

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

IN THE MATTER OF THE REVIEW OF)
THE CANCELLATION OF PERMITS)
48320 AND 48321, DOUGLAS)
COUNTY, NEVADA.)

RULING
3910

GENERAL

I.

Permits 48320 and 48321 in the name of United Venture Capital, Inc., and Walleys Hot Springs Resort and Country Club, Inc., were approved on January 16, 1985, for 1.0 c.f.s. each for commercial and domestic uses from underground sources. The total combined duty of water for Permits 48320 and 48321 shall not exceed 11.68 million gallons annually. These permits changed Permits 26108 and 26109, respectively. Both wells are located in the SW1/4 SE1/4 Section 15, T.13N., R.19E., M.D.B.M., Douglas County, Nevada.¹

II.

The Proofs of Completion of Work for Permits 48320 and 48321 were timely filed on May 2, 1989. The Proofs of Beneficial Use were originally due on August 4, 1986 and extensions of time were routinely granted annually to August 4, 1990. Another request for extension of time was granted to August 4, 1991, and the permittee was advised that no further requests for extension of time would be granted except for good cause shown as provided under NRS 533.390 and 533.410.²

On September 5, 1991, a request for further extension of time was filed by the agent for the permittee.³ On January 22, 1992, the request for extension of time was denied and Permits

¹ Exhibits 2 and 3, Public Administrative Hearing before the State Engineer, April 1, 1992.

² Files 48320 and 48321, official records in the office of the State Engineer.

³ Exhibit 7, Public Administrative Hearing before the State Engineer, April 1, 1992.

48320 and 48321 were cancelled for failure by the permittee to proceed in good faith and with reasonable diligence as provided under NRS 533.395(1).⁴

III.

On March 6, 1992, the agent for the permittee filed a petition for a hearing to review the cancellation of cancelled Permits 48320 and 48321.⁵ On April 1, 1992, a hearing was held as noticed in the hearing notice dated March 16, 1992.⁶

FINDINGS OF FACT

I.

The agent for the permittee presented testimony indicating that a resort hotel is contemplated to be served by Permits 48320 and 48321.⁷ Implementation of the development plan is dependent upon providing wastewater treatment for the hotel.⁸ The permittee is presently talking with Douglas County and adjacent property owners to cooperate on the construction of suitable area-wide wastewater treatment. The State Engineer finds that the permittee has proceeded in good faith and with reasonable diligence.

⁴ Exhibit 4, Public Administrative Hearing before the State Engineer, April 1, 1992.

⁵ Exhibit 5, Public Administrative Hearing before the State Engineer, April 1, 1992.

⁶ Exhibit 1, Public Administrative Hearing before the State Engineer, April 1, 1992.

⁷ Transcript, p. 9, Public Administrative Hearing before the State Engineer, April 1, 1992.

⁸ Transcript, p. 6, Public Administrative Hearing before the State Engineer, April 1, 1992.

II.

The agent for the permittee testified that the wells under Permits 48320 and 48321 have pumped a small quantity of water to serve the restaurant and bath house.⁹ This represents the use of only a very small portion of the quantity of water approved under Permits 48320 and 48321. The permittee would prefer not to file proof of beneficial use on this small quantity of water. Instead, the permittee intends to aggressively pursue the approval of the plans for development through Douglas County and file proof of beneficial use after full development of the property occurs. The State Engineer finds that the permittee has shown good cause to rescind the cancellation and reinstate Permits 48320 and 48321. Under the provisions of NRS 533.395(3), the date of priority of Permits 48320 and 48321 will be changed to March 6, 1992, the date of filing the written petition requesting this review.

CONCLUSIONS

I.

The State Engineer has jurisdiction in the subject matter.¹⁰

II.

The permittee is proceeding in good faith and with reasonable diligence.

III.

The permittee has shown good cause to rescind the cancellation of Permits 48320 and 48321, and to reinstate these permits with the new priority date of March 6, 1992. The new date of filing the proof of beneficial use shall be the date of this ruling.

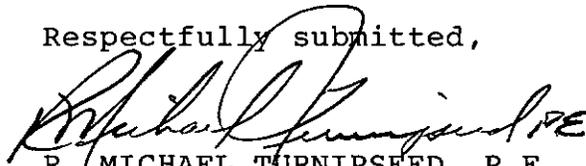
⁹ Transcript, pp. 8-9, Public Administrative Hearing before the State Engineer, April 1, 1992.

¹⁰ NRS 533.

RULING

Permits 48320 and 48321 are hereby reinstated with the new priority date of March 6, 1992. The new date for filing the proof of beneficial use shall be the date of this ruling. The permittee is granted thirty days from the date of this ruling to file the requests for extension of time.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/JCP/pm

Dated this 16th day of

November, 1992.