

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 41129)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
THE LAS VEGAS ARTESIAN BASIN, CLARK)
COUNTY, NEVADA.)

RULING

GENERAL

Application 41129 was filed on April 18, 1980, by Marrio Rizzi to appropriate 0.02 c.f.s. of water from an underground source for quasi-municipal purposes by four residences within the SE1/4 SW1/4 NW1/4 SE1/4 Section 31, T.19S., R.60E., M.D.B.&M. The point of diversion is described as being within the NW1/4 SE1/4 Section 31, T.19S., R.60E., M.D.B.&M.¹

The application was processed on November 6, 1980, and approved with certain conditions one of which was that proof of completion of work be filed on or before June 6, 1982, and the proof of beneficial use be filed on or before June 6, 1984.¹

FINDINGS OF FACTS

I.

On August 23, 1983, notice was sent by certified mail that the proofs had not been received and allowed 30 days for their filing.¹

II.

On August 15, 1984, notice was sent by certified mail that the permit had been cancelled and allowed 60 days for a petition to reinstate the permit.¹

III.

On October 15, 1984, a letter was received from the applicant asking that the State Engineer hold a hearing in an effort to rescind the cancellation.¹

IV.

On January 29, 1985, a notice was sent by certified mail to the owner of record setting a hearing for 2:30 P.M. on February 15, 1985, in the Las Vegas Branch Office.¹

V.

A hearing was held at the time and place indicated but no appearance was made by the applicant nor his agent.²

¹ Public record in the office of the State Engineer.

² Transcript of hearing, public record on file in the office of the State Engineer.

CONCLUSIONS

I.

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

II.

In reviewing cancellations, the State Engineer is required to receive evidence and take testimony as to the applicants good faith and due diligence toward developing the water and placing it to beneficial use.⁴

III.

Upon receiving and considering the evidence, the State Engineer may affirm, modify or rescind the cancellation.⁴

RULING

The cancellation of Permit 41129 is hereby affirmed on the grounds that no evidence or testimony was presented as to why the terms and conditions of the permit have not been met nor was there any demonstration of due diligence to place the water to beneficial use.

Respectfully submitted,



PETER G. MORROS
State Engineer

PGM/MT/bl

Dated this 26th day of
March, 1985.

³ NRS 533.325.

⁴ NRS 533.395(1).