

IN THE MATTER OF APPLICATION 30584 TO)
CHANGE THE POINT OF DIVERSION OF A)
PORTION OF PERMIT 24998 FILED BY THE)
NEVADA LAND AND WATER COMPANY, CLARK)
COUNTY, NEVADA.)

R U L I N G

INTRODUCTION

Application 30584 was filed in the office of the State Engineer on August 30, 1976 to change a portion of the point of diversion heretofore appropriated under Permit 24998 for quasi-municipal (trailer estate) and domestic purposes in the Las Vegas Artesian Basin, Clark County.

A protest to the granting of Application 30584 was filed in the office of the State Engineer on May 27, 1977.

FINDINGS OF FACT

Application 30584 was filed on August 30, 1976 by the Nevada Land and Water Company to change the point of diversion of 0.5097 c.f.s., a portion of the water heretofore appropriated from an underground source under Permit 24998 for quasi-municipal (trailer estates) and domestic purposes. The proposed point of diversion is described as within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23; T.21S., R.60E., M.D.B.&M. The proposed place of use is described in the application and is a matter of record in the office of the State Engineer.

II

The applicant states under Remarks of Application 30584 that:

"this application to change a portion of Permit 24998 is to be used from a standby well."

III

Application 30584 was protested on May 27, 1977 by the Las Vegas Valley Water District who pray that the application be denied on the following grounds:

"The holder of Permit No. 24998 has failed for a period of 5 successive years to use beneficially 0.2083 cfs of the total 0.6684 cfs permitted.

The protestant submits that the 0.2083 cfs not used beneficially is forfeited in accordance with the provisions of NRS 534.090, that Permit No. 24998 is therefore limited to 0.4601 cfs and that the requested change in the point of diversion of 0.5097 cfs exceeds the amount of water reported to have been put to beneficial use.

The protestant is currently serving some portions of the proposed place of use. The protestant can serve other portions of the proposed place of use with existing water distribution pipelines.

The protestant further submits that the granting of Application No. 30584 in the amount of 0.5097 cfs would jeopardize the value of existing rights and be detrimental to the public welfare."/

IV

Application 30584 was filed on August 30, 1976 to change the point of diversion of 0.5097 c.f.s., a portion of the water heretofore appropriated under Permit 24998. Application 24998 was filed on April 1, 1969 to change the point of diversion, manner and place of use of 0.6684 c.f.s. of water heretofore appropriated under Permit 16771, Certificate 4556.4/

V

Application 16771 was filed on October 24, 1955 by Joseph Blasco to appropriate 0.6684 c.f.s. of water from an underground source for mining, milling, and domestic purposes. Permit 16771 was granted on April 12, 1956 for 0.6684 c.f.s. of water and upon filing of the Proof of Beneficial Use on January 30, 1957. Certificate 4556 was issued on July 3, 1957 for 0.6684 c.f.s. of water for mining, milling, and domestic purposes.5/

VI

The owner of record of Permit 24998 is the Nevada Land and Water Company assigned by Joseph Blasco by deed dated December 19, 1972 filed in the office of the State Engineer on June 18, 1973.6/

VII

The Proof of Beneficial Use deposition was properly submitted under Permit 24998 on August 16, 1976 in the office of the State Engineer in the amount of 0.0664 c.f.s. An amended Proof of Beneficial Use deposition was submitted on August 30, 1976 in the amount of 0.4601 c.f.s. and a second amended Proof of Beneficial Use deposition was submitted in the office of the State Engineer on October 14, 1976 in the amount of 0.1587 c.f.s.7/

VIII

Under the provisions of Chapter 178, Nevada Statutes 1939, the State Engineer issued Order No. 175 dated January 10, 1941 to designate the Las Vegas Artesian Basin.8/

IX

Application 16771 was filed on October 24, 1955 with the point of diversion described as within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 18, T.22S., R.61E., M.D.B.&M. The point of diversion is located outside of the area designated by Order 175 dated January 10, 1941.9/

X

Order No. 249 issued by the State Engineer on April 18, 1961 extended the boundaries of the designated area of the Las Vegas Artesian Basin to include Section 18, T.22S., R.61E., M.D.B.&M.10/

XI

Permit 24998 was granted to Application 24998 on December 29, 1969. The Proof of Commencement of Work was due on or before July 29, 1970 and was filed on July 27, 1970. The Proof of Completion of Work was due on or before August 19, 1971 and was filed on August 16, 1971. The Proof of Beneficial Use was due on or before July 29, 1973. An application for an extension of time for filing the Proof of Beneficial Use was approved by the State Engineer to July 29, 1974; a second application for an extension of time was granted to July 29, 1975 and a third application for an extension of time was approved to July 29, 1976 with the provision that no further extensions will be granted for filing the Proof of Beneficial Use. NRS 533.410 requires the State Engineer to advise the holder of a permit, by registered or certified mail, that his permit will be held for 30 days for cancellation. Proper notice dated July 29, 1976 was forwarded by certified mail to the Nevada Land and Water Company as the owner of record of Permit 24998.11/

XII

Chapter 533 of the Nevada Revised Statute provide the authority to change the point of diversion, manner and place of use of an existing water right.12/

CONCLUSIONS

1. The State Engineer has jurisdiction of the parties and the subject matter of this action.13/
2. The original or base application (16771) to Application 30584 was filed outside the designated area of the Las Vegas Artesian Basin.
3. Under the terms of Permit 24998 granted on December 29, 1969, water appropriated must be placed to a beneficial use on or before July 29, 1976 plus 30 days or August 28, 1976, a Sunday so 5:00 P.M., August 29, 1976 was the last date of filing. The permittee had until this date to complete his development and place the water to a beneficial use.
4. It is the opinion of the State Engineer that under the permit terms, the permittee had a period of time in which to place the water to a beneficial use or change all or a portion of the right and place the water changed to a beneficial use.

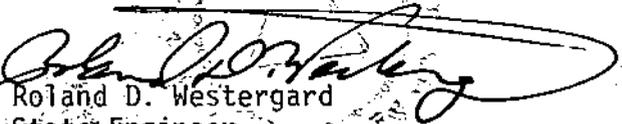
RULING

The protest to the granting of Application 30584 is herewith overruled on the grounds that time for proving beneficial use had not expired under the permit being changed. A permit will be granted to Application 30584 in the amount of 0.5097 c.f.s.

Respectfully submitted,

RDW/b1

Dated this 18th day
of January, 1978.


Roland D. Westergard
State Engineer

FOOTNOTES

1. Public records located in the office of the State Engineer, Division of Water Resources, 201 South Fall Street, Carson City, Nevada 89710.
2. Same as footnote 1.
3. Same as footnote 1.
4. Same as footnote 1.
5. Same as footnote 1.
6. Same as footnote 1.
7. Same as footnote 1.
8. Same as footnote 1.
9. Same as footnote 1.
10. Same as footnote 1.
11. Same as footnote 1.
12. NRS 533.345
13. NRS 533.025 and 533.030, subsection 1.