

IN THE MATTER OF THE REINSTATEMENT)
OF CANCELLED PERMIT 34811 FOR THE)
APPROPRIATION OF WATER FROM AN)
UNDERGROUND SOURCE WITHIN THE)
WINNEMUCCA SEGMENT, HUMBOLDT COUNTY,)
NEVADA)

RULING

70

FINDINGS OF FACT

I

Permit 34811 was issued on January 11, 1980, in the name of Donnell J. and Andree L. Richards to change the point of diversion and place of use of water previously appropriated under Permit 22034, Certificate 7569. Permit 34811 provided for the diversion of 0.0815 c.f.s. of water from an underground source located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, T.35N., R.37E., M.D.B. & M. for irrigation and domestic use on 10 acres located within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 11.

II

The terms of Permit 34811 required the filing of Proof of Commencement of Work with the Division of Water Resources on or before August 11, 1980. In accordance with the provisions of NRS 533.390, a certified notice dated August 11, 1980, was sent to permit holder Donnell J. and Andree L. Richards advising that the permit was in poor standing and that a thirty (30) day grace period from the date of said notice was allowed for the filing of the required Proof of Commencement of Work. The necessary proof was not received by the State Engineer's office within the grace period allowed, and Permit 34811 was subsequently cancelled on October 3, 1980, for failure to comply with the requirements of the permit.

III

A copy of a Quitclaim Deed, bearing the certification of the office of the Humboldt County Recorder, was submitted to the State Engineer's office on June 23, 1980, by Elmer L. Davis. Said Quitclaim Deed, which was executed on March 6, 1980, specifically conveys Permit 34811 from Donnell J. and Andree L. Richards, grantors, to Elmer L. and Elva A. Davis, grantees. The deed was submitted under cover of a letter signed by Elmer A. Davis which specifically requests the transfer of Permit 34811 to his jurisdiction.

IV

The enactment of Assembly Bill 27 by the 1981 session of the Nevada Legislature has eliminated the requirement for the filing of

Proof of Commencement of Work under any permit issued by the Division of Water Resources. The State Engineer's office has taken the position that upon enactment of AB 27, the requirement for the filing of Proof of Commencement of Work has been eliminated even though a permit may have been issued prior to July 1, 1981, on which date the bill became law.

V

The original terms under Permit 34811 require that the Proof of Completion of Work and well log be filed with the office of the State Engineer on or before August 11, 1981.

CONCLUSIONS

I

The State Engineer has jurisdiction in this matter under the provisions of Chapter 533 of NRS.

II

NRS 533.385 provides that the assignment of a water right becomes binding upon the office of the State Engineer upon making such assignment of record with the Division of Water Resources. The Quitclaim Deed dated March 6, 1980 whereby Permit 34811 was conveyed from permit holder Donnell J. and Andree L. Richards to Elmer L. and Elva A. Davis was filed with the office of the State Engineer on June 23, 1980, which was prior to the final notice dated August 11, 1980.

III

No certified notice required under the provisions of NRS 533.390 was mailed to assignee Elmer L. and Elva A. Davis.

IV

Based upon the State Engineer's policy of application of Assembly Bill 27 to permits issued prior to that bill's enactment on July 1, 1981, the requirement for the filing of Proof of Commencement of Work under Permit 34811 is eliminated.

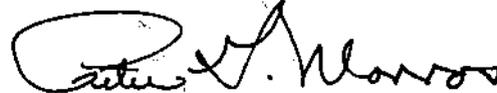
V

The deadline for the filing of Proof of Completion of Work and well log of August 11, 1981 as allowed under the terms of original Permit 34811 has not expired as of the issuance of this Ruling.

RULING

The cancellation of Permit 34811 is herewith rescinded and the permit is reinstated to a valid and active status. No Proof of Commencement of Work will be required to be filed under this permit. The deadline for the filing of Proof of Completion of Work and well log remains August 11, 1981, and for the filing of Proof of Beneficial Use and cultural map remains August 11, 1982 as allowed under the terms of the original permit. All future notices and correspondence from the Division of Water Resources regarding Permit 34811 will be sent to assignee Elmer L. and Elva A. Davis so long as the permit shall remain of record in that name.

Respectfully submitted,



Peter G. Morros
State Engineer

PGM-BAR-js

Dated this 23rd day of
July, 1981