

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

IN THE MATTER OF THE REINSTATEMENT)
OF CANCELLED PERMITS 41821, 41822,))
41823, 41824 AND 41825 FILED TO))
APPROPRIATE THE PUBLIC WATERS OF))
AND UNDERGROUND SOURCE WITHIN THE))
TRUCKEE MEADOWS GROUNDWATER BASIN,))
WASHOE COUNTY, NEVADA.))

RULING
#3813

GENERAL

I.

Application 41821 was filed on July 17, 1980 by Peter G. Guisti, Bernice C. Guisti, Judith Harvey and Karen Mardian to appropriate underground water for industrial and domestic purposes within the Truckee Meadows Groundwater Basin.¹

Application 41822 was filed on July 17, 1980 by Peter G. Guisti, Bernice C. Guisti, Judith Harvey and Karen Mardian to appropriate underground water for industrial and domestic purposes within the Truckee Meadows Groundwater Basin.¹

Application 41823 was filed on July 17, 1980 by Peter G. Guisti, Bernice C. Guisti, Judith Harvey and Karen Mardian to appropriate underground water for industrial and domestic purposes within the Truckee Meadows Groundwater Basin.¹

Application 41824 was filed on July 17, 1980 by Peter G. Guisti, Bernice C. Guisti, Judith Harvey and Karen Mardian to appropriate underground water for industrial and domestic purposes within the Truckee Meadows Groundwater Basin.¹

Application 41825 was filed on July 17, 1980 by Peter G. Guisti, Bernice C. Guisti, Judith Harvey and Karen Mardian to appropriate underground water for industrial and domestic purposes within the Truckee Meadows Groundwater Basin.¹

¹ Public record of the office of the State Engineer.

Permit 41821 was approved on July 24, 1981 to appropriate 10.0 c.f.s. of water from a well located within the W1/2 of the NE1/4 SE1/4; SE1/4 SE1/4 of T.18N., R.20E., M.D.B.&M. The point of diversion is described as being within NE1/4 SE1/4 Section 29, T.18N., R.20E., M.D.B.&M.¹

Permit 41822 was approved on July 24, 1981 to appropriate 10.0 c.f.s. of water from a well located within the W1/2 of the NE1/4 SE1/4; SE1/4 SE1/4 of T.18N., R.20E., M.D.B.&M. The point of diversion is described as being within NE1/4 SE1/4 Section 29, T.18N., R.20E., M.D.B.&M.¹

Permit 41823 was approved on July 24, 1981 to appropriate 10.0 c.f.s. of water from a well located within the W1/2 of the NE1/4 SE1/4; SE1/4 SE1/4 of T.18N., R.20E., M.D.B.&M. The point of diversion is described as being within SE1/4 SE1/4 Section 29, T.18N., R.20E., M.D.B.&M.¹

Permit 41824 was approved on July 24, 1981 to appropriate 10.0 c.f.s. of water from a well located within the W1/2 of the NE1/4 SE1/4; SE1/4 SE1/4 of T.18N., R.20E., M.D.B.&M. The point of diversion is described as being within SE1/4 SE1/4 Section 29, T.18N., R.20E., M.D.B.&M.¹

Permit 41825 was approved on July 24, 1981 to appropriate 10.0 c.f.s. of water from a well located within the W1/2 of the NE1/4 SE1/4; SE1/4 SE1/4 of T.18N., R.20E., M.D.B.&M. The point of diversion is described as being within SE1/4 SE1/4 Section 29, T.18N., R.20E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Permits 41821 through 41825 inclusive have been granted three extensions of time to file the required Proof of Completion of Work. On February 25, 1986, Permits 41821 through 41825 inclusive were cancelled for failure to file extensions of time in an timely manner.²

² Public record in the office of the State Engineer.

II.

A written petition from the permittee's counsel requesting a hearing to review the cancellation action was timely received by the State Engineer on March 21, 1985.³

III.

An administrative hearing was held in the matter of aforementioned cancellations before representatives of the State Engineer in Carson City on April 15, 1986.⁴

IV.

Permits 41821 through 41825 inclusive had been granted two more extensions of time to file the required Proof of Completion of Work and three extensions of time to file the required Proof of Completion of Work and Proof of Beneficial Use, with February 24, 1990 being the most recent due date.⁵

V.

The permittees' were advised by letter dated April 27, 1988, that no further extensions would be granted except for good cause shown as provided under NRS 533.390 and 533.400.⁶

VI.

The applications for extension of time to file Proof of Completion of Work and Proof of Beneficial Use under Permits 41821 through 41825 inclusive were denied on March 29, 1990, and cancelled on May 29, 1990 for failure of the permittees' to proceed in good faith and with reasonable diligence as provided by NRS.533.395.⁷

³ Public record in the office of the State Engineer.

⁴ Public record in the office of the State Engineer.

⁵ Public record in the office of the State Engineer.

⁶ Public record in the office of the State Engineer.

⁷ State's Exhibit 7 through 13 inclusive.

VII.

A written petition from the permittee's counsel requesting a hearing to review the cancellation action was timely received by the State Engineer on June 8, 1990.⁸

VIII.

An administrative hearing in the matter of aforementioned cancellations was held before representatives of the State Engineer in Carson City on November 29, 1990⁹. A continuance was requested by the permittee's representative, at the administrative hearing. The continuance was granted to December 21, 1990 in Reno.

IX.

Judith Harvey testified that on December 17, 1987 the Guisti Family Trust contacted Tom Quinn the Vice President/General Counsel of Far West Capital, Inc. to construct the geothermal wells. A lease agreement was finalized on June 27, 1988.

A faxed copy of an Affidavit by Thomas A. Quinn dated December 19, 1990, stating that "Far West Capital is currently in negotiations with Sierra Pacific Power Company on a 12 MW Power Purchase Agreement and the negotiations of that power contract will be completed within the next three months. The contract presently being negotiated calls for the plant to be completed and delivering power to Sierra Pacific Power Company on or before November 1, 1992."¹⁰ Therefore, there can be no placing of these water rights to a beneficial use until the terms of the contract are completed.

⁸ State's Exhibit 14.

⁹ State's Exhibit 1.

¹⁰ Applicant's Exhibit No. 15.

CONCLUSIONS

I.

The State Engineer has jurisdiction in this matter in accordance with NRS 533.380 and 533.410.

II.

The record of evidence and testimony establishes that the permittees have proceeded in good faith and with reasonable diligence in their attempt to complete and place Permits 41821, 41822, 41823, 41824 and 41825 to beneficial use

RULING

The cancellation of Permits 41821, 41822, 41823, 41824 and 41825 is hereby rescinded with the requirement that the Extensions of Time for the respective Proofs of Completion of Work and Proofs of Beneficial Use must be received within thirty (30) days of the date of this ruling.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/pm

Dated this 5th day of
July, 1991.