

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

IN THE MATTER OF SECONDARY)
APPLICATION 45417 S-2 FILED TO)
APPROPRIATE THE EFFLUENT WATER)
GENERATED FROM THE RENO-STEAD)
TREATMENT PLANT UNDER PRIMARY)
PERMIT 45417 WITHIN THE LEMMON)
VALLEY EASTERN PORTION HYDROGRAPHIC)
BASIN (92B), WASHOE COUNTY, NEVADA.)

RULING

4927

GENERAL

I.

Secondary Application 45417 S-2 was filed on April 8, 1982, by the U.S. Trust Company of New York to appropriate 1.5 cubic feet per second of the effluent water generated by the Reno-Stead Sewage Treatment Plant. The proposed manner and place of use is for commercial purposes within the E1/2 and the E1/2 W1/2 of Section 5, T.20N., R.19E., and the SE1/4 of Section 32, T.21N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the SE1/4 NE1/4 of said Section 32.¹

FINDINGS OF FACT

I.

Under the provisions of Nevada Revised Statutes § 533.440(2), before the State Engineer can consider an application that requests a secondary use of effluent water, the applicant must show by documentary evidence that an agreement has been entered into with the owner of the reservoir for a permanent and sufficient interest in such reservoir to impound water for the purpose set forth in the application. By certified letter dated February 18, 2000, the applicant and its agent, were requested to provide the office of the State Engineer with a copy of the secondary use agreement required under the Nevada Revised Statutes. Both parties were allowed thirty days from the date of

¹ File Number 45417 S-2, official records within the office of the State Engineer.

the letter to submit the requested information with the understanding that a failure on their part to do so in a timely manner would result in the denial of Application 45417 S-2. The receipt for the certified mailings to the applicant and its agent were received in the office of the State Engineer. To this date, the State Engineer has not received a response from any of the subject parties regarding this matter. The State Engineer finds that the applicant has not provided documentary evidence that it has entered into an agreement for use of the requested effluent water as required under NRS § 533.440(2).

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and subject matter of this action and determination.²

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:³

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

III.

Any application that requests a secondary appropriation of effluent water must comply with the provisions set forth by NRS § 533.440(2). The applicant's failure to provide documentary evidence of an agreement with the holder of the primary water right violates one of the primary requirements of NRS § 533.440(2), therefore, the State Engineer concludes that

² NRS chapter 533.

³ NRS § 533.370(3).

Ruling
Page 3

Application 45417 S-2 can not be approved as said approval would threaten to prove detrimental to the public interest.

RULING

Application 45417 S-2 is hereby denied on the grounds that its approval would violate NRS § 533.440(2) and thereby threaten to prove detrimental to the public interest.

Respectfully submitted



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/cl

Dated this 24th day of
May, 2000.