

IN THE MATTER OF PERMIT)
2743 ON WEEKS AND LEACHES)
CREEK SLOUGH IN ELKO)
COUNTY, NEVADA.)

R U L I N G

GENERAL:

Application 2743 was filed June 19, 1913 in the name of William Schodde to appropriate 3.2 cfs from the Weeks and Leaches Creek Slough for irrigation of 320 acres in NW $\frac{1}{4}$, and SE $\frac{1}{4}$ Section 23, T135N., R.62E. The Point of Diversion is described as being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 23, T.35N., R.62E., M.D.B. & M. A permit was issued under this application on December 30, 1914 in the amount of 3.2 cfs. Subsequent to the issuance of the permit, an Affidavit of Labor and Improvements was filed on June 30, 1915 and an Affidavit of Completion of Work was filed on July 14, 1915. A Proof of Beneficial Use was filed November 12, 1919 claiming the use of 1.54 cfs for the irrigation of 153.4 acres. A cultural map was not submitted at that time to accompany the Proof of Beneficial Use and no certificate was issued.

In 1962, deeds were submitted which assigned Permit 2743 into the name of Stanley and Joy E. Botts, and in September 1971 additional deeds were filed which assigned the permit into the name of Blair G. and Josephine B. Johns. By certified letter dated September 10, 1973, the owner of record, Blair G. Johns, was informed that it would be necessary to submit a supporting cultural map within 30 days of the date of that letter in order to keep the permit in good standing. The certified letter was returned stamped, "No Such Number - Address Unknown" and Permit 2743 was cancelled on November 20, 1973 for failure to comply with the terms of the permit.

By letter dated November 20, 1975, Mr. Blair G. Johns requested that he be informed of the status of Permit 2743 and he was subsequently notified by letter dated December 10, 1975 (filed under Permit 8565) that Permit 2743 had been cancelled as described above. By letter of December 17, 1975, Mr. Johns indicated that either the Post Office or the State Engineer's office was in error regarding the return of the unclaimed certified letter because he had been receiving mail at 5306 Zelsah Avenue, Encino, California and should have received the letter.

In response to his letter, a check was made of the original letter dated September 10, 1973 (referred to above) which was returned unclaimed. It was found that the envelope containing the letter was incorrectly addressed 5036 Zelzah Avenue rather than

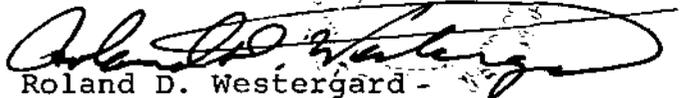
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5306 Zelsah Avenue. The letter was apparently not delivered to Mr. Johns due to the error in the address.

RULING:

The cancellation of Permit 2743 is hereby rescinded on the grounds it was cancelled due to clerical error. A 30 day period will be allowed for the submission of a cultural map to support the previously filed Proof of Beneficial Use.

Respectfully submitted,


Roland D. Westergard -
State Engineer

RDW:BAR:sk

Dated this 29th day of
January, 1976.