

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

IN THE MATTER OF CANCELLED PERMIT)
56897 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN LAS VEGAS ARTESIAN)
GROUNDWATER BASIN (212), CLARK)
COUNTY, NEVADA.)

RULING

4594

GENERAL

I.

Application 56897 was filed on November 1, 1991, by Edwin R. Potter to appropriate 0.1 cubic feet per second (cfs) from the Las Vegas Artesian Groundwater Basin for quasi-municipal purposes within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, T.20S., R.60E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 5.¹

II.

Permit 56897 was granted on March 31, 1992, and under the terms of the permit Proof of Completion of Work was due to be filed in the office of the State Engineer on or before September 21, 1996.¹

FINDINGS OF FACT

I.

Although the records of the office of the State Engineer are devoid of any Reports of Conveyance or documents which would transfer the ownership of Permit 56897 from the original permittee, information contained within the said permit file indicates that ownership may have been transferred from Edwin R. Potter to Michael E. Knowles.¹ The State Engineer finds that although Edwin R. Potter remained the owner of record within the office of the State Engineer, Michael E. Knowles was noticed by certified mail beginning in June 20, 1995, of all obligations and deadlines relevant to Permit 56897.

¹ File No. 56897, official records in the office of the State Engineer.

II.

Notice was sent by certified mail dated September 24, 1996, to Edwin R. Potter, Michael E. Knowles and the permittee's agent of record that the permittee had not complied with the terms of the permit in that the Proof of Completion of Work had not been filed in accordance with the permit terms. The permittee was given 30 days in which to file the required documentation. The endorsed receipt for the certified mailings were received from all of the noticed parties in the office of the State Engineer in a timely fashion.

Subsequently, an Application for Extension of Time for filing the Proof of Completion of Work for Permit 56897 completed by Michael E. Knowles was received at the State Mail Room on October 28, 1996, which was not within the specified time set forth on the final notice dated September 24, 1996.¹ The State Engineer finds that the Application for Extension of Time to file the Proof of Completion of Work under Permit 56897 was not filed in a timely manner; therefore, said Application for Extension of Time cannot be accepted and the State Engineer had no alternative but to cancel Permit 56897 for failure to comply with the terms of the permit.

II.

Permit 56897 was cancelled by the State Engineer on November 15, 1996.¹ Under the provisions of NRS § 533.395(2), the holder of a cancelled permit may within sixty days after the cancellation of the permit file a written petition with the State Engineer requesting a review of the cancellation by the State Engineer at a public hearing. In circumstances where a permit is cancelled due to the late filing of the required proof or an Application for Extension of Time the document may be substituted for the written petition.

III.

On April 3, 1997, the State Engineer sent notice by certified mail of a public administrative hearing set for April 30, 1997, at the Southern Nevada Branch Office of the State Engineer, on the

review of the cancellation. The return receipt to the certified mailing was received in the office of the State Engineer. The State Engineer finds that neither the petitioner or the permittee appeared at the scheduled hearing.¹

CONCLUSIONS OF LAW

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.²

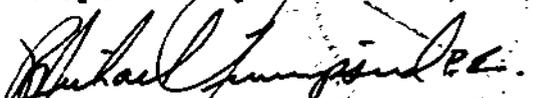
II.

NRS § 533.390 requires that the State Engineer shall cancel a permit if the permittee fails to timely file the Proof of Completion of Work or an Application for Extension of Time. The State Engineer concludes that the permittee of record did not timely file the required Proof of Completion of Work or an Application for Extension of Time. The State Engineer further concludes that neither the permittee or Mr. Knowles, who filed the late Application for Extension of Time, appeared at the time and place scheduled for the review of the cancellation; therefore, no evidence or testimony was presented which would support the State Engineer modifying or rescinding the cancellation.

RULING

The cancellation of Permit 56897 is affirmed.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/ab

Dated this 22nd day of
December, 1997.

² NRS Chapters 533 and 534.