, mailed from the Carson City office on June 16, 1980, the notices themselves did bear the date of July 16, 1980.

CONCLUSIONS

I
The Nevada State Engineer has jurisdiction under this matter in accordance with provisions of NRS 533.390.

II

Although NRS 533.390 does provide that the required proof or Application for Extension of Time must be filed within thirty (30) days of the mailing of final notice, that final notice itself does specifically state that the proof or extension application must be filed within thirty (30) days of the date of the final notice.

III

Although mailed by the State Engineer's office on June 16, 1980, the final notice did, in fact, bear a date of July 16, 1980 as the date of notice. A grace period of thirty days from July 16, 1980 would allow for timely filing no later than August 16, 1980.

IV

Applications for Extension of Time and the required \$5.00 filing fee were received within thirty (30) days of the date of July 16, 1980 included on the final notice.

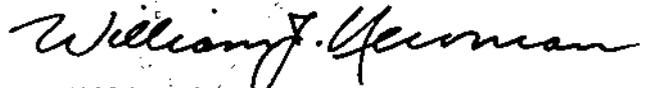
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The cancellation of Permits 29247 and 29248 is herewith rescinded on the basis that an acceptable Application for Extension of Time was timely filed within thirty days of the date of the final notice dated July 16,

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1980. An extension of time for a period of one year from June 14, 1980 will be allowed for the filing of Proof of Beneficial Use under Permit 29247 and for the filing of Proof of Beneficial Use and supporting cultural map under Permit 29248, both extensions being granted with the provision that no further extension of time will be allowed except at the discretion of the State Engineer for good cause shown.

Respectfully submitted,



William J. Newman
State Engineer

Dated this 6th day of
November, 1980.

WJN/BAR/js

RECEIVED

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