

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

IN THE MATTER OF CANCELLED PERMIT)
56927 FILED TO CHANGE THE POINT OF)
DIVERSION AND PLACE OF USE OF)
WATERS PREVIOUSLY APPROPRIATED)
FROM THE PUBLIC WATERS FROM AN)
UNDERGROUND SOURCE WITHIN WARM)
SPRINGS VALLEY GROUNDWATER BASIN)
(84), WASHOE COUNTY, NEVADA.)

RULING

4593

GENERAL

I.

Application 56927 was filed on November 21, 1991, by Donald Carl Fox to change the point of diversion and the place of use of 0.01105 cubic feet per second (cfs), not to exceed 8.0 acre feet annually, of the underground waters previously appropriated under Permit 51003. The proposed manner and place of use is for the irrigation of 2.0 acres of land within a portion of the NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 30, T.22N., R.22E., M.D.B.&M. The proposed point of diversion is described as being within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 30, T.22N., R.22E., M.D.B.&M.¹

II.

Permit 56927 was granted on September 9, 1993, and 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 October 9, 1995.¹

III.

On October 11, 1995, Permit 56927 was assigned to show Realty Corner as the current owner of a portion of said permit being 0.0007 cfs, not to exceed 0.5 acre feet annually.¹

FINDINGS OF FACT

I.

Notice was sent by certified mail dated May 31, 1996, to Realty Corner informing them that they 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

¹ File No. 56927, official records in the office of the State Engineer.

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 June 3, 1996. The State Engineer finds that no documentation was filed in response to the notice of non-compliance with the permit terms.

II.

The portion of Permit 56927 held by Realty Corner was cancelled by the State Engineer on May 31, 1996, after the permittee failed 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 Reed Smith on behalf of Realty Corner.

III.

On September 23, 1997, the State Engineer sent notice by certified mail of a public hearing set for October 17, 1997, at the office of the State Engineer, on the petition for review of the cancellation. The return receipt to the certified mailing was timely received in the office of the State Engineer. The State Engineer finds that the petitioner failed to appear at the scheduled hearing.

CONCLUSIONS OF LAW

I.

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

II.

NRS § 533.390 requires that the State Engineer shall cancel a permit if the permittee fails to timely file the required Proof of Completion of Work. The State Engineer concludes that the required documentation was not timely filed and 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

² NRS Chapters 533 and 534.

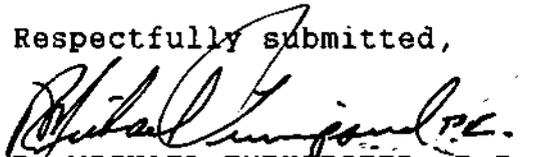
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which would support the State Engineer modifying or rescinding the cancellation.

RULING

The cancellation of Permit 56927 is affirmed.

Respectfully submitted,


R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/ab

Dated this 22nd day of
December, 1997.