

IN THE MATTER OF PERMIT 14338,)
CERTIFICATE 4240, ISSUED FOR)
IRRIGATION PURPOSES IN THE)
WINNEMUCCA SEGMENT, HUMBOLDT)
COUNTY, NEVADA)

R U L I N G

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INTRODUCTION

Certificate 4240 was issued under Permit 14338 on December 1, 1955, for 0.50 c.f.s. of water not to exceed 120 acre-feet per year for the irrigation of 30 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.35N., R.37E., M.D.B. & M. This ruling is to amend Certificate 4240 to reflect the water actually placed to beneficial use.

FINDINGS OF FACT

Application 14338 was filed June 19, 1952, by James Garrett to appropriate 2.0 c.f.s. of underground water for irrigation and domestic purposes. The point of diversion is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.35N., R.37E., M.D.B. & M. and the place of use being 30 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.35N., R.37E., M.D.B. & M.

Permit 14338 was granted September 30, 1952, for 1.0 c.f.s. for irrigation and domestic purposes.

Proof of Commencement of Work was filed April 22, 1953.

Proof of Completion was filed April 9, 1954.

A letter dated April 26, 1955, from Richard M. Black stated that the Proof of Beneficial Use had been forwarded but that a cultural map of the irrigated lands was not prepared due to the small amount of water and acreage put to beneficial use. The letter states that the acreage irrigated at that time was seven (7) acres situated on the southeast side of State Highway Route 40.

A letter dated April 28, 1955, from Hugh A. Shamberger, State Engineer, stated that the Proof of Beneficial Use had been received and that a cultural map was necessary. The letter stated that following (filing of the cultural map) a certificate of water right would be prepared and would be in the amount sufficient to irrigate the seven acres.

Proof of Beneficial Use was filed April 28, 1955; and the cultural map was received and filed May 25, 1955.

The cultural map indicates within the tabulation and graphically that 7.0 acres of alfalfa were irrigated within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.35N., R.37E., M.D.B. & M.

Certificate 4240 was issued to James Garrett, on December 1, 1955, for 0.50 c.f.s. of underground water for irrigation purposes. The point of diversion is within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.35N., R.37E., M.D.B. & M.; and the land to which the water is appurtenant is 30.0 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.35N., R.37E., M.D.B. & M. not to exceed a total yearly duty of 4.0 acre-feet per acre irrigated or 120 acre-feet per season.

CONCLUSIONS

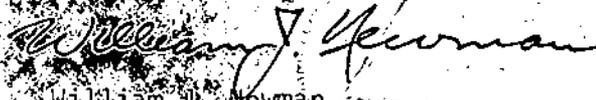
Based on the correspondence, Proof of Beneficial Use, and cultural map, the land to which the water was beneficially used was 7.0 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.35N., R.37E., M.D.B. & M.; lying southeast of State Highway Route 40. Therefore, Certificate 4240, as written, is in error.

NRS 533.035 states that actual beneficial use "shall be the basis, the measure and the limit to the use of water."

RULING

Certificate 4240 is hereby amended and corrected to be issued for irrigation of 7.0 acres within the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T.35N., R.37E., M.D.B. & M., with a total duty not to exceed 28.0 acre-feet per season.

Respectfully submitted,


William J. Newman
State Engineer

WJN/RWP/ja

Dated this 4th day

of JANUARY, 1980.