

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

IN THE MATTER OF CANCELLED PERMIT 52312)  
FILED TO APPROPRIATE THE UNDERGROUND )  
WATERS OF BIG SMOKY VALLEY - NORTHERN )  
PART, NYE COUNTY, NEVADA. )

RULING  
**# 4135**

GENERAL

I.

Application 52312 was filed on July 12, 1988, by Daniel and Georjean Hoag, to appropriate the underground waters for quasi-municipal use. Permit 52312 was approved on March 20, 1989, for 0.5 cubic feet per second, not to exceed 1.46 million gallons annually. The well is located in the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 4, T.10N. R.43E. M.D.B.&M.<sup>1</sup>

II.

The proof of application of water to beneficial use was due on April 20, 1994. Final notice was sent to the permittees on April 21, 1994, stating that proof of beneficial use needed to be submitted within 30 days. On May 6, 1994, Georjean Hoag, permittee, timely filled out an Application for Extension of Time, and sent it to the State Engineer's Office along with the required \$100.00 filing fee. However, the Application for Extension of Time and filing fee were not received in the Office of The State Engineer in a timely manner.

III.

On July 1, 1994, Permit 52312 was cancelled by the State Engineer. After Permit 52312 was cancelled, the application for extension of time was received along with the appropriate filing fee. The envelope bore a United States Post Office stamp stating "FOUND IN SUPPOSEDLY EMPTY EQUIPMENT", indicating that the United States Postal Service had misplaced it and was entirely responsible for the delay.

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<sup>1</sup> Public record in the Office of the State Engineer under Permit No. 52312.

FINDING OF FACT

The Application for Extension of Time and appropriate filing fee had been timely mailed to the State Engineer's Office. Due to the error of the United States Postal Service, the State Engineer finds that the cancellation of Permit 52312 should be voided and the provisions in NRS 533.395(2) for rescinding the cancellation of a permit, do not apply. The State Engineer further finds that the application for extension of time was properly filed and Permit 52312 was cancelled in error through no fault of the permittee.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter.<sup>2</sup>

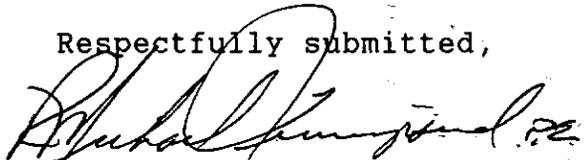
II.

The State Engineer concludes that Permit 52312 was cancelled in error and that cancellation should be voided. The priority date should be the original filing date of July 12, 1988.

RULING

The cancellation of Permit 52312 is hereby voided, on the grounds that the cancellation was made in error. The priority date of Permit 52312 shall remain July 12, 1988.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SB/pm

Dated this 15th day of  
August, 1994.

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<sup>2</sup> NRS 533 and 534.