

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF THE REINSTATEMENT)
OF CANCELLED PERMIT 27074, IN)
WINNEMUCCA SEGMENT, HUMBOLDT)
COUNTY, NEVADA.)

RULING

FINDINGS OF FACT

I.

Application 27074 was filed on October 16, 1972, in the name of Lamond P. Higbee to appropriate 0.5 c.f.s. of water for quasi-municipal and domestic purposes from an underground source located within the SE1/4 SW1/4 Section 2, T.35N., R.37E., M.D.B.&M.

The above application was approved and a permit was issued on December 17, 1974.

II.

By certified mail notice dated March 19, 1986, the permittee was advised that the Proof of Beneficial Use had not been filed within the time frame set forth in the permit and subsequent extension of time approvals and that the permit was in poor standing. Said notice stated that the required documents had to be submitted on or before thirty (30) days from the date of that notice, or the permit would be cancelled.

III.

The permittee submitted an extension of time for filing the Proof of Beneficial Use on April 21, 1986, which was three (3) days past the final date for submittal in accordance with the March 19, 1986, notice. The request for extension of time was returned to the permittee and permit 27074 was cancelled on May 16, 1986, for failure to submit the Proof of Beneficial Use or an extension thereof in a timely manner.

IV.

On July 15, 1986, the agent for the permittee submitted a letter setting forth the fact that the property on which the water right is appurtenant is the subject of a Chapter 11 bankruptcy proceeding and noting the bankruptcy court was not informed of the poor standing of the permit.

V.

The file indicates that this office was aware of the bankruptcy proceeding since such information was submitted in support of the extension of time request received April 12, 1985.

CONCLUSION

I.

The State Engineer has jurisdiction in this matter in accordance with NRS 533.380, 533.395 and 533.410.

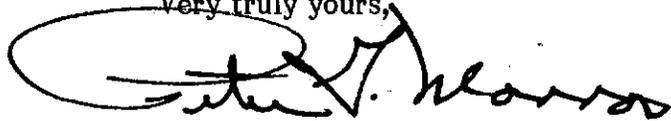
II.

Permit 27074 should not have been cancelled while the property to which it is appurtenant is subject to a Chapter 11 bankruptcy proceeding without proper notice to the Court or other parties or persons with standing.

RULING

The cancellation of Permit 27074 is hereby rescinded with no loss in priority. The permittee will be noticed by certified mail and will be allowed thirty (30) days from the date of this ruling to submit the Proof of Beneficial Use on application for extension of time.

Very truly yours,



PETER G. MORROS
State Engineer

PGM/CT/bk

Dated this 14th day of

March, 1988.