

IN THE MATTER OF THE REINSTATEMENT  
OF PERMIT 30869 FOR THE APPROPRIATION  
OF WATER FROM AN UNDERGROUND SOURCE  
IN MASON VALLEY, LYON COUNTY, NEVADA

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RULING

108

FINDINGS OF FACT

I

Permit 30869 was issued on August 17, 1977, in the name of Agri-Technology Corporation for the appropriation of 2.7 c.f.s. of water from an underground source to be located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 16, T.15N., R.25E., M.D.B.& M. for domestic and industrial use within the NW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 15, N $\frac{1}{2}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$  and NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 16, T.15N., R.25E., M.D.B.& M.

The terms of Permit 30869 required that Proof of Commencement of Work be filed on or before March 17, 1978, that Proof of Completion of Work be filed on or before March 17, 1979, and that Proof of Beneficial Use and supporting beneficial use map be filed on or before March 17, 1980. Following an Extension of Time for a period of one (1) year, the Proof of Commencement of Work was timely filed on February 22, 1979. By the subsequent filing of two separate Applications for Extension of Time, the deadline for the filing of Proof of Completion of Work and Proof of Beneficial Use was extended to September 13, 1980. A formal notice as required under NRS 533.390 was sent by certified mail to permit holder Agri-Technology Corporation and to agent George H. Denson on September 15, 1980. The Proof of Completion of Work and Proof of Beneficial Use were not filed within the thirty (30) day grace period allowed by that notice, and Permit 30869 was subsequently canceled on October 21, 1980 for failure to comply with the terms of the permit.

II

Application 41591 was filed on June 25, 1980 in the name of Agri-Technology Corporation to change the point of diversion and place of use of water previously appropriated under Permit 30869. Publication of a notice of Application 41591 as required under NRS 533.360 had not yet been made at the time the deadline for the filing of Proof of Completion of Work and Proof of Beneficial Use under Permit 30869 expired on September 13, 1980.

III

A letter dated October 6, 1980 from George H. Denson, agent for Agri-Technology Corporation, was received by the Division of Water Resources on October 9, 1980, which was therefore within the thirty (30)

day grace period allowed by the final notice dated September 15, 1980. The Denson letter requested that no action be taken toward the cancellation of Permit 30869 until such time as consideration could be given to pending Application 41591. No response to the Denson letter was given by the Division of Water Resources prior to the cancellation of Permit 30869.

### CONCLUSIONS

#### I

The State Engineer has jurisdiction in this matter under the provisions of NRS 533.325 through 533.390 inclusive.

#### II

The letter dated October 6, 1980 from agent George H. Denson requesting that cancellation of 30869 be withheld pending consideration of Application 41591, was received within the thirty (30) day grace period established by Division of Water Resources final notice of September 15, 1980. NRS 533.380 specifies that any extension application must be made within that thirty (30) day grace period.

#### III

The Division of Water Resources requires that an Application for Extension of Time be made through submission of a properly completed form provided by the Division. NRS 533.435 requires that such extension applications be accompanied by the \$5.00 filing fee per form.

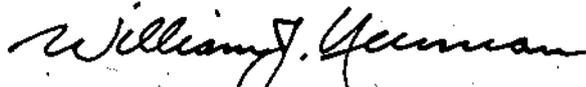
#### IV

It is the policy of the Division of Water Resources that in the case where an extension of time is requested without use of the formal form and in the case where such an extension request is not accompanied by the statutory filing fee, notice will be given by written response from the Division that an extension must be made by use of the standard form and must be accompanied by the filing fee. In addition, a sufficient period of time would be allowed for return of the completed form and the filing fee. In the case of Permit 40869, although the Denson letter was received within the thirty (30) day grace period, the cancellation was effected without a formal response to agent Denson to give notice that his letter would not be sufficient for requesting an extension and to allow an additional sufficient period for submission of a completed extension form and filing fee.

RULING

Although improper in form and not accompanied by statutory filing fee, the October 6, 1980 letter from George H. Denson is considered to be an application for extension and was received within the thirty (30) day grace period allowed under NRS 533.380. The cancellation of Permit 30869 is therefore herewith rescinded and the permit reinstated to a valid and active status with the provision that a formal Application for Extension of Time for the filing of Proof of Completion of Work and Proof of Beneficial Use, prepared on a form provided by the Division of Water Resources and accompanied by the statutory \$5.00 filing fee, must be filed with the Division of Water Resources within thirty (30) days of the date of this Ruling. In the event said extension application and fee are not received within that thirty (30) day period, Permit 30869 will be cancelled.

Respectfully submitted,



William J. Newman  
State Engineer

Dated this 13th day  
of March, 1981