

**IN THE OFFICE OF THE STATE ENGINEER  
OF THE STATE OF NEVADA**

IN THE MATTER OF APPLICATIONS 66604, )  
66604-S1 AND 66604-S2 FILED TO APPROPRIATE )  
AND USE EFFLUENT FROM A WASTE WATER )  
TREATMENT FACILITY, TRACY SEGMENT )  
HYDROGRAPHIC BASIN (83), STOREY COUNTY, )  
NEVADA. )

**RULING**

**# 5892**

**GENERAL**

**I.**

Application 66604 was filed on July 21, 2000, by TRI Water and Sewer Company to appropriate 4 million gallons per day, not to exceed 4,480 acre-feet annually of the effluent water from the TRI Water and Sewer Company's water treatment facility storage reservoir. Application 66604 was filed as the primary application under the provisions of NRS § 533.440. The water is proposed to be diverted from the inlet works of the waste water treatment facility described as being located within the SW¼ NE¼ of Section 34, T.20N., R.22E., M.D.B.&M. The proposed place of use is to be determined by the secondary permits as described under the provisions of NRS § 533.440.<sup>1</sup>

**II.**

Application 66604-S1 was filed on July 21, 2000, by TRI Water and Sewer Company to apply the water stored under primary permit Application 66604 to beneficial use. Application 66604-S1 requests to appropriate 4 million gallons per day, not to exceed 4,480 acre-feet annually of the effluent water from the TRI Water and Sewer Company's water treatment facility storage reservoir. Application 66604-S1 was filed as the secondary application under the provisions of NRS § 533.440. The water is proposed to be diverted from the outlet works of the waste water treatment facility described as being located within the SW¼ NE¼ of Section 34, T.20N., R.22E., M.D.B.&M., and applied to irrigation purposes within Sections 1, 2, N½ and SE¼ of Section 3, NW¼ and W½ NE¼ of Section 5, E½ of Section 10, Sections 11, 12, 13, 14, NE¼ and E½ SE¼ of Section 15, Sections 23 and 24, all within T.19N., R.22E., M.D.B.&M., within N½ and SW¼ of

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<sup>1</sup> File No. 66604, official records in the Office of the State Engineer.

Section 5, Sections 6 and 7, the W $\frac{1}{2}$  of Section 8, the S $\frac{1}{2}$  of Section 16, Sections 17, 18, 19, 20 and 21, N $\frac{1}{2}$  of Section 28, the N $\frac{1}{2}$  of Section 29 and the N $\frac{1}{2}$  of Section 30, all within T.19N., R.23E., M.D.B.&M., and within portions of Sections 32, 33, 34, 35 and 36, all within T.20N., R.22E., M.D.B.&M., and within Section 31 and the W $\frac{1}{2}$  W $\frac{1}{2}$  of Section 32, T.20N., R.23E., M.D.B.&M.<sup>2</sup>

### III.

Application 66604-S2 was filed on July 21, 2000, by TRI Water and Sewer Company to apply the water stored under primary permit Application 66604 to beneficial use. Application 66604-S2 requests to appropriate 4 million gallons per day, not to exceed 4,480 acre-feet annually of the effluent water from the TRI Water and Sewer Company's water treatment facility storage reservoir. Application 66604-S2 was filed as the secondary application under the provisions of NRS § 533.440. The water is proposed to be diverted from the outlet works of the waste water treatment facility described as being located within the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 34, T.20N., R.22E., M.D.B.&M., and applied to commercial purposes within Sections 1, 2, N $\frac{1}{2}$  and SE $\frac{1}{4}$  of Section 3, NW $\frac{1}{4}$  and W $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 5, E $\frac{1}{2}$  of Section 10, Sections 11, 12, 13, 14, NE $\frac{1}{4}$  and E $\frac{1}{2}$  SE $\frac{1}{4}$  of Section 15, Sections 23 and 24, all within T.19N., R.22E., M.D.B.&M., within N $\frac{1}{2}$  and SW $\frac{1}{4}$  of Section 5, Sections 6 and 7, the W $\frac{1}{2}$  of Section 8, the S $\frac{1}{2}$  of Section 16, Sections 17, 18, 19, 20 and 21, N $\frac{1}{2}$  of Section 28, the N $\frac{1}{2}$  of Section 29 and the N $\frac{1}{2}$  of Section 30, all within T.19N., R.23E., M.D.B.&M., and within portions of Sections 32, 33, 34, 35 and 36, all within T.20N., R.22E., M.D.B.&M., and within Section 31 and the W $\frac{1}{2}$  W $\frac{1}{2}$  of Section 32, T.20N., R.23E., M.D.B.&M.<sup>3</sup>

### IV.

Applications 66604, 66604-S1 and 66604-S2 were timely protested by Churchill County on grounds as summarized below:

1. There is no unappropriated water in the source because the United States Geological Survey has estimated the potential recharge for the Tracy Segment groundwater basin to be 6,000 acre-feet annually and there are existing permits and certificates issued that approach 8,000 acre-feet annually; therefore, the groundwater basin is over appropriated.
2. The use of water under the application would adversely affect existing rights because the

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<sup>2</sup> File No. 66604-S1, official records in the Office of the State Engineer.

<sup>3</sup> File No. 66604-S2, official records in the Office of the State Engineer.

diversion will consumptively use water from a groundwater basin that is fully appropriated and designated. Further, the records of the United States Geological Survey and the State Engineer indicate that much of the potential groundwater recharge is rejected to the Truckee River and does not actually reach the groundwater reservoir. Therefore, any new groundwater appropriations will adversely affect existing downstream Truckee River water-right holders who rely on the rejected groundwater gradient as the groundwater gradient throughout the Tracy Segment is toward the Truckee River and the approval of the application will result in the interception of the groundwater, which provides base flow for the Truckee River.

3. Because the use of water as proposed under the application would reduce flows in the Truckee River, approval would threaten to prove detrimental to the public interest because it would adversely affect the water quantity and quality in the Truckee River, it would threaten to reduce the amount of water delivered to the Newlands Reclamation Project thereby reducing the groundwater recharge upon which many of the residents of Churchill County rely for domestic water, and it would adversely affect wildlife habitat on the lower Truckee River.

### **FINDINGS OF FACT**

#### **I.**

When considering a protested water right application, the State Engineer has the authority to decide whether the existing record must be supplemented by testimony and evidence derived from a public hearing.<sup>4</sup> The State Engineer finds the records of the Office of the State Engineer contain sufficient information to develop a full understanding of the issues before him and that a public hearing in this matter is not required.

#### **II.**

The crux of the Protestant's protest goes to a concern about the additional appropriation of ground water from the Tracy Segment Hydrographic Basin. The Protestant appears to have a misunderstanding of the waters applied for under these applications. The applications do

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<sup>4</sup> NRS § 533.365(3).

not propose to appropriate new ground water from the Tracy Segment Hydrographic Basin, rather they propose to use treated effluent from a sewage treatment plant and as such are not a new appropriation of water from the ground-water basin. The State Engineer finds the grounds of the protest have no merit in relation to the use of effluent water as proposed under the applications.

### **CONCLUSIONS**

#### **I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>5</sup>

#### **II.**

The State Engineer is prohibited by law from granting a permit to appropriate the public waters where:<sup>6</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or
- D. the proposed use or change threatens to prove detrimental to the public interest.

#### **III.**

The State Engineer concludes that NRS § 533.440(3) provides that the effluent discharged from the point of the final treatment within a sewage collection and treatment system shall be considered water as referred to in chapter 533 of NRS, and shall be subject to appropriation for beneficial use under the reservoir-secondary permit procedure described in NRS § 533.440. The State Engineer concludes that NRS § 533.024 provides that it is the policy of the state to encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare. The State Engineer concludes that the applications are not a request for a new appropriation of additional ground-water and the Protestant's claims as to the additional

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<sup>5</sup> NRS chapter 533.

<sup>6</sup> NRS § 533.370(5).

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appropriation of ground water are without merit. The State Engineer concludes the Nevada Legislature encourages and promotes the use of effluent; therefore, the storage and use of this effluent would not threaten to prove detrimental to the public interest.

**RULING**

The protests to Applications 66604, 66604-S1 and 66604-S2 are hereby overruled and the applications are granted subject to existing rights and the payment of statutory permit fees.

Respectfully submitted,



TRACY TAYLOR, P.E.  
State Engineer

TT/SJT/jm

Dated this 25th day of  
September, 2008.