

IN THE MATTER OF APPLICATIONS)
35537 AND 36040 TO APPROPRIATE)
WATER FROM AN UNDERGROUND SOURCE)
WITHIN THE LAS VEGAS ARTESIAN)
BASIN, CLARK COUNTY, NEVADA.)

R U L I N G

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GENERAL:

1. Application 35537 was filed in the State Engineer's office on June 15, 1978, in the name of Joseph Lustig to appropriate 0.02274 c.f.s. (10.2 g.p.m.) of water from an underground source to be located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, T.21S., R.61E., M.D.B.&M. for quasi-municipal service to three residences to be located within the same 40-acre legal subdivision as the proposed point of diversion. Formal notice of the application was published in accordance with NRS 533.360, and the statutory protest period ended on February 24, 1979.

Application 36040 was filed on October 16, 1978, in the name of Joseph Lustig to appropriate 0.02274 c.f.s. of water from the same point of diversion as described under Application 35537. The water is proposed to be used for commercial purposes in 31 commercial shops within the same place of use as Application 35537. Formal notice of this application was sent to publication and the statutory protest period ended on February 8, 1979.

2. By telephone call on January 12, 1979 from Mr. Russell Avery, acting as agent for Joseph Lustig, the State Engineer's office was advised that the description under the two applications of the location of the proposed point of diversion and proposed place of use was in error in that the Range description should have been R.60E. rather than R.61E. At that time, because the error had been made in preparation of the applications themselves by Mr. Lustig, because the map prepared by Mr. Avery in support of these applications also indicated R.61E., and because the application was then public record through its publication in a newspaper, Mr. Avery was informed that the applications could not be altered and that the only means by which the Range description could be corrected would be by either filing an application to change the point of diversion and place of use or by withdrawing the applications and filing applications to replace them.

By subsequent certified letter from the State Engineer's office dated February 15, 1979, Mr. Russell Avery and the

applicant, Mr. Joseph Lustig were advised that the point of diversion and place of use described under the two applications was located within the service area of the Las Vegas Valley Water District and that appropriate action was necessary to correct the described locations if they were in error. This letter further advised that the location could be corrected only through either the withdrawal of the two applications and the refile of replacement applications, or through the filing of applications to change Applications 35537 and 36040. That letter allowed a period of 30 days within which the agent or applicant could take appropriate action toward correction of these applications, after which time an appropriate Ruling would be issued by the State Engineer's office in the event there was no response to the letter. Properly endorsed receipts for that certified letter from Mr. Lustig and Mr. Avery were received by the State Engineer's office on March 7, 1979 and February 21, 1979, respectively. As of the date of this Ruling, no response has been received from either Mr. Lustig or Mr. Avery regarding this matter.

3. The proposed point of diversion and place of use under Applications 35537 and 36040 is located within the area of the Las Vegas Artesian Basin designated by the State Engineer under the provisions of NRS 534.030.

NRS 534.120, Subsection 3, provides in part that the State Engineer may:

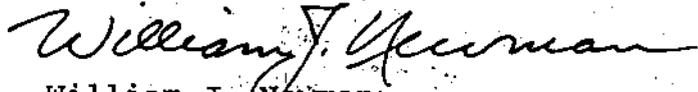
- a) Issue temporary permits to appropriate ground water which can be limited as to time and which may be revoked if and when water can be furnished by an entity such as a water district or municipality presently engaged in furnishing water to the inhabitants thereof.
- b) Deny applications to appropriate ground water for any purpose in areas served by such an entity.

Information on file in the office of the State Engineer indicates that water service is available to the place of use described under Applications 35537 and 36040 within reasonable physical and economical limits from facilities of the Las Vegas Valley Water District.

RULING

Applications 35537 and 36040 are herewith denied on the grounds that an adequate supply of water is available from the entity presently serving water and that the granting of permits under these applications would adversely effect existing rights and be detrimental to the public interest.

Respectfully submitted,



William J. Newman
State Engineer

WJN:BAR:jw

Dated this 2nd day
of May, 1979.