

ORIGINAL

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF WATER RESOURCES

R. MICHAEL TURNIPSEED, STATE ENGINEER

In the Matter of
Applications 54244 and
54245 by Cyanco.

TRANSCRIPT OF PROCEEDINGS

May 11, 1990

Winnemucca, Nevada

Reported by:

Kathryn Terhune, NV CSR #209

1 grants its permit for the injection well. That is, if the
2 State Engineer grants the permits today, the system will not
3 be placed into production until such time as the necessary
4 EPA permit is required.

5 Another point, the State Engineer asked Mr. Day
6 about the water meter at the pump itself, and I know it would
7 be in the best interests of all parties if the State Engineer
8 were to issue an order requiring an additional meter put in
9 to insure that the permits based upon the holder of
10 certificates are fully adhered to. With that, Mr.
11 Turnipseed, I will be quiet. Thank you very much.

12 MR. TURNIPSEED: We are going to take a short
13 recess so I can consult with my counsel. Let's try to be
14 back here at 25 after.

15 (A recess was taken.)

16 MR. TURNIPSEED: We'll be back on the record. I'm
17 going to address first some of the points brought up in the
18 protests and number one is the notice. These applications
19 first came before us as temporary changes where we are not
20 required to give notice. That request was denied and I will
21 read you a paragraph out of that letter.

22 "In view of the public interest which has been
23 expressed over this project and existing rights in the area,
24 I have made the determination that the public should be
25 afforded an opportunity to comment on these applications."

1 And it goes on to say, "We are going to advertise according
2 to Nevada Revised Statutes Chapter 533.360."

3 Those applications were then noticed in the local
4 paper of general circulation in the county where the
5 appropriation occurs according to that statute. That process
6 began back in February. Then there is a 30-day protest
7 period by law, and that ended March 16th, 1990. That is the
8 only vehicle that we were required to -- that we have to
9 notify the public.

10 We take approximately a thousand applications a
11 year and it is virtually impossible for us to notice
12 everybody that could possibly be affected by a particular
13 appropriation or change application. Just be impossible for
14 us to send letters or certified letters or any other kind of
15 notice to anybody that might be affected by a particular
16 application.

17 Therein lies the vehicle for the public to become
18 involved in any particular water appropriation or water
19 changes. Beyond the ready for action date, what we call the
20 ready for action date, March 16th, we knew then that we were
21 going to hearing and we sent the notices out to the
22 protestants and the applicant on April 17th. That brings us
23 here today on March -- I mean on May 11th. I can't see how
24 anybody could say that they weren't properly noticed.

25 Next is the transportation issues. I'm somewhat

1 sympathetic to those kind of problems, however, I'm without
2 any authority to rule on these applications based on that.

3 The next issue brought up was earthquake problem.
4 And although we didn't have a qualified expert testify, the
5 engineer has certain geologic maps in his files and we have
6 looked at those, and although no one on this earth can tell
7 when earthquakes are going to occur, we have scientists all
8 over the world who have developed a probability mechanism to
9 show where they will probably occur and none of those faults,
10 active faults are in the region of this cyanide plant.

11 I think there is some confusion over the location
12 of Section 32. There is a Section 32 in every single
13 township and the Section 32 in between I think that are set
14 aside or reserved for Indians are in the eastern, south-
15 eastern corner of Winnemucca.

16 MR. WASSON: Right, Range 36.

17 MR. TURNIPSEED: This plant is nearer Section 32 in
18 township to the west which puts that plant then seven miles
19 approximately to the west of Indian lands.

20 There was one other protest addressed water
21 shortages, and I believe Mr. deLipkau covered that very well.
22 These are already existing rights. They have been
23 certificated, and by that then are fully capable of
24 irrigating the total entitlement of lands under which they
25 were issued.

1 What we have before us today is applications to
2 change the manner of use from irrigation to industrial use.
3 Therefore, I can make no finding that this application would
4 interfere with any other existing rights or aggravate the
5 drought or cause any additional water shortages.

6 Therefore, I'm going to approve Application 54244
7 and 54245, subject to obtaining all existing -- all other
8 rights, all other permits including the permit from the
9 Division of Environmental Protection under the injection
10 process. They're approved subject to all existing rights in
11 the area. They're approved subject to payment of statutory
12 fees and I need to remind you that all decisions, orders made
13 by the State Engineer are appealable to the district court
14 having jurisdiction under Nevada Revised Statutes Chapter
15 533.452 within 30 days.

16 If there are no questions, the hearing --

17 MRS. WILLIAMS: Yeah, I don't have a question. I
18 have a statement.

19 MR. TURNIPSEED: It's a little bit late for that.

20 MRS. WILLIAMS: No, it's not a little late for
21 this. We again repeat, because he just said it but in a
22 different way, our land does not come under any of your
23 regulations of the State of Nevada, the City of Winnemucca or
24 the County of Humbolt.

25 MR. TURNIPSEED: You're right, except that it is

1 seven miles away if it is Section 32 within the south
2 corner.

3 MRS. WILLIAMS: Our's is 5.4 miles as the crow
4 flies, but that's neither here nor there. I just wanted to
5 make this clear that we are Indian people. We live on
6 federal land and that we do not fall under any of these
7 regulations.

8 MR. TURNIPSEED: Thank you for that. Given that I
9 will declare the hearing closed.

10 MR. deLIPKAU: Thank you. Thank you very much.

11

12 (Proceedings concluded.)

13

14

15

16

17

18

19

20

21

22

23

24

25