

IN THE MATTER OF THE REINSTATEMENT OF)
APPLICATIONS 41435 AND 41436 TO)
APPROPRIATE WATER FROM UNDERGROUND)
SOURCES IN KOBEH VALLEY, LANDER)
COUNTY, NEVADA)

RULING

139

FINDINGS OF FACT

I

Application 41435 was filed on May 27, 1980, in the name of Bob L. Rowan to appropriate 5.0 c.f.s. of water from an underground source to be located within the NW $\frac{1}{2}$ NW $\frac{1}{2}$ Section 22, T.19N., R.47E., M.D.B.& M. for irrigation of 320 acres located within the W $\frac{1}{2}$ of said Section 22.

Application 41436 was filed on May 27, 1980, in the name of T. C. Rowan to appropriate 5.0 c.f.s. of water from an underground source to be located within the SW $\frac{1}{2}$ NW $\frac{1}{2}$ Section 21, T.19N., R.47E., M.D.B.& M. for the irrigation of 320 acres located within the S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$ of said Section 21.

Both Application 41435 and 41436 were filed by J. M. Kielhack, acting as agent for the individual applicants.

Item 12 under Application 41435 indicates that the application was filed to replace canceled Permit 26962.

Item 12 under Application 41436 indicates that the application was filed to replace canceled Permit 26961.

By separate letters, both dated August 8, 1980, to the individual applicants, formal notice was given that the maps under Permits 26962 and 26961 could not be used to support the new applications unless those permits were assigned to the submission by documents to complete the chain of title to the name of the new applicants. Both letters were sent by certified mail and allowed a sixty (60) day period for the submission of new maps to support Application 41435 and 41436 or for the submission of documents necessary to complete the chain of title on the canceled permits to the names of the new applicants.

A copy of the above described letter dated August 8, 1980, to Bob L. Rowan and to T. C. Rowan was not sent to J. M. Kielhack, who had filed the applications as agent.

II

The deadline for the filing of map to support Applications 41435 and 41436 or for the submission of documents to complete the chain of title for canceled Permits 26961 and 26962 to the names of the new applicants

was October 7, 1980. The required maps or documents were not received by that deadline, and both applications were canceled on October 14, 1980, for failure to timely file a map in support of the applications. Subsequent to cancellation, the \$25.00 publication fee was refunded to agent Kielhack for both applications.

III

Since the cancellation of Applications 41435 and 41436, certified deeds have been submitted to the Division of Water Resources to complete the chain of title under Permit 26961 to T. C. Rowan and to complete the chain of title under Permit 26962 to Bob L. Rowan. In addition, certified documents have been submitted to further complete the chain of title under Permit 26962 and Application 41435 to G. Ted Sowlakis, and for the assignment of Permit 26961 and Application 41436 to Shelby K. Guelich.

CONCLUSIONS

I

The State Engineer has jurisdiction in this matter under the provisions of NRS 533.325 through 533.355 inclusive.

II

It is the policy of the Division of Water Resources to give formal notice by certified mail to both the applicant and any agent for the applicant of requirements of the Division to maintain the good standing of any application. In the case of canceled Applications 41435 and 41436, notice was given to the individual applicants. However, agent Kielhack was not given formal notice.

RULING

The cancellation of Applications 41435 and 41436 is herewith rescinded, and both are reinstated to a valid active status. A period of thirty (30) days from the date of this ruling is herewith allowed for the resubmission of the statutory publication fee of \$25.00 under each application which was refunded to the original agent for the applicants. Upon submission of the \$25.00 publication fee under each application, they will be processed toward publication in accordance with the provisions of NRS 533.360.

Respectfully submitted,

William J. Newman

William J. Newman
State Engineer

Dated this 13th day
of March, 1981

WJN/BAR/js