

IN THE MATTER OF THE ISSUANCE)
OF AMENDED CERTIFICATES 7411)
AND 7412 ON SEPARATE UNDER-)
GROUND SOURCES IN MASON VALLEY,)
LYON COUNTY, NEVADA.)

R U L I N G

1056

GENERAL:

Applications 23832 and 23833 were filed in the State Engineer's office on April 26, 1967, in the name of Penrose General Improvement District to change the manner and place of use of water previously appropriated under Permits 21534 and 21533 respectively. The existing point of diversion under Application 23832 was an underground source located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, T.14N., R.25E., M.D.B.&M. The existing point of diversion under Application 23833 was an underground source located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 33, T.14N., R.25E., M.D.B.&M. The proposed manner and place of use under both applications was for quasi-municipal service within the NE $\frac{1}{4}$ of Section 33, T.14N., R.25E., M.D.B.&M. A permit was granted under each application on October 16, 1967 in the amount of 0.5 c.f.s.

In accordance with the terms of the two permits, a Proof of Beneficial Use was timely filed under each permit on June 11, 1970. The Proof under Permit 23832 claimed a diversion of 0.36 c.f.s., and the Proof under Permit 23833 claimed a diversion of 0.67 c.f.s. The "Remarks" section of the two Proofs of Beneficial Use indicated that the water was used for service to 254 lots and for the irrigation of a golf course. Accordingly, on September 1, 1970 Certificate 7411 was issued under Permit 23832 and Certificate 7412 was issued under Permit 23833. Certificate 7411 allowed for the diversion of 0.36 c.f.s. not to exceed 362 acre-feet annually and Certificate 7412 was issued in the amount of 0.5 c.f.s. not to exceed 362 acre-feet annually. Both certificates were further issued with the stipulation that the total duty allowed under the two could not exceed an annual duty of 362 acre-feet.

Subsequent to the above described issuance of Certificates 7411 and 7412, on December 19, 1978, a field investigation was conducted by representatives of the State Engineer's office to verify the extent of beneficial use under these two permits. Representatives of the Penrose General Improvement District were also present during that field investigation. A written report of the findings of that field investigation is on file in the office of the State Engineer. It was found at that time that actual beneficial use of water under these two permits was actually limited to service to 16 single family residences, one combination single family residence and office, and one sales office. It was determined that these uses constituted actual

beneficial use of the water under these permits rather than the 254 lots and golf course described under the "Remarks" section of the Proofs of Beneficial Use submitted under the two permits.

RULING

NRS 533.035 states that actual beneficial use of water shall be the basis, the measure and the limit of the right to the use of water. The certificates issued under Permits 23832 and 23833 must therefore be necessarily limited to actual beneficial use. Accordingly, Amended Certificates will be issued under each permit. Based upon the normal allowance of 1,000 gallons per day per single family residence, 1,000 gallons per day for the combination residence and office, and 50 gallons per day for the sales office, the total annual duty for service to the units actually found to be in existence shall be reduced from 362 acre-feet annually (11.79 m.g.a.) to 19.1 acre-feet annually (6.223 m.g.a.). The diversion rates under both Amended Certificates will remain unchanged from the original certificates.

Respectfully submitted,



William J. Newman
State Engineer

WJN:BAR:jw

Dated this 30th day of
April, 1979.