

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

IN THE MATTER OF CANCELLED PERMIT 57129 )  
FILED TO CHANGE THE POINT OF DIVERSION, )  
PLACE OF USE AND MANNER OF USE OF THE )  
PUBLIC WATER APPROPRIATED FROM AN )  
UNDERGROUND SOURCE WITHIN PAHRUMP VALLEY )  
GROUNDWATER BASIN (162), CLARK COUNTY, )  
NEVADA. )

RULING

# 4431

GENERAL

I.

Application 57129 was filed on February 3, 1992, by Jean I. Woods to change the point of diversion, place of use and manner of use of 0.025 cubic feet per second, not to exceed 10 acre-feet annually, a portion of the waters previously appropriated from the Pahrump Valley Groundwater Basin under Permit 14576. The water was to proposed to be used for commercial and domestic purposes within a portion of the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , and a portion of the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 3, T.21S., R.54E., M.D.B.&M. The point of diversion is described as being located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 3.<sup>1</sup>

II.

Permit 57129 was approved on May 21, 1993.<sup>1</sup> 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 June 21, 1994.

FINDINGS OF FACT

I.

On or around June 1993, documents were received in Office of the State Engineer which requested the assignment of Permit 57129 to the Anthony M. McKoy Trust. The State Engineer finds that by letter dated January 4, 1994, the Anthony M. McKoy Trust was informed it had not complied with the statutory process for transferring water rights, and instructions were given as to the correct process for requesting the assignment of a water right. The State Engineer finds that the correct documentation was never

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<sup>1</sup>File No. 57129, official records of the Office of the State Engineer.

returned to complete the assignment of Permit 57129 from the permittee to the Anthony M. McKoy Trust.

II.

Notice was sent by certified mail dated August 12, 1994, 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 mailing was received in the Office of the State Engineer on August 19, 1994. The State Engineer finds that no documentation was filed in response to the August 12, 1994, notice of non-compliance with the permit terms.

III.

By certified letter dated April 4, 1995, Permit 57129 was cancelled by the State Engineer for failure to timely file the Proof of Completion of Work as required under the terms of the permit. 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 by Melvin Close, Jr. on behalf of the Anthony M. McKoy Trust.

IV.

As provided in NRS 533.395, on March 28, 1996, the State Engineer sent notice by certified mail of a public hearing before the State Engineer scheduled for May 29, 1996, to consider the petition for review of the cancellation. Pursuant to a request by Mr. Close, the hearing was postponed. On July 11, 1996, the State Engineer sent notice by certified mail that the public hearing for review of the cancellation had been rescheduled for August 23, 1996. The return receipts for the certified mailing to the Trustee of the Anthony McKoy Trust and the agent for the permittee were received in the Office of the State Engineer. The State Engineer finds that neither the permittee nor any person

representing the Anthony McKoy Trust appeared at the scheduled hearing.

CONCLUSIONS OF LAW

I.

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

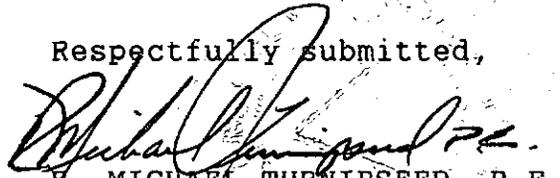
II.

NRS 533.410 requires that the State Engineer shall cancel a permit if the permittee fails to comply with the permit terms for filing 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.

RULING

The cancellation of Permit 57129 is affirmed.

Respectfully submitted,

  
R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/SJT/ab

Dated this 12th day of  
September, 1996.

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<sup>2</sup>NRS Chapters 533 and 534.