

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

IN THE MATTER OF CANCELLED PERMIT)
58883 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNNAMED)
STREAM WITHIN THE LAS VEGAS)
ARTESIAN GROUNDWATER BASIN (212),)
CLARK COUNTY, NEVADA.)

RULING

4595

GENERAL

I.

Application 58883 was filed on June 2, 1993, by James W. Palensky and Teresa Scheib-Palensky to appropriate 0.0056 cubic foot per second (cfs) from an unnamed stream for domestic and stockwatering purposes. The place of use is described as being located within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 7, T.19S., R.57E., M.D.B.&M. The point of diversion is described as being located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 7, T.19S., R.57E., M.D.B.&M.¹

II.

Permit 58883 was granted on April 19, 1994, 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 May 19, 1997.

FINDINGS OF FACT

I.

Notice was sent by certified mail dated May 20, 1997, to the permittees that they 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 proof or an application for extension of time. The endorsed receipt for the certified mailing was received in the office of the State Engineer on June 16, 1997. The State Engineer finds that neither the required proof or an application for extension of time was filed in response to the notice of non-compliance with the permit terms.

¹ File No. 58883, official records in the office of the State Engineer.

II.

Permit 58883 was cancelled by the State Engineer on June 27, 1997, for failure to comply with the permit terms. The State Engineer finds that in accordance with NRS § 533.395 a petition for review of the cancellation was timely filed in the office of the State Engineer under the signature of James W. Palensky.

III.

As provided in NRS § 533.395, on October 30, 1997, the State Engineer sent notice by certified mail of a public hearing set for November 18, 1997, at the Southern Nevada Branch Office of the State Engineer, on the petition for review of the cancellation. The return receipt for the certified mailing was received in the office of the State Engineer. The State Engineer finds that the permittee failed to appear at the scheduled hearing.

CONCLUSIONS OF LAW

I.

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

II.

NRS § 533.410 requires that the State Engineer shall cancel a permit if the permittee fails to timely file Proof of Completion of Work. The State Engineer concludes that the petitioner did not appear 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.

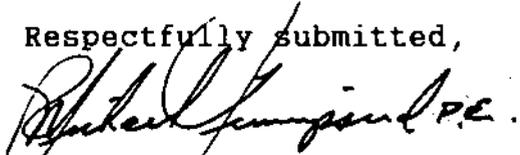
² NRS Chapter 533.

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The cancellation of Permit 58883 is affirmed.

Respectfully submitted,



E. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/ab

Dated this 22nd day of
December, 1997.