

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

IN THE MATTER OF THE CANCELLATION)
OF A PORTION OF PERMIT 27180,)
CARSON VALLEY GROUND WATER BASIN)
(105), DOUGLAS COUNTY, NEVADA)

RULING

4318

GENERAL

I.

Permit 27180 was approved on May 16, 1973, and corrected Permit 27180 approved on June 19, 1986, to appropriate 1.0 cubic feet per second (cfs) of water from a well within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 7, T.14N., R.20E., M.D.B.&M.¹ The corrected permit was approved for an amount of water not to exceed a total combined duty of 51.10 million gallons annually (mga) under this permit and Permit 25206 to serve a total of 350 subdivision units, at 400 gallons per day (gpd) per unit, of the Vista Grande Subdivision and Ridgeview Estates Subdivision. The owner of record is the North Valley General Improvement District, with the Douglas County Board of Commissioners as trustee.

II.

Permit 25206 was approved on March 22, 1972, to appropriate 1.0 cfs of water from a well within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 7, T.14N., R.20E., M.D.B.&M.² Permit 25206 was approved for an amount of water not to exceed 10.512 mga to serve 72 subdivision units, at 400 gpd per unit, of the Vista Grande Subdivision. A portion of Permit 25206, being 10.302 mga, was abrogated by Permit 48632, and subsequently the remaining portion of Permit 25206, being 0.210 mga, was cancelled.

¹ File No. 27180, official records of the Office of the State Engineer.

² File No. 25206, official records of the Office of the State Engineer.

III.

Certificate 11859 was issued under Permit 48632 on April 13, 1987, for 0.98 cfs of water from a well within the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 7, T.14N., R.20E., M.D.B.&M.³ Certificate 11859 (Permit 48632) was issued for an amount of water not to exceed 10.302 mga to serve 72 subdivision units of the Ridgeview Estates Subdivision and Vista Grande Subdivision. The owner of record of Permit 48632, Certificate 11859 is the North Valley General Improvement District.

IV.

Proof of beneficial use of the waters under Permit 27180 was first due to be filed in the Office of the State Engineer on December 16, 1976. After seventeen extensions of time were granted for filing proof of beneficial use, on November 23, 1994, the State Engineer cancelled an 11.937 mga portion of the waters appropriated under Permit 27180.

V.

Upon petition filed on January 19, 1995, by the permittee, a public administrative hearing was held on March 6, 1996, before representatives of the Office of the State Engineer with regard to the cancellation.⁴

FINDINGS OF FACT

I.

Permit 27180 and Permit 48632 (Certificate 11859) were approved for a combined amount not to exceed 51.10 mga (156.82 acre-feet annually) to serve a total of 350 subdivision units at 400 gpd of the Vista Grande Subdivision and the Ridgeview Estates

³ File No. 48632, official records of the Office of the State Engineer.

⁴ Transcript, public administrative hearing before the State Engineer, March 6, 1996.

Subdivision. Evidence presented to the State Engineer indicates that at buildout Permits 27180 and 48632 will serve 155 units.⁵

Cancellation of the 11.937 mga portion of the waters appropriated under Permit 27180 was based on information provided by Douglas County. The maximum combined annual amount of water diverted under Permits 27180 and 48632 was 38.91 mga, which occurred during the one year period from October 1, 1989, to September 30, 1990. At the hearing, evidence was provided that during the one year period from October 1, 1993, to September 30, 1994, the combined annual amount of water diverted under Permits 27180 and 48632 to serve 152 units was 45.31 mga.⁶ The average water use for each unit presently built is 816.69 gpd.⁷ The State Engineer finds that the combined annual consumption of 45.31 mga is a reasonable amount of water use for 152 units. The State Engineer further finds 155 units each consuming 816.69 gpd will require 46.20 mga of water and that this quantity of water is committed to a beneficial use.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁸

II.

A permit to appropriate water grants to the permittee the right to develop a certain amount of water from a particular source for a certain purpose to be used at a definite location.⁹ In the

⁵ Exhibit No. 1, public administrative hearing before the State Engineer, March 6, 1996.

⁶ Id.

⁷ Id.

⁸ NRS Chapters 533 and 534.

⁹ NRS 533.330 and 533.335.

perfection of a water right a permittee is generally allowed sufficient time after the date of approval of the application to complete application of the water to beneficial use.¹⁰ Nevada water law provides that the State Engineer may for good cause shown extend the time within which the water is to be placed to beneficial use. The State Engineer shall not grant an extension of time unless proof and evidence is submitted that shows the permittee is proceeding in good faith and with reasonable diligence to perfect the application.¹¹

III.

If a permit is cancelled, the holder of a permit may file a written petition with the State Engineer requesting a review of the cancellation. The State Engineer may, after receiving and considering evidence regarding the cancelled permit, affirm, modify, or rescind the cancellation.¹²

IV.

The State Engineer concludes that the permittee has proceeded in good faith and with reasonable diligence sufficient to support reinstating a 7.04 mga portion of the waters cancelled under Permit 27180. This brings the quantity of water remaining under Permit 27180 to 46.20 mga. The State Engineer further concludes that the 4.90 mga portion should remain cancelled.

¹⁰ NRS 533.380.

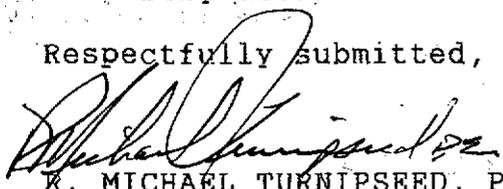
¹¹ NRS 533.380.

¹² NRS 533.395(2).

RULING

The State Engineer's decision of November 23, 1994, is hereby amended as follows. The quantity of water remaining under Permit 27180 is amended to 46.20 mga. The cancellation of a portion of Permit 27180 amounting to 4.90 mga is hereby affirmed.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SJT/ab

Dated this 28th day of
March, 1996.