

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

IN THE MATTER OF CANCELLED PERMIT)
25665, FILED TO APPROPRIATE)
THE PUBLIC WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE NORTH FORK AREA)
HYDROGRAPHIC BASIN (044), ELKO)
COUNTY, NEVADA.)

RULING

5032

GENERAL

I.

Application 25665 was filed on June 15, 1970, by Bell Telephone Co. of Nevada to appropriate 1.0 cubic feet per second of underground water for commercial and domestic purposes within portions of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 26 and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, both within T.38N., R.54E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 35.¹

FINDINGS OF FACT

I.

Permit 25665 was cancelled by the State Engineer on January 5, 1996, for failure to submit the Proof of Beneficial Use. A written petition that conformed to the provisions of NRS § 533.395 was submitted to the State Engineer on February 14, 1996. Information contained within this petition indicated that all interest in Permit 25665 had been acquired by AT&T. The submittal of the written petition resulted in the scheduling of an administrative hearing, which was held before a representative of the State Engineer on January 31, 1997. A decision to reinstate Permit 25665 was made at this hearing with the provision that the Proof of Beneficial Use must be submitted within thirty days from the date of the hearing. This condition was met by AT&T with the

¹ File No. 25665, official records in the office of the State Engineer.

submittal of the required proof on March 3, 1997. Subsequently, the State Engineer reinstated Permit 25665 on March 3, 1997. Upon review, this Proof of Beneficial Use was found to contain numerous fatal errors that necessitated the return of the proof to its sender.¹ The State Engineer finds that the reinstatement of Permit 25665 was based upon the submittal of a defective Proof of Beneficial Use.

II.

A Proof of Beneficial Use was submitted under Permit 25665 on March 3, 1997. This proof was returned for correction to AT&T with the condition that an Application for Extension of Time must be submitted to the office of the State Engineer within thirty days. The permittee's successor was also advised that the failure to timely submit the requested Extension of Time may result in the cancellation of the permit. Additional letters were sent to AT&T on November 23, 1999, and May 4, 2000, which contained similar warnings.¹ The State Engineer finds that to date, no response to any of these letters has been received in the State Engineer's office.

III.

This lack of response led to a second cancellation of Permit 25665 on June 29, 2000. As before, a written petition requesting a review of the cancellation was received from AT&T with a public hearing in this matter held on October 13, 2000. At the hearing, AT&T indicated that additional time was needed to search for past use records and to send a technician to the place of use. The representative from AT&T also indicated that either a Proof of Beneficial Use or an Application Requesting an Extension of Time would be submitted within sixty days from the hearing date.² After the expiration of this time period, it was determined that AT&T had not submitted either an amended Proof of Beneficial Use or an

² File No. 25665, see hearing summary sheet for the October 13, 2000, hearing, contained therein, official records in the office of the State Engineer.

Application Requesting an Extension of Time. A final letter requesting either of these documents was sent to AT&T by certified mail on February 16, 2001 allowing them an additional thirty days. A recent examination of the records of the State Engineer indicates that no Report of Conveyance, amended Proof of Beneficial Use or Application for Extension of Time has been submitted to said office, by any party; therefore, the State Engineer finds that Permit 25665 is subject to cancellation.

CONCLUSIONS

I.

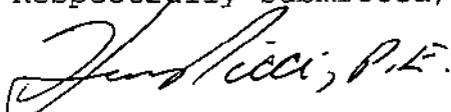
The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The reinstatement of a cancelled permit is subject to conditions set by the office of the State Engineer. The reinstatement of Permit 25665 was dependent upon the submittal of the required Proof of Beneficial Use or an Application for Extension of Time. This condition has not been met; therefore, the State Engineer concludes that a reinstatement of Permit 25665 cannot occur and that the June 29, 2000, cancellation must be affirmed.

RULING

The State Engineer's cancellation of Permit 25665 is hereby affirmed.

Respectfully submitted,

HUGH RICCI, P.E.
State Engineer

HR/MDB/hf

Dated this 6th day of
June, 2001.

³ NRS chapters 533 and 534.