

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

IN THE MATTER OF CANCELLED PERMIT)
50370 FILED TO APPROPRIATE THE)
PUBLIC WATERS FROM AN UNDERGROUND)
SOURCE WITHIN LAS VEGAS ARTESIAN)
GROUNDWATER BASIN (212), CLARK)
COUNTY, NEVADA.)

RULING

4437

GENERAL

I.

Application 50370 was filed on November 18, 1986, by James R. Zurschimiede to appropriate 0.02 cubic feet per second from the Las Vegas Artesian Groundwater Basin for quasi-municipal purposes for four lots within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, T.19S., R.60E., M.D.B.&M. The point of diversion is described as being located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 32.¹

II.

Permit 50370 was granted on May 13, 1987, and under the terms of the permit Proof of Beneficial Use of the waters was last due to be filed in the Office of the State Engineer on or before June 13, 1993.¹

FINDINGS OF FACT

I.

Notice was sent by certified mail dated June 15, 1993, to the permittee and his agent that the permittee had not complied with the terms of the permit in that the Proof of Beneficial Use of the water 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 receipts for the certified mailings were received in the Office of the State Engineer on June 21, 1993. The State Engineer finds that no documentation was filed in response to the notice of non-compliance with the permit terms.

¹File No. 50370, official records in the Office of the State Engineer.

II.

Permit 50370 was cancelled by the State Engineer on February 8, 1996; after the permittee failed to timely file the Proof of Beneficial Use of the waters 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 Joseph Valvo, on behalf of the North Campbell Water User Association.

III.

As provided in NRS 533.395, on July 11, 1996, the State Engineer sent notice by certified mail of a public hearing set for August 27, 1996, at the Southern Nevada Branch Office of the State Engineer, on the petition for review of the cancellation. The return receipts for the certified mailings were received in the Office of the State Engineer. The State Engineer finds that neither the petitioner or the permittee 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.²

II.

NRS 533.410 requires that the State Engineer shall cancel a permit if the permittee fails to timely file proof of beneficial use of the waters. 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.

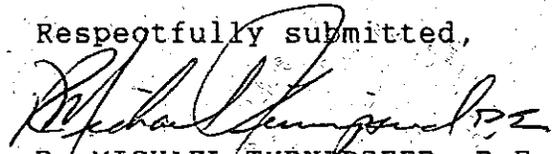
²NRS Chapters 533 and 534.

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The cancellation of Permit 50370 is affirmed.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/SJT/ab

Dated this 24th day of
September, 1996.