

IN THE MATTER OF APPLICATION 28292)
FILED BY ROBERT J. SCHOTZ TO)
APPROPRIATE WATER FROM AN UNDER-)
GROUND SOURCE IN LYON COUNTY,)
NEVADA.)

R U L I N G

107

GENERAL:

Application 28292 was filed April 25, 1974, by Robert J. Schotz for permission to change the point of diversion of Permit 16629, Certificate 5318. The proposed point of diversion is located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T.12N., R.23E., M.D.B.&M. The existing point of diversion is located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, T.12N., R.23E., M.D.B.&M. Certificate 5318 was issued May 7, 1962, in the amount of 2.0 c.f.s. for the irrigation of 135 acres within the NE $\frac{1}{4}$ of Section 35 T.12N., R.23E., M.D.B.&M.

As indicated above, Application 28292 was filed in the name of Robert J. Schotz. However, Permit 16629 is of record in the name of Louis B. and Mary E. Roeser as joint tenants and Robert J. and Peggy L. Schotz as joint tenants. By letter of August 9, 1974, Mr. Lou Roeser, designated by the application to be the agent for Robert J. Schotz, was informed of the conflict of title between the applicant under Application 28292 and the owner of record of Permit 16629. The applicant was further informed that the application could not be issued until both the application and permit were in common ownership. No reply to this letter was received.

By certified letter of November 27, 1974, the applicant was again notified that conflict of ownership between the application and Permit 16629 existed, and notice was thereby given that further action on Application 28292 would be withheld for a period of thirty days pending reply from the applicant. A properly endorsed receipt for the certified letter of November 27, 1974, was received by the State Engineer's office on December 5, 1974. However, no reply to said letter has been received as of the date of this ruling.

RULING:

Application 28292 is hereby denied on the grounds that the applicant has not shown himself to own or control the

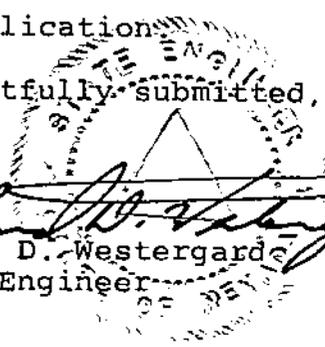
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water right to be changed by the application

Respectfully submitted,



Roland D. Westergarde
State Engineer



RDW:BAR:10

Dated the 21st day of
January, 1975.