

IN THE MATTER OF THE REINSTATE-)
MENT OF PERMIT 36049, LAS VEGAS)
ARTESIAN BASIN, CLARK COUNTY,)
NEVADA.)

R U L I N G

FINDINGS

212

I

Permit 36049 was issued on January 15, 1979, in the name of Garlin Hahn, for the purpose of changing the point of diversion and place of use of water previously appropriated under Permit 11244, Certificate 3197. Permit 36049 was issued in the amount of 0.08 c.f.s., not to exceed 15.0 acre-feet annually for irrigation and domestic purposes on 2.5 acres located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 12, T.19S., R.60E., M.D.B.&M., with the point of diversion being located within that same legal subdivision. The point of diversion and place of use allowed under base Permit 11244 was located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 12, T.21S., R.61E., M.D.B.&M.

II

Permit 11244, Certificate 3197, is a "non-revocable" water right, and not subject to the provisions of NRS 534.120.3(a).

III

By letter dated June 26, 1979, received by the State Engineer's office on July 2, 1979, under signature of the permittee Garlin Hahn, authorization was granted for withdrawal of Permit 36049 "on a temporary basis" for the reason that the owner of Permit 11244, Albert O. and Afton M. Powers, had not allowed transfer of the ownership of Permit 11244 to Hahn. "Temporary" withdrawal was requested because an escrow concerning this right was being left open in the event Powers might later allow the transfer.

IV

The State Engineer's office does not recognize the "temporary withdrawal" of a permitted water right. On the strength of Mr. Hahn's letter, Permit 36049 was withdrawn effective July 25, 1979, and the records of the State Engineer were made to reflect such withdrawal.

V

On August 7, 1979, the State Engineer's office received a Proof of Commencement of Work under withdrawn Permit 36049.

Said proof was submitted by Garlin Hahn. The deadline for filing of Proof of Commencement of Work under Permit 36049 was August 15, 1979.

VI

By telephone call on September 17, 1979, Mr. Paul May, acting as agent for Garlin Hahn, stated that escrow on Permit 11244 had closed and the right purchased by Mr. Hahn; that Mr. Hahn had understood that a withdrawal of a permit could be temporary in nature and that his intent had been to place the permit in abeyance until escrow closed; and requested that the withdrawal be rescinded and Permit 36049 be reinstated to a valid and active status.

VII

On October 1, 1979, a certified copy of the Quitclaim Deed between Albert O. Powers, grantors, and Garlin Hahn, grantee, for those rights allowed under Permit 11244, Certificate 3197, was filed in the office of the State Engineer along with the statutory \$1.00 filing fee. Permit 11244 has subsequently been assigned in the records of the State Engineer into the name of Garlin Hahn.

CONCLUSIONS

I

Permit 11244, Certificate 3197, is a "non-revocable" water right, and in the event of the withdrawal or cancellation of a permit to change, all rights would revert back to Permit 11244. The existing water rights were therefore not adversely affected by the withdrawal of Permit 36049.

II

Permittee Garlin Hahn specifically requested the "temporary withdrawal" of Permit 36049. A complete withdrawal of the permit was made of record in the State Engineer's office without clarification provided to the permittee that a "temporary withdrawal" was not possible.

III

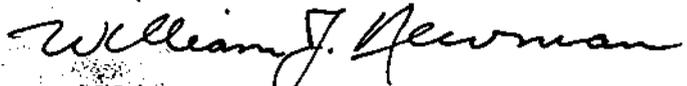
The original deadline for the filing of Proof of Commencement of Work under Permit 36049 was August 15, 1979. The filing of the necessary proof by Garlin Hahn on August 7, 1979, would constitute a timely filing.

Garlin Hahn is the current owner of record of Permit 11244, Certificate 3197.

RULING

The withdrawal of Permit 36049 is herewith rescinded, and the permit is reinstated to an active and valid status. The Proof of Commencement of Work submitted to the State Engineer's office on August 7, 1979, will be accepted for formal filing effective the date of this Ruling, and will be considered to have met the filing deadline under the permit. The deadlines for filing Proof of Completion of Work and Proof of Beneficial Use (August 15, 1980 and August 15, 1982, respectively) established under Permit 36049 will remain in effect.

Respectfully submitted,



William J. Newman
State Engineer

WJN:BAR:jw

Dated this 27th day of

November, 1979.