

IN THE MATTER OF PERMIT 23167 )  
FILED BY ART AND VIOLA MC KAY )  
FOR PERMISSION TO APPROPRIATE )  
WATER IN WASHOE COUNTY, NEVADA)

R U L I N G

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GENERAL:

Application 23167 was filed by Art and Viola McKay on June 7, 1966, for permission to appropriate 6.5 c.f.s. of water from an underground source for irrigation and domestic purposes. The point of diversion is described as within Lot 5, Section 1, T.35N., R.23E., M.D.B.&M. The proposed place of use is described as 439.28 acres in Lots 2, 3 and 5, Section 1 T.35N., R.23E., M.D.B.&M. and  $W\frac{1}{2}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$ , E $\frac{1}{2}$  NE $\frac{1}{4}$  and NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 36, T.36N., R.23E., M.D.B.&M. A permit was issued under this application September 19, 1967. A portion of this permit was abrogated by Permit 23419 filed to change the point of diversion and place of use of a portion (4.5 c.f.s.).

Permit 23419 was issued December 13, 1967 to change the point of diversion and place of use of 4.5 c.f.s. heretofore appropriated under Permit 23167. The proposed point of diversion is in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 12, T.35N., R.23E., M.D.B.&M. The new place of use is Lots 2, 3 and 5, Section 1 T.35N., R.23E., M.D.B.&M. and  $W\frac{1}{2}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$  Section 36, T.36N., R.23E. M.D.B.&M. for the portion changed. This application to change left 2.0 c.f.s. in the existing well for the place of use as described on the proof submitted under 23167.

The Proof of Beneficial Use and Cultural Map were submitted August 20, 1973 under Permit 23167 and field investigated on October 3, 1973. The Cultural Map and Proof of Beneficial Use claimed irrigation of 35.0 acres in the NE $\frac{1}{4}$  NE $\frac{1}{4}$ , 34.5 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$  and 36.8 acres in the NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 36, T.36N., R.23E., M.D.B.&M. The field investigation disclosed that the well was not equipped with pump and motor and was covered by a locked box and had no evidence of a pump and engine having been installed. The 40 acre subdivisions described on the Proof of Beneficial Use were covered with scattered sage and weeds. Field evidence was found that this land had been cleared some time in the past but no indication of beneficial use of water. The Cultural Map also did not show an existing road approximately thirty feet wide bisecting part of the place of use.

A letter was forwarded to the water right surveyor, as agent for the permittees by certified mail on October 15, 1973, with a carbon copy by certified mail to the permittees. A return receipt signed by the water right surveyor was received in this

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office October 17, 1973 and a return receipt signed by the permittees was received October 26, 1973. This letter requested additional supporting evidence that water had been beneficially used on the land claimed on the Proof of Beneficial Use. No replies have been received to these letters.

The Proof of Beneficial Use and Cultural Map were originally due April 19, 1972. However, an extension of time was granted to April 19, 1973 and an additional extension of time was granted until July 19, 1973.

**RULING:**

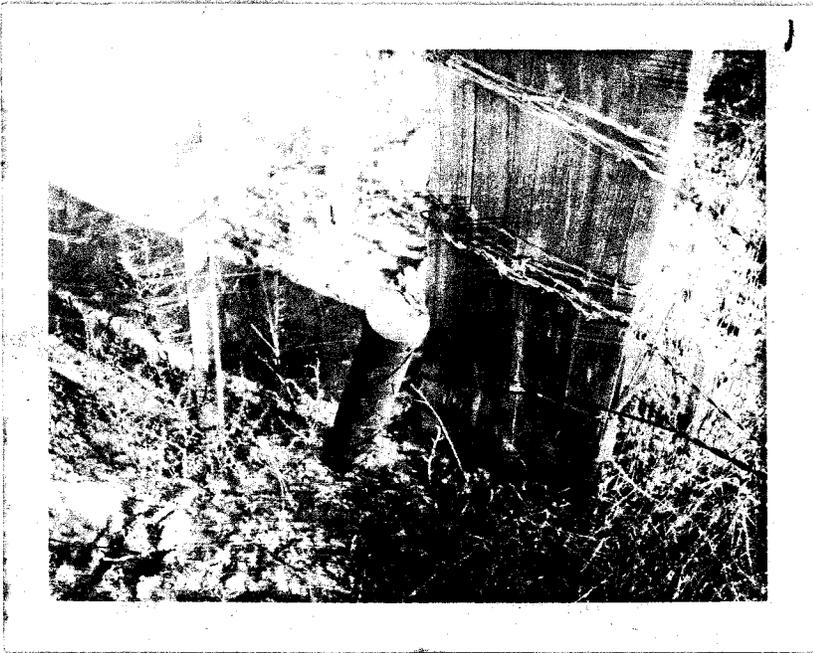
Permit 23167 is herewith cancelled due to lack of evidence being found by Field Investigation showing a beneficial use of water for the land under this permit and also the permittees or their agent failed to submit the requested additional evidence. The issuing of a certificate without additional evidence of beneficial use of the water would be detrimental to the public welfare.

Respectfully submitted,

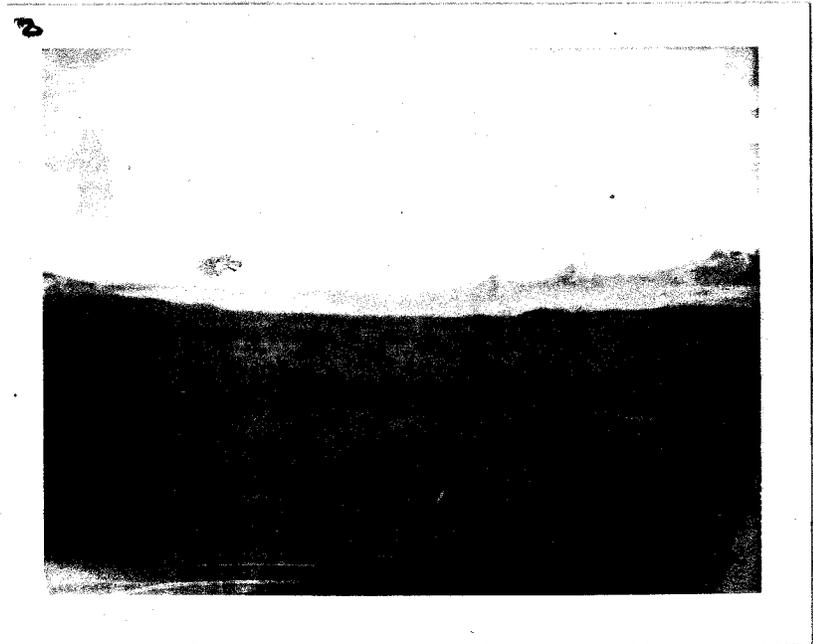
  
Roland D. Westergard  
State Engineer

RDW:RRD:cm

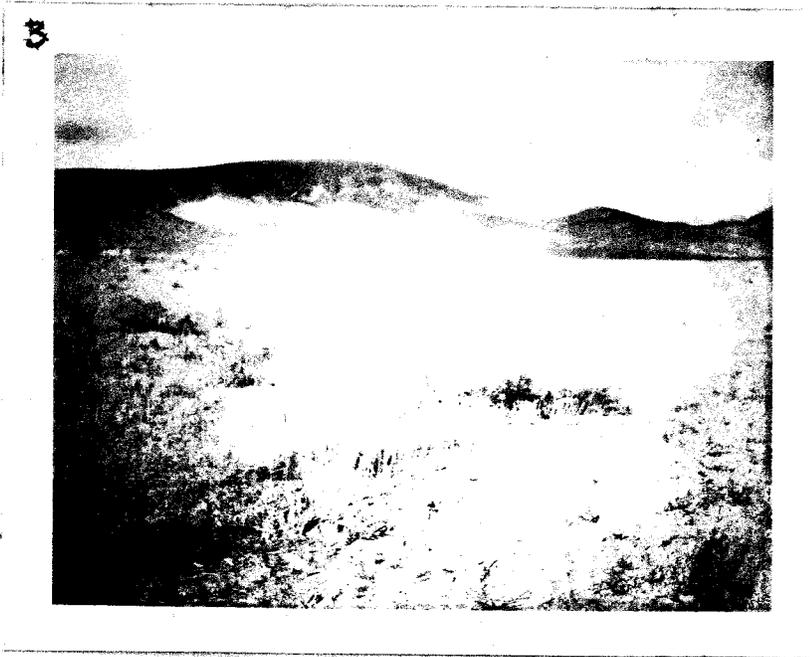
Dated this 17th day  
of December, 1973.



Brass Cap for tie



Place of Use - sage and weeds



Place of Use: sage and weeds



Road bisecting Place of Use



Well at Point of Diversion



Well at Point of Diversion