

IN THE MATTER OF APPLICATION)
34637 TO CHANGE PERMIT 13610)
TO APPROPRIATE THE WATERS OF)
AN UNDERGROUND SOURCE IN THE)
LAS VEGAS ARTESIAN BASIN;)
CLARK COUNTY, NEVADA:)

R U L I N G

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INTRODUCTION

Application 34637 was filed by Clark Hartwell to change the point of diversion, manner and place of use of Permit 13610, Certificate 4304, to appropriate water from an underground source in the Las Vegas Artesian Basin, Clark County, Nevada.

FINDINGS OF FACT

I

Application 34637 was filed by Clark Hartwell on November 21, 1977; to change the point of diversion, manner and place of use of 0.40 c.f.s. but not to exceed 169.5 acre-feet of water per year from an underground source for irrigation and domestic purposes. The proposed point of diversion is described as within the NW 1/4 SW 1/4 of Section 2, T.22S., R.61E., M.D.B. & M. The proposed place of use is described as 28 acres within the NE 1/4 SW 1/4 of Section 2, T.22S., R.61E., M.D.B. & M. The proposed period of use is from January 1st to December 31st of each year.

Permit 13610, Certificate 4304, stands in the name of Clark Hartwell. Certificate 4304 was issued for 0.40 c.f.s. but not to exceed a total of 338 acre-feet of water with Permit 13609 for irrigation purposes. The existing point of diversion is within the SE 1/4 NW 1/4 of Section 11, T.22S., R.61E., M.D.B. & M. The existing place of use is described as 7.57 acres - NW 1/4 NE 1/4, 47.40 acres - NE 1/4 NW 1/4 and 12.56 acres - SE 1/4 NW 1/4, all in Section 11, T.22S., R.61E., M.D.B. & M. The period of use is from February 1st to December 1st of each year.

A protest to the granting of Application 34637 was filed by the Las Vegas Valley Water District on August 11, 1978. The basis of the protest is that there has been no beneficial use of water for a period in excess of five successive years and therefore Permit 13610, Certificate 4304 is to be forfeited in its entirety. 1/

II

Order No. 175 dated March 10, 1941 and subsequent orders by the State Engineer designated, described and extended the Las Vegas Artesian Basin under the provisions of NRS 534. 2/

III

A hearing in the matter of protested Application 34637 proposing to change the point of diversion, manner and place of use of Permit 13610 in the Las Vegas Artesian Basin was held by the State Engineer on April 19, 1979. The applicant produced a witness who testified that he had personal knowledge that water was beneficially used under Permits 13609 and 13610 in 1972 and a portion of 1973. 3/

IV

A hearing in the matter of Application 30717 proposing to change the point of diversion, manner and place of use of Permit 13609 in the Las Vegas Artesian Basin was held by the State Engineer on May 12, 1977 and continued on May 18, 1977. Applicant's witness testified that he had personal knowledge that water was beneficially used under Permits 13609 and 13610 in 1972. 4/

V

Permit 30717 was granted by the State Engineer on June 16, 1977 to Application 30717 to change the point of diversion, manner and place of use of Permit 13609, Certificate 4305, in the Las Vegas Artesian Basin. 5/

CONCLUSIONS

I

The State Engineer has jurisdiction of the parties and the subject matter of this action. 6/

II

Testimony was presented by witnesses at both the May 12, 1977 and the April 19, 1979 hearings of the beneficial use of water in 1972. No testimony was presented at the May 12, 1977 hearing and no substantial testimony was presented at the April 19, 1979 hearing that water had not been beneficially used from the well under Permit 13610, which is the subject of Application 34637, for a period of five successive years prior to the date of filing of Application 34637.

RULING

The protest to Application 34637 is herewith overruled and a permit will be granted for 0.40 c.f.s. but not to exceed 169.5 acre-feet of water annually for irrigation purposes only for the period of February 1st to December 1st of each year. The proposed change of the manner of use for domestic purposes portion of Application 34637 and the proposed change of the period of use from January 1st to December 31st of each year are herewith denied.

Respectfully submitted,



William J. Newman
State Engineer

WJN/bc

Dated this 25th day

of May, 1979.

FOOTNOTES

1. Public records available in the office of the State Engineer.
2. Public records available in the office of the State Engineer.
3. Transcript of hearing in the matter of Application 34637 held on April 19, 1979, page 19. Transcript available in the office of the State Engineer.
4. Transcript of hearing in the matter of Application 30717 held on May 12, 1977 and continued on May 18, 1977. Witness testimony on page 5 of the May 18, 1977 continuation. Transcripts available in the office of the State Engineer.
5. Public records available in the office of the State Engineer.
6. NRS 533.025 and 533.030, subsection 1.