

IN THE OFFICE OF THE STATE ENGINEER
IN THE STATE OF NEVADA

IN THE MATTER OF PERMIT 36318 CERTIFICATE)
9613 FILED TO APPROPRIATE WATER FROM AN)
UNDERGROUND SOURCE IN PARADISE VALLEY,)
HUMBOLDT COUNTY, NEVADA.)

RULING

#3802

FINDINGS OF FACT

I.

Application 26097 was filed by Clair Kracaw & Sons Inc. on April 30, 1971, to appropriate 2.0 c.f.s. of underground water for commercial (potato processing) and domestic purposes. The proposed point of diversion is within the NW1/4 NW1/4 of Section 23, T.38N., R.38E., M.D.B.&M., and the proposed place of use is within NW1/4 NW1/4 of Section 23, T.38N., R.38E., M.D.B.&M. Permit 26097 was issued on March 8, 1972, for 1.0 c.f.s. but not to exceed 18.25 million gallons annually.¹

II.

Application 26098 was filed by Clair Kracaw & Sons Inc. on April 30, 1971, to appropriate 2.0 c.f.s. of underground water for commercial (potato processing) and domestic purposes. The proposed point of diversion is within the NW1/4 NW1/4 of Section 23, T.38N., R.38E., M.D.B.&M., and the proposed place of use is within NW1/4 NW1/4 of Section 23, T.38N., R.38E., M.D.B.&M. Permit 26098 was issued on March 8, 1972, for 1.0 c.f.s. but not to exceed 18.25 million gallons annually.¹

III.

Permits 26097 and 26098 were issued with a total combined duty of 18.25 million gallons annually.¹

IV.

Certificate 9958 was issued for Permit 26098 on April 9, 1982 for 0.65 c.f.s. but not to exceed 53.02 acre-feet per year for commercial and domestic purposes from January 1 to December 31 of each year.¹

¹ Public record in the office of the State Engineer.

III.

Permits 26097 and 26098 were issued with a total combined duty of 18.25 million gallons annually.¹

IV.

Certificate 9958 was issued for Permit 26098 on April 9, 1982 for 0.65 c.f.s. but not to exceed 53.02 acre-feet per year for commercial and domestic purposes from January 1 to December 31 of each year.¹

V.

Permits 26097 and 26098 were assigned on April 30, 1974 into the name of Winnemucca Farms Inc.¹

VI.

Application 28943 was filed by Winnemucca Farms Inc. on November 19, 1974 to change the point of diversion and place of use of Permit 26097 of 1.0 c.f.s. but not to exceed 18.25 million gallons annually of underground water for commercial purposes. The proposed point of diversion is within the SW1/4 SW1/4 of Section 35, T.38N., R.38E., M.D.B.&M., and the proposed place of use is within the SW1/4 SW1/4 of Section 35, T.38N., R.38E., M.D.B.&M. Permit 28943 was issued on June 4, 1975 for 1.0 c.f.s., with a total combined duty between Permit 28943 and Permit 26098 not to exceed 18.25 million gallons annually.¹

VII.

Application 30361 was filed by Winnemucca Farms Inc. on July 1, 1976 to change the point of diversion, manner and place of use of Permit 28943 of 1.0 c.f.s. of underground water for irrigation and domestic purposes. The proposed point of diversion is within the NE1/4 NE1/4 of Section 35, T.38N., R.38E., M.D.B.&M., and the proposed place of use is within the NE1/4 NE1/4 Section 35, T.38N., R.38E., M.D.B.&M. Permit 30361 was issued on December 9, 1976 for 1.0 c.f.s. with a total combined duty between Permits 30361 and 26098 not to exceed 56.0 acre-feet annually.¹

VIII.

Application 36318 was filed by Winnemucca Farms Inc. on December 19, 1978 to change the point of diversion and place of use of a portion of Permit 30361 of 0.513 c.f.s. of underground water for irrigation and domestic purposes. The proposed point of diversion is within the NE1/4 SE1/4 of Section 26, T.38N., R.38E., M.D.B.&M., and the proposed place of use is within Sections 23, 24, 25, 26 and the N1/2 of Section 35, T.38N., R.38E., and the W1/2 of Section 19, T.38N., R.39E., M.D.B.&M. Permit 36318 was issued on November 12, 1980 for 0.513 c.f.s. but not to exceed a yearly duty of 4.0 acre-feet per acre of land irrigated from any and/or all sources with the terms and conditions imposed in Permit 30361. Certificate 9613 was issued for Permit 36318 on October 27, 1981 for 0.513 c.f.s., but not to exceed 371.4 acre-feet annually.¹

IX.

Application 41415 was filed by Winnemucca Farms Inc. on May 22, 1980 to change the manner of use of a portion of Permit 30361 of 0.1 c.f.s. of underground water for commercial and domestic purposes. The point of diversion and place of use is within the NE1/4 NE1/4 of Section 35, T.38N., R.38E., M.D.B.&M. Permit 41415 was issued on December 3, 1980 for 0.1 c.f.s. but not to exceed 2.98 acre-feet annually with the terms and conditions imposed in Permit 30361. Certificate 9971 was issued for Permit 41415 on April 9, 1982 for 0.1 c.f.s. but not to exceed 2.98 acre-feet annually.¹

X.

The State Engineer finds that Winnemucca Farms Inc., has sufficient water rights to irrigate the lands to which they are now using.¹

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action.²

II.

Beneficial use shall be the basis, the measure and the limit of the right to the use of water.³

III.

The original intent of assigning a combined duty to permits 26097 and 26098 was for the flexibility of pumping the permitted duty of 18.25 million gallons annually from either well and also that the total duty pumped from both wells was not to exceed 18.25 million gallons annually (56.0 acre-feet annually).

IV.

The duty for Permit 36318 certificate 9613 was obtained by expanding the diversion rate of 0.513 c.f.s. to 371.4 acre-feet annually.

V.

Winnemucca Farms Inc., has sufficient water rights under Certificates 9142, 9144, 9145, 9146, 9597, 9598, 9599, 9600, 9601, 9602, 9603, 9605, 9610, 9612, 10359, 10362 and 10662 to irrigate 3109.7 acres within a place of use, however the total individual duties add to 37770.9 acre-feet annually.¹

VI.

Using a restriction of 4.0 acre-feet per acre upon the place of use of 3109.7 acres limits the total combined duty to 12438.8 acre-feet annually.

² NRS 533 AND 534.

³ NRS 533.035.

VII.

The total combined duties of Permit 26098 Certificate 9958 and Permit 41415 Certificate 9971 equals 56.0 acre-feet annually.

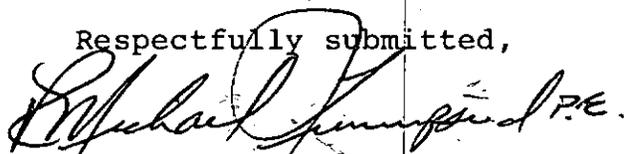
RULING

The issuance of Permit 36318 certificate 9613 is herewith rescinded and no further rights exist under Permit 36318 Certificate 9613.

The water which was under Permit 36318 Certificate 9613 shall not revert back to the base rights.

The well under now rescinded Permit 36318 Certificate 9613 must be plugged within 90 days according to NAC 534.420 and a well log describing the plugging operations must be submitted.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/TEG/pm

Dated this 29th day of
May, 1991.