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STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES
BEFORE R. MICHAEL TURNIPSEED, STATE ENGINEER

In the Matter of Applications
46007 through 46009 and
46122 through 46126.

VOLUME II
TRANSCRIPT OF PROCEEDINGS
PUBLIC HEARING
THURSDAY, MAY 2, 1991
CARSON CITY, NEVADA

Reported by: MARY E. BELL, CSR, RPR, CP
Nevada CSR #98

1 financing hearing and a well monitoring hearing at one time.
2 I think the statute is pretty clear. Has there been good
3 faith in pursuit of the application and has there been
4 reasonable diligence? This record is overwhelmingly in
5 support of those two concepts. Thank you.

6 MR. TURNIPSEED: We'll take a ten-minute break.

7 (A recess was taken.)

8 MR. TURNIPSEED: We'll go back on the record for
9 the purpose of ruling on the subject applications. First I'm
10 going to rule on the standing issue and rule that Washoe
11 County has standing in this instance only because they are a
12 real party in interest in the other applications and permits
13 in the Honey Lake Basin, and whether you talk about Truckee
14 Meadows Project or Western Water Development or Washoe County
15 or Franklyn Jeans or any one of the other names, I think
16 Washoe County has demonstrated that they have an interest in
17 whatever one of those organizations may own title to water
18 rights and/or land.

19 Next I'd like to clear up something on the record.
20 As it pertains to discussions from when the last extensions
21 were granted, and the reader of the transcript should keep in
22 mind that that was prior to 12 days of hearings and a ruling
23 on the applications, both intrabasin and interbasin transfers
24 filed on behalf of the Western Water Development or Washoe
25 County, the last two paragraphs at page 11 in the transcript

1 say, "THE HEARING OFFICER: But you have every intention of
2 getting started now on the drilling as soon -- if we can
3 rescind these cancelled permits?"

4 "TRUMAN WEAVER: Yes, everybody is waiting in line
5 right now. I first met the well driller that's licensed and
6 stuff, that we're working with. He's waiting. He won't
7 proceed with anything until everything here is finalized and
8 settled. My partner is in San Francisco, he's waiting to
9 come back out and get everything going and stuff too. So,
10 you know, it's just a matter of getting everything back in
11 line, so we can start on it."

12 It appears from my reading of that that he had well
13 drillers waiting to begin drilling the wells and that was in
14 February of 1990.

15 As to the policy of the State Engineer when it
16 comes to extensions of time, that's different depending on
17 the basin, it's different depending on the amount of
18 competition for water in the valley. In rural Nevada where
19 there's very little competition for the water, we are fairly
20 liberal in granting extensions of time.

21 In the valleys, not just Honey Lake Valley and
22 Lemmon Valley, Spanish Springs, Warm Springs, the Truckee
23 Meadows, we're getting a lot tougher on extensions of time,
24 and for the record, one of my policies is that there will be
25 no extensions granted behind a five-year period if there has

1 been at least a beginning of well drilling.

2 As to the trouble that the Applicant has had in
3 finding well drillers, there are in excess of 400 licensed
4 well drillers in Nevada, and I don't understand what happened
5 between the time, it appears from the testimony, if I recall
6 it correctly, that Mr. Weaver had an interest in
7 International Resources in 1985, in B & W Holding Company at
8 some time later than that, that the title problems began
9 somewhere around the years 1986 and '87. He received clear
10 title to the property I believe in September of 1988. From
11 my notes I have September of 1988 to the present.

12 It's my feeling that when a person acquires
13 property with water or without water, they acquire with that
14 all of the assets and liabilities that go along with that
15 property as well as any conditions that may be on any water
16 right permits that are assigned to that property and any
17 extensions of time that have been granted on those permits
18 prior to their acquiring title to the property.

19 With that I'd like to read the letter that granted
20 the extension dated April 16th, 1987. The last line on that
21 says, "With the provision that no further extensions will be
22 granted for filing a Proof of Completion of Work". That
23 letter was sent to International Resources, a copy to Truman
24 Weaver.

25 Another extension was requested by B & W Holding

1 Company in 1988. The last line of that extension letter
2 granting the extension dated June 17th, 1988, states that,
3 "No further extensions of time will be granted for filing
4 proofs of completion of work and well logs".

5 An extension was requested in 1989. This time a
6 lengthy letter granting the extensions was sent outlining the
7 entire procedure. "This letter will serve as notice that
8 failure to proceed in good faith and with reasonable
9 diligence, as provided under 533.395 (1), will result in
10 denial of any additional request for extension of time and
11 cancellation of the Permit.

12 "Permittee should be prepared to submit the Proof
13 of Completion of Work under each Permit on or before the due
14 date specified by the enclosed notice.

15 "Extensions of time are granted to provide
16 permittee the opportunity to complete drilling test holes and
17 to determine whether the area will produce water, as
18 explained by the extension of time forms, and to demonstrate
19 reasonable progress to complete the diversion works and
20 development of water resources in compliance with the Permit
21 requirements."

22 That letter was send to Honey Lake Basin Company,
23 Inc., Stewart Wilson and carbon copied to Honey Lake Basin
24 Company, Inc., certified mail.

25 After the permits were cancelled and reinstated

1 after the hearing before the Hearing Officer, there was a
2 more definitive letter granting the extensions of time dated
3 May 24th, 1990.

4 "These permits were approved March 21, 1985. Four
5 extensions of time to submit Proof of Completion of Work have
6 been granted, and one extension of time to submit Proof of
7 Beneficial Use and Cultural Map has been granted under each
8 Permit.

9 "This letter will serve as notice that failure to
10 proceed in good faith and with reasonable diligence, as
11 provided under 533.395 (1), will result in denial of any
12 additional request for extension of time and cancellation of
13 the Permit.

14 "Permittee must submit the Proof of Completion of
15 Work under each Permit on or before the due date specified by
16 the enclosed notice. The well must will be completed; the
17 pump and motor, and discharge piping must be installed; and
18 the diversion facility must be capable to pump water."

19 That last extension was received March 1st, 1991.

20 I don't consider the cost to buy the land initially
21 along with the water rights, the half million dollars that
22 was attested to, as meeting the requirements under 533.395,
23 that is to show good faith or reasonable diligence to perfect
24 appropriation for obvious reasons. There was nothing to
25 perfect until the person acquired some land and some water

1 rights that went with it.

2 I don't feel that billings or receipts for phone
3 calls, title companies, costs to file extensions of time and
4 dollars spent to attract investors five years after the
5 permits were issued as being part of good faith or reasonable
6 diligence to perfect the appropriation.

7 I don't consider the test well drilled at 1400 feet
8 with blow-out prevention equipment as being due diligence or
9 reasonable cause for delay since blow-out prevention
10 equipment is not normally equipped on a water well. It's
11 more often equipped on an exploration well for oil or gas.

12 Furthermore, it was not drilled by a licensed well
13 driller and we have no record in the files as to the depth or
14 detention of the well. There's nothing in this record that
15 shows the well was drilled with the intent of obtaining
16 water.

17 I'm somewhat sympathetic with the title problems
18 that occurred between 1986 and 1988. However, there was I
19 think substantial time between the time the permits were
20 granted and the title problems began, and I'm not too sure
21 that some of the title problems might have been
22 self-inflicted, but that's neither here nor there, and again
23 from September of '88 to the present to at least have made
24 substantial progress in the drilling of wells for the purpose
25 of filing a proof of completion.

1 Therefore, the application for extension of time on
2 permit number 46122 is denied and that permit is hereby
3 cancelled.

4 The application for extension of time under permit
5 46123 is denied and that permit is hereby cancelled.

6 The application for extension of time under permits
7 46007 and 46008, one of those had the 1400-foot well drilled
8 on it. As I stated, I'm not convinced it was for the purpose
9 of obtaining water. Those applications are denied and those
10 permits are cancelled.

11 The application for extension of time on permit
12 46125 is denied and that permit is cancelled.

13 The application for extension of time on permit
14 46009 is denied and that permit is cancelled.

15 The application for extension of time under permit
16 46126 is denied and that permit is cancelled.

17 The application for extension of time under permit
18 46124 is granted for a time six months from this date for the
19 purpose of filing proof of completion of work and until a
20 time 18 months from this date for the purpose of filing proof
21 of beneficial use.

22 Unless there are questions, this hearing will be
23 closed.

24
25 (The proceedings concluded at 8:22 p.m.)