

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

IN THE MATTER OF CANCELLED PORTIONS )  
OF PERMITS 47127, 47128, 47129, )  
47130, 47131 AND 47132 FILED TO )  
APPROPRIATE UNDERGROUND WATERS )  
WITHIN THE PLEASANT VALLEY )  
GROUNDWATER BASIN (88), WASHOE )  
COUNTY, NEVADA. )

RULING

# 4526

GENERAL

I.

Application 47127 was filed on August 5, 1983, by the Mt. Rose Service Company to change the point of diversion and place of use of a 0.23027 cubic foot per second (cfs) portion of Permit 35147 previously appropriated in the Pleasant Valley Groundwater Basin, Washoe County, Nevada. Permit 47127 was approved on August 1, 1985, for quasi-municipal purposes within Sections 13, 14, 23, 24, 25 and 26, T.17N., R.18E., and Sections 7, 8, 17, 18, 19 and 20, N½ of Section 29 and N½ of Section 30, T.17N., R.19E., M.D.B.&M.<sup>1</sup> The proposed point of diversion is described as being located within the SE¼ NW¼ of Section 19, T.17N., R.19E.

II.

Application 47128 was filed on August 5, 1983, by the Mt. Rose Service Company to change the point of diversion and place of use of a 0.23027 cfs portion of Permit 35148 previously appropriated in the Pleasant Valley Groundwater Basin. Permit 47128 was approved on August 1, 1985, for quasi-municipal purposes within the same place of use as identified under Application 47127.<sup>2</sup> The proposed point of diversion is described as being located within the NW¼ SW¼ of Section 19, T.17N., R.19E.

<sup>1</sup> File No. 47127, official records of the office of the State Engineer.

<sup>2</sup> File No. 47128, official records of the office of the State Engineer.

III.

Application 47129 was filed on August 5, 1983, by the Mt. Rose Service Company to change the point of diversion and place of use of a 0.23027 cfs portion of Permit 35149 previously appropriated in the Pleasant Valley Groundwater Basin. Permit 47129 was approved on August 1, 1985, for quasi-municipal purposes within the same place of use as identified under Application 47127.<sup>3</sup> The proposed point of diversion is described as being located within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 18, T.17N., R.19E.

IV.

Application 47130 was filed on August 5, 1983, by the Mt. Rose Service Company to change the point of diversion and place of use of a 0.23027 cfs portion of Permit 35150 previously appropriated in the Pleasant Valley Groundwater Basin. Permit 47130 was approved on August 1, 1985, for quasi-municipal purposes within the same place of use as identified under Application 47127.<sup>4</sup> The proposed point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 18, T.17N., R.19E.

V.

Application 47131 was filed on August 5, 1983, by the Mt. Rose Service Company to change the point of diversion and place of use of a 0.23027 cfs portion of Permit 35151 previously appropriated in the Pleasant Valley Groundwater Basin. Permit 47131 was approved on August 1, 1985, for quasi-municipal purposes within the same place of use as identified under Application 47127.<sup>5</sup> The proposed point of diversion is described as being located within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 18, T.17N., R.19E.

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<sup>3</sup> File No. 47129, official records of the office of the State Engineer.

<sup>4</sup> File No. 47130, official records of the office of the State Engineer.

<sup>5</sup> File No. 47131, official records of the office of the State Engineer.

VI.

Application 47132 was filed on August 5, 1983, by the Mt. Rose Service Company to change the point of diversion and place of use of a 0.23027 cfs portion of Permit 35152 in the Pleasant Valley Groundwater Basin. Permit 47132 was approved on August 1, 1985, for quasi-municipal purposes within the same place of use as identified under Application 47127.<sup>6</sup> The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 19, T.17N., R.19E.

VII.

In 1984, ownership of Permits 47127 through 47132, inclusive, was assigned to Galena Resort Company who later conveyed portions of the permits to various entities.

VIII.

Permits 47127 through 47132, inclusive, were granted on August 1, 1985, for a total combined duty not to exceed 1,000 acre feet annually. Under the terms of the permits Proof of Completion of Work was first due to be filed in the office of the State Engineer on or before September 1, 1987, with Proof of Beneficial Use of the waters due to be filed on or before September 1, 1989.

IX.

On January 12, 1996, the State Engineer cancelled a 190 acre-foot portion of Permits 47127 through 47132, inclusive, owned by the Galena Resort on the basis that the permittee had failed to file the required Proof of Completion of Work, Proof of Beneficial Use, and proof of beneficial use maps as required by the permit terms.<sup>1-6</sup>

X.

A petition for review of the cancellation was timely filed by the United States of America, Forest Service.

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<sup>6</sup> File No. 47132, official records of the office of the State Engineer.

XI.

After all parties of interest were duly noticed by certified mail, an administrative hearing was held on September 6, 1996, in Carson City, Nevada, before representatives of the office of the State Engineer regarding the petition for review of the cancellation of the Galena Resort portion of Permits 47127 through 47132, inclusive.

FINDINGS OF FACT

I.

Through a series of transactions, ownership of a 190 acre-foot portion of Permits 47127 through 47132, inclusive, was assigned from Galena Resort Company to the United States of America, Forest Service. The State Engineer finds that at the time of the cancellation of the permits the United States Forest Service had not filed all the appropriate documentation in the office of the State Engineer to transfer ownership of the water rights from Galena Resort Company to the Forest Service. The State Engineer instructed the United States Forest Service to finalize the transfer of ownership of the 190 acre-foot portion of the water rights into the name of the United States in the records of the office of the State Engineer. The State Engineer finds that the United States failure to complete the assignment of its ownership interest in the permits resulted in its not receiving notice of the failure to comply with the permit terms. The State Engineer finds due to the complexities of the transactions conveying the Galena Resort property to the United States, the filing of all the appropriate paper work transferring said rights in the records of the State Engineer was not completed, and good cause exists for rescinding the cancellation of the United States portion of Permits 47127 through 47132.

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.<sup>1</sup>

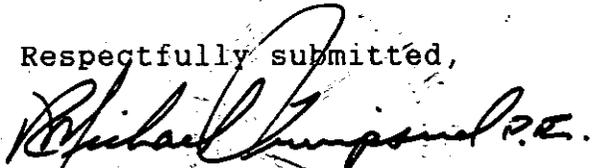
II.

The State Engineer concludes that good cause exists for rescinding the cancellation of Forest Service portion of Permits 47127 through 47132.

RULING

The United States Forest Service has 30 days from the date of this ruling to file applications for extension of time for filing Proof of Completion and Proof of Beneficial Use under Permits 47127, 47128, 47129, 47130, 47131, and 47132. The applications for extensions of time must indicate the United States Forest Service's plans for placing this water to beneficial use. If the applications for extension of time are timely filed, the cancellation of the United States Forest Service's 190 acre-foot portion of Permits 47127 through 47132 will be rescinded and reinstated with a new priority date of February 9, 1996. Failure to timely file the applications for extension of time will result in the affirmation of the cancellation. The applications for extensions of time will be considered in the manner as all other applications.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SJT/ab

Dated this 20th day of  
May, 1997.

<sup>1</sup>NRS Chapters 533 and 534.