

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

IN THE MATTER OF APPLICATIONS)
59700, 60481, AND 60482 FILED TO)
CHANGE THE POINT OF DIVERSION,)
PLACE AND MANNER OF USE OF)
UNDERGROUND WATER PREVIOUSLY)
APPROPRIATED UNDER PERMIT 11101)
WITHIN THE LAS VEGAS ARTESIAN)
GROUNDWATER BASIN (212) CLARK)
COUNTY, NEVADA.)

RULING

4799

GENERAL

I.

Application 59700 was filed on January 14, 1994, by William G. Bennett to change the point of diversion and place of use of 0.0414 cubic feet per second (cfs), a portion of underground water previously appropriated within the Las Vegas Artesian Basin under Permit 11101, Certificate 3117. The manner of use is for the irrigation of 4.144 acres within the W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, T.23S., R.61E., 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 5.¹

II.

Application 60481 was filed September 16, 1994, by Ron Rudin to change the point of diversion, place and manner of use of 0.00691 cfs, a portion of underground water previously appropriated within the Las Vegas Artesian Basin under Permit 11101, Certificate 3117. The proposed manner of use is for quasi-municipal purposes within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, T.18S., R.56E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 36.²

¹ File No. 59700, official records in the office of the State Engineer.

² File No. 60481, official records in the office of the State Engineer.

III.

Application 60482 was filed September 16, 1994, by Ron Rudin to change the point of diversion, place and manner of use of 0.02763 cfs, a portion of underground water previously appropriated within the Las Vegas Artesian Basin under Permit 11101, Certificate 3117. The proposed manner of use is for quasi-municipal purposes within the SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, T.18S., R.56E., M.D.B.&M. The proposed point of diversion is described as being located within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, T.18S., R.56E., M.D.B.&M.³

IV.

Amended Certificate 3117 issued August 26, 1948, for Permit 11101 allows for the diversion of 0.2 cfs for irrigation and domestic purposes appurtenant to 20 acres within the S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20, T.20S., R.61E., M.D.B.&M.⁴ A public administrative hearing was held on December 17, 1996, before representatives of the office of the State Engineer to consider the possible forfeiture of a portion of Amended Certificate 3117 under terms of Nevada Revised Statute § 534.090. After considering the evidence presented at the public hearing, the State Engineer ruled on May 7, 1998, that a portion, 44.9 acre-feet annually, had been placed to beneficial use during the forfeiture period 1988 through 1993 and that the remainder of the water right under Amended Certificate 3117 has not been beneficially used during the forfeiture period and is forfeited.⁵

³ File No. 60482, official records in the office of the State Engineer.

⁴ File No. 11101, official records in the office of the State Engineer.

⁵ Ruling No. 4630, official records in the office of the State Engineer.

By Stipulation and Order dated January 4, 1999, in Clark County District Court, Petitioners and the State Engineer agreed that the State Engineer would correct the records of Permit 11101, Amended Certificate 3117, to reflect a diversion rate of 0.2 cfs, together with a total annual volume of 80.9 acre-feet.⁴

Subsequently, the State Engineer brought title and ownership forward for Permit 11101, Amended Certificate 3117, using conveyances and deeds filed in his office. Current title and ownership are reported by Summary of Ownership and Abstract of Title dated February 3, 1999, which are part of File No. 11101.⁴

FINDINGS OF FACT

I.

The records in the office of the State Engineer show that William G. Bennett does not own the portion of Permit 11101, Amended Certificate 3117, that is proposed to be changed by Application 59700.^{1,4}

The applicant and his agent were requested by certified mail dated June 10, 1999, to advise the State Engineer by July 15, 1999, what action Mr. Bennett proposed to establish ownership of a portion of Permit 11101, Amended Certificate 3117. Return receipts for the letter from the applicant and from his agent, Robert J. McNutt, were received June 21, 1999, and June 23, 1999, respectively.¹ It has been a long established policy within the office of the State Engineer that it is the applicant's responsibility to provide the office of the State Engineer with notification of any changes which have occurred in ownership or addresses associated with a specific application. The State Engineer finds that to date there has been no response to the request from either the applicant or his agent regarding Application 59700.¹

Other addresses for the applicant and his agent were found in more recent files. Again, the applicant and his agent were requested by certified mail dated August 5, 1999, to advise the State Engineer by September 7, 1999, what action Mr. Bennett proposed to establish ownership of a portion of Permit 11101, Amended Certificate 3117. Return receipts for the letter from the applicant and from his agent, Robert J. McNutt, were received August 9, 1999, and August 13, 1999, respectively.¹ The State Engineer finds that to date there has been no response to the request from either the applicant or his agent regarding Application 59700.¹

II.

The records in the office of the State Engineer show that Ron Rudin does not own the portion of Permit 11101, Amended Certificate 3117 that is proposed to be changed by Applications 60481 and 60482.^{2,3,4}

The applicant and his agent were requested by certified mail dated June 10, 1999, to advise the State Engineer by July 15, 1999, what action Mr. Rudin proposed to establish ownership of a portion of Permit 11101, Amended Certificate 3117. Return receipt for the letter from the agent, Robert J. McNutt, was received June 23, 1999.¹ The letter to the applicant, Ron Rudin, was returned stamped by the U.S. Postal Service, "Return to Writer--FOE" (Forwarding Order Expired).² The State Engineer finds that to date there has been no response to this request from either the applicant or his agent regarding Application 60481 and 60482.^{2,3}

Other addresses for the applicant and his agent were found in more recent files. Again, the applicant and his agent were requested by certified mail dated August 5, 1999, to advise the State Engineer by September 7, 1999, what action Mr. Rudin

proposed to establish ownership of a portion of Permit 11101, Amended Certificate 3117. Return receipt for the letter from the agent, Robert J. McNutt, was received August 13, 1999.¹ The letter to the applicant, Ron Rudin, was returned stamped by the U.S. Postal Service, "Moved Left No Address".² The State Engineer finds that to date there has been no response to this request from either the applicant or his agent regarding Application 60481 and 60482.^{2,3}

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

Before either approving or rejecting an application, the State Engineer may require such additional information as will enable him to properly guard the public interest.⁷

III.

The State Engineer is prohibited by law from granting a permit under a change application to appropriate the public waters where:⁸

- A. the proposed use conflicts with existing rights; or
- B. the proposed use threatens to prove detrimental to the public interest.

IV.

The applicants under Applications 59700, 60481, and 60482 were properly notified of the requirements concerning

⁶ NRS Chapter 533.

⁷ NRS § 533.375.

⁸ NRS § 533.370(3).

Ruling
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their ownership of portions of Permit 11101, Amended Certificate 3117, and have failed to submit ownership information to the State Engineer. Therefore, the State Engineer concludes that sufficient information is not available to properly guard the public interest.

RULING

Applications 59700, 60481, and 60482 are hereby denied on the grounds that the applicants have not submitted information concerning ownership as requested by the State Engineer and that without this information the granting of permits under these applications would threaten to prove detrimental to the public interest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.

State Engineer

RMT/CAB/cl

Dated this 15th day of
October, 1999.



DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

123 W. Nye Lane, Suite 246
Carson City, Nevada 89706-0818
(775) 687-4380 • (775) 687-6972

October 12, 1999

Merwyn Lewis Johnson Trust
3270 Lima Lane
Fallon, NV 89406

Re: TCID Transfer Application 49282

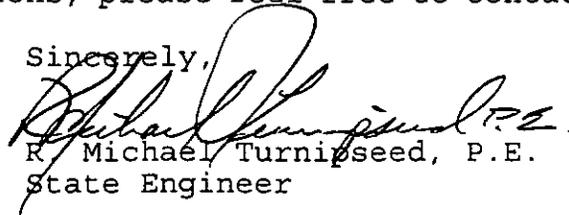
Dear Merwyn Lewis Johnson Trust:

On September 24, 1999, I issued State Engineer's Ruling No. 4798 in the matter of your transfer Application 49282. My hearing officer has just informed me that a mistake was made in issuing a ruling as to your application. She has informed me that by letter received July 8, 1999, you responded to my June 11, 1999, letter asking if you were going to pursue the provisions of Assembly Bill 380 or wanted me to issue a decision on your application, and you indicated that you wanted to pursue the provisions of Assembly Bill 380. Therefore, I am rescinding that portion of State Engineer's Ruling No. 4798 as to your Application 49282 and I am very sorry for any confusion that has resulted from this mistake.

Merwyn Lewis Johnson Trust
October 12, 1999
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If you have any further questions, please feel free to contact me.

Sincerely,



R. Michael Turnipseed, P.E.
State Engineer

RMT/cl

cc: Robert Pelcyger
Stephen Macfarlane
Fred Disheroon
Craig Pridgen
Laura Schroeder
Michael Mackedon
Gordon DePaoli
Tom Martin
Lyman McConnell
Gary Stone
David Creekman