

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF APPLICATION 45178)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE IN)
THE LAS VEGAS VALLEY ARTESIAN BASIN,)
CLARK COUNTY, NEVADA.)

RULING

GENERAL

Application 45178 was filed on January 6, 1982, by William D. and Willa L. Berry to appropriate 0.03 c.f.s. of water from an underground source for quasi-municipal and domestic purposes within the SE1/4 NE1/4 Section 1, T.22S., R.61E., M.D.B.&M. The point of diversion is described as being within the SE1/4 NE1/4 Section 1, T.22S., R.61E., M.D.B.&M.¹

Application 45178 was approved on December 16, 1982, with certain conditions including the submission of the Proof of Completion of Work and Proof of Beneficial Use by specified dates.¹

FINDINGS OF FACT

I.

On January 17, 1986, a notice was sent by certified mail to the permittee advising that the proofs had not been received and allowing 30 days for their filing.¹

II.

On March 13, 1986, a notice was sent to the permittee by certified mail advising that Permit 45178 had been cancelled and allowing 60 days for the submission of a petition requesting reinstatement of the permit.¹

III.

On March 24, 1986, a petition was received by the State Engineer requesting a hearing pursuant to NRS 533.395 requesting a review of the cancellation at a public hearing.¹

IV.

On April 2, 1986, a notice was sent to the permittee by certified mail setting the time and place for the hearing.¹

V.

A hearing was held at the time and place contained in the notice of April 2, 1986, but no appearance was made by the permittee or agent.¹

¹ Public record in the office of the State Engineer.

CONCLUSIONS

I.

The State Engineer has jurisdiction of the parties and the subject matter of this action and determination.²

II.

In reviewing cancellations, the State Engineer considers evidence and testimony as to the permittees' good faith and due diligence toward developing the water and placing it to beneficial use. Upon receiving and considering the evidence, the State Engineer may affirm, modify or rescind the cancellation.³

RULING

The cancellation of Permit 45178 is hereby affirmed on the grounds that no evidence or testimony was presented as to why the terms and conditions of the permit had not been met nor was there any demonstration of due diligence to place the water to beneficial use.

Respectfully submitted,


PETER G. MORROS
State Engineer

PGM/CT/bl

Dated this 14th day of
August, 1986.

² NRS 533.325.

³ NRS 533.395