

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

IN THE MATTER OF CANCELLED PERMIT)
54622 FILED TO APPROPRIATE)
UNDERGROUND WATERS WITHIN THE LAS)
VEGAS ARTESIAN GROUNDWATER BASIN)
(212), CLARK COUNTY, NEVADA.)

RULING

4458

GENERAL

I.

Application 54622 was filed by Jesse Knighton on April 3, 1990, to appropriate the underground waters of the Las Vegas Artesian Groundwater Basin, Clark County, Nevada. Permit 54622 was approved on September 12, 1990, for 0.046 cubic feet per second for quasi-municipal purposes within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 29, T.19S., R.60E., M.D.B.&M.¹ The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 29. Ownership of Permit 54622 was assigned in the records of the State Engineer to Anita Krishna on January 17, 1992.

II.

Permit 54622 was cancelled on November 30, 1992, because the permittee failed to file the Proof of Completion of Work by the date set forth in the permit terms.¹ At the administrative hearing held on the reconsideration of the cancellation the State Engineer rescinded the cancellation and reinstated Permit 54622.

III.

On May 25, 1995, a notice was sent by certified mail to Anita Krishna regarding Permit 54622 advising her that the Proof of Beneficial Use had not been filed in the Office of the State Engineer within the time limit established in the permit.¹ The notice informed the permittee that the Proof of Beneficial Use or an affidavit requesting an extension of time to file said proof had to be filed in the Office of the State Engineer within 30 days from the date of the notice or the permit would be cancelled.¹

¹File No. 54622, official records in the Office of the State Engineer.

IV.

On August 4, 1995, the notice was resent by certified mail to Anita Krishna as the return receipt from the May 25, 1995, notice had not been received in the Office of the State Engineer. The return receipt from the second mailing was received in the Office of the State Engineer.¹ Permit 54622 was cancelled on October 16, 1995, for failure to comply with the permit terms by filing the required Proof of Beneficial Use or an Application for Extension of Time to file said proof.¹

V.

After a review of File No. 54622 it was discovered that an error had been made in record keeping as to the date that Proof of Beneficial Use was due to be filed in the Office of the State Engineer. Pursuant to the permit terms, Proof of Beneficial Use was actually due to be filed in the Office of the State Engineer on or before October 12, 1995.¹ However, on the front cover of File No. 54622 it was indicated in error that Proof of Beneficial Use was due to be filed on or before May 21, 1995.¹ Therefore, by Ruling No. 4244², dated November 7, 1995, the State Engineer found that Permit 54622, along with Permit 54621, had been erroneously cancelled. Pursuant to Ruling No. 4244, the State Engineer rescinded the cancellation of Permit 54622 and ruled that a new final notice would be sent regarding compliance with the permit terms.

FINDINGS OF FACT

I.

The State Engineer finds that pursuant to Ruling No. 4244 the file cover of Permit 54621 was corrected to show the correct date for filing Proof of Beneficial Use. However, inadvertently the file cover of Permit 54622 was not corrected to reflect the appropriate date for filing Proof of Beneficial Use under Permit 54622.

²State Engineer's Ruling No. 4244, dated November 7, 1995, official records in the Office of the State Engineer.

II.

On February 9, 1996, the State Engineer sent a notice to the permittee of record, Anita Krishna, that Proof of Beneficial Use had been due to be filed in the Office of the State Engineer on or before May 21, 1995, and that the permittee had 30 days in which to file the required Proof of Beneficial Use or an Application for Extension of Time for filing said proof. On March 18, 1996, an Application for Extension of Time for filing Proof of Beneficial Use was filed and granted by the State Engineer through May 21, 1996.

By a notice dated May 23, 1996, the State Engineer informed the permittee that Proof of Beneficial Use had been due to be filed in the Office of the State Engineer on or before May 21, 1996, and that the permittee had 30 days in which to file the required Proof of Beneficial Use or an Application for Extension of Time for filing said proof.¹ The certified notice was returned to the State Engineer with an indication from the U.S. Postal Service that the forwarding order for Anita Krishna had expired. The notice was resent by regular mail on May 29, 1996, but it was also returned by the U.S. Postal Service with an indication that the forwarding order had expired and it had no forwarding address.¹

As no Proof of Beneficial Use was filed, on August 20, 1996, the State Engineer cancelled Permit 54622.¹ On September 30, 1996, James L. Orndoff, as agent for Jesse Knighton, filed a Petition for Review of Canceled Permit 54622.¹ The State Engineer finds that because of the error in record keeping, i.e., that the Proof of Beneficial Use date had not been identified on the file cover as October 12, 1996, but instead was identified as May 21, 1996, the May 29, 1996, notice of failure to file Proof of Beneficial Use and the notice of cancellation of Permit 54622 was prematurely sent to the permittee and Permit 54622 was erroneously cancelled.

III.

The State Engineer finds that on October 9, 1996, an Application for Extension of Time for filing Proof of Beneficial

Use was filed with the Office of the State Engineer by N.R. Yerramsetti, as agent for Jesse Knighton, and will be considered separately.

IV.

James Orndoff, as agent for Jesse Knighton, filed a Petition for Review of Canceled Permit. N.R. Yerramsetti, as agent for Jesse Knighton, filed the Application for Extension of Time. The State Engineer finds that Anita Krishna, not Jesse Knighton, is the owner of record of Permit 54622. The State Engineer further finds that it is the responsibility of the permittee or her successor in interest to keep this office informed of a current mailing address and at the present time the State Engineer has not been informed of a current address for the permittee of record Anita Krishna or any successor in interest to the permit.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.³

II.

The State Engineer concludes that the error in record keeping in the Office of the State Engineer and the noticing error requires that the cancellation of Permit 54622 be rescinded without a loss in priority. The State Engineer concludes that Proof of Beneficial Use of the water under Permit 54622 was due to be filed in the Office of the State Engineer on October 12, 1996, and an Application for Extension of Time for filing said Proof of Beneficial Use was timely filed on October 9, 1996.

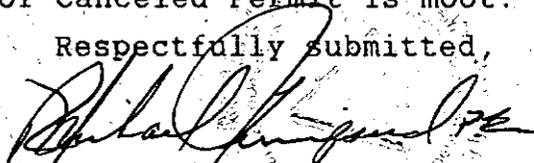
³NRS Chapters 533 and 534.

Ruling
Page 5

RULING

The cancellation of Permit 54622 is hereby voided. For this reason, the Petition for Review of Canceled Permit is moot.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SJT/ab

Dated this 26th day of
November, 1996.