

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

IN THE MATTER OF PERMIT 43085 FILED)  
TO APPROPRIATE THE PUBLIC WATERS )  
FROM AN UNDERGROUND SOURCE WITHIN )  
DIAMOND VALLEY GROUND WATER BASIN )  
IN EUREKA COUNTY, NEVADA. )

RULING

#3817

GENERAL

I.

Permit 43085 was filed on January 12, 1981 by Mt. Hope Mines, Inc. to appropriate 1.0 c.f.s. of water from an underground source for mining, milling and domestic purposes within Lot 2; Lot 3; SE1/4 NW1/4; NE1/4 SW1/4 of Section 18, T.22N., R.52E., M.D.B.&M. The point of diversion is described as being within the NE1/4 NE1/4 of Section 18, T.22N., R.52E., M.D.B.&M.<sup>1</sup>

II.

Permit 43085 was granted on August 21, 1981, and has been granted eight extensions of time to file the required Proof of Completion of Work and six extensions of Time for Proof of Beneficial Use. On February 4, 1991, Permit 43085 was cancelled for failure to file the appropriate Proofs of Completion of Work and Beneficial Use.<sup>2</sup>

III.

A written petition from the permittee's agent requesting a hearing to review the cancellation action, was timely received by the State Engineer on March 4, 1991.<sup>3</sup>

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1 Public record in the office of the State Engineer.

2 Public record in the office of the State Engineer.

3 Public record in the office of the State Engineer.

IV.

An administrative hearing was held in the matter of aforementioned petition before representatives of the State Engineer in Ely, Nevada on June 28, 1991.<sup>4</sup>

V.

Testimony given by Richard Forman, that the well had been drilled, but due to the drop in the market price for molybdenum, mining and milling activity had ceased and the well was not properly equipped.<sup>5</sup> An extension of Time was filed by permittee on September 29, 1989, asking for a one year extension for the following reasons:<sup>6</sup>

That due to continued depressed prices of metals, our planned pipeline from the completed wells to the mill has not been laid. Upon the recovery of prices, we propose to complete the pipeline, hopefully during the next year. Present base metal market prices will not sustain further financial outlay. However, we hope business will improve.

FINDINGS OF FACT

I.

The State Engineer finds that with depressed metal prices, the permittee has not proceeded in good faith and due diligence in completing the work and placing the water to beneficial use.

II.

There is no evidence on this record that the price of molybdenum will recover in the near future or at any time.

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<sup>4</sup> Public record in the office of the State Engineer.

<sup>5</sup> Transcript of hearing held June 28, 1990 in the matter of Cancelled Permit 43085, See pages 3 and 4.

<sup>6</sup> Public record in the office of the State Engineer.

III.

The State Engineer finds that there is no substantial evidence to indicate that the permitted well will be economically feasible in the future and thus the petitioner cannot proceed with putting the water to beneficial use.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the matter described herein.<sup>7</sup>

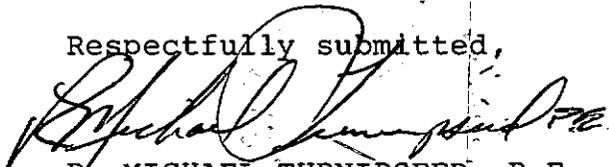
II.

The State Engineer concludes the permittee is not proceeding in good faith and due diligence in completing the work and placing the water to beneficial use.<sup>8</sup>

RULING

Accordingly for the forgoing reasons the petition requesting rescission of cancelled Permit 43085 is hereby denied on the grounds that the permittee has not acted in good faith and due diligence to complete the work and place the water authorized under said permit to beneficial use.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/pm

Dated this 25th date of  
July, 1991.

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<sup>7</sup> NRS Chapters 533 and 534.

<sup>8</sup> NRS 533.395.