

IN THE MATTER OF APPLICATIONS 41689)  
AND 41690 FILED BY HORIZON LAND, )  
INC. FOR PERMISSION TO CHANGE THE )  
POINT OF DIVERSION OF A PORTION OF )  
PERMIT 35605 IN THE CARSON VALLEY )  
GROUND WATER BASIN, DOUGLAS COUNTY, )  
NEVADA. )

R U L I N G

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FINDINGS OF FACT

I

Application 41689 was filed by Horizon Land, Inc. on July 11, 1980 to change the point of diversion of 0.25 c.f.s., a portion of water heretofore appropriated under Permit 35605. The proposed point of diversion is described as being within the SE1/4 NE1/4, Section 12, T.12N., R.20E., M.D.B.&M. The proposed place of use is the N1/2 Section 12, T.12N., R.20E., M.D.B.&M. The proposed manner of use is quasi-municipal.

II

Application 41690 was filed by Horizon Land, Inc. on July 11, 1980 to change the point of diversion of 0.25 c.f.s., a portion of water heretofore appropriated under Permit 35605. The proposed point of diversion is described as being within the NW1/4 NE1/4 Section 12, T.12N., R.20E., M.D.B.&M. The proposed place of use is the N1/2 Section 12, T.12N., R.20E., M.D.B.&M. The proposed manner of use is quasi-municipal.

III

The owners of record of Permit 35605 are Josephine and Mary Jane Uhalde.

IV

On February 19, 1981, a letter was sent to Horizon Land, Inc. stating that the base right, Permit 35605, is in the names of Josephine and Mary Jane Uhalde and that action on Applications 41689 and 41690 could not be taken until documentary evidence was submitted substantiating Horizon Land, Inc.'s ownership or control of Permit 35605. Nothing was received within the 30 day time limit established in the February 19, 1981 letter.

On April 22, 1981 a certified letter was sent to Horizon Land, Inc. including a copy of the February 19, 1981 letter and stating that if there were no response within 30 days, Applications 41689 and 41690 would be denied. A properly endorsed receipt for the certified letter was returned to the State Engineer's office.

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. (1)

II

The State Engineer is prohibited by law from granting a permit where:

the proposed use conflicts with existing rights, or  
the proposed use threatens to prove detrimental to the public welfare. (2)

III

In the case of applications to change existing permits where the State Engineer finds it necessary to deny the applications to change and where the deadline for the filing of any proof for the base permit has expired during the interim period, it is the policy of the State Engineer's office upon such denial to grant an additional 30-day period in which the owner of the base right can either file the required proofs or can file for the State Engineer's consideration, an application for an extension of time in order to maintain the good standing of the permit.

In the case of base Permit 35605, the period for the filing of both Proof of Commencement of Work and Proof of Completion of Work expired on February 11, 1981, which was subsequent to the date (February 7, 1981) on which change Applications 41689 and 41690 became ready for action by the State Engineer.

IV

The enactment of Assembly Bill 27 by the 1981 session of the Nevada Legislature, which became effective on July 1, 1981, eliminates the statutory requirement for the filing of Proof of Commencement of Work under any permit. Therefore, the filing of Proof of Commencement of Work under Permit 35605, although originally required under the terms of the permit, will not now be required.

RULING

Applications 41689 and 41690 are denied on the grounds that the applicant has failed to show ownership or control of the water right proposed to be changed and, therefore their granting

would be detrimental to the public welfare. Under Permit 35605, an additional 30 days from the date of this ruling is granted for filing of Proof of Completion of Work or for filing an Application for Extension of Time for consideration by the State Engineer.

Respectfully submitted,



Peter G. Morros  
State Engineer

PGM/KN/bl

Dated this 20th day of  
July, 1981.

FOOTNOTES

1. NRS 533.025 and NRS 533.030, subsection 1.
2. NRS 533.370, subsection 4.