

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

IN THE MATTER OF SECONDARY )  
APPLICATION 45417 S-3 FILED TO )  
APPROPRIATE THE EFFLUENT WATER )  
GENERATED FROM THE RENO-STEAD )  
SEWAGE TREATMENT PLANT UNDER )  
PRIMARY PERMIT 45417 WITHIN THE )  
LEMMON VALLEY EASTERN PORTION )  
HYDROGRAPHIC BASIN (92B), WASHOE )  
COUNTY, NEVADA. )

RULING

# 5018

GENERAL

I.

Secondary Application 45417 S-3 was filed on October 29, 1985, by Upland Industries Corporation to appropriate 1.0 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 quasi-municipal purposes within portions of Section 30 and Section 31, T.21N., R.19E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ NE¼ of Section 32, T.21N., R.19E., M.D.B.&M.<sup>1</sup>

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 letters dated February 18, 2000, and December 21, 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 the letters 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-3. The certified mailings to the applicant were returned to the office of the State Engineer as "Not Deliverable as Addressed." The State Engineer's office used the address on file to attempt to correspond with the applicant and its agent. The State Engineer finds it is the responsibility of an applicant and its agent to keep the office of the State Engineer informed as to a current address. 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.<sup>2</sup>

##### II.

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

- 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 in NRS § 533.440(2). The applicant's failure to provide documentary

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<sup>1</sup> File Number 45417 S-3, official records in the office of the State Engineer.

<sup>2</sup> NRS chapter 533.

<sup>3</sup> NRS § 533.370(3).

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 Application 45417 S-3 can not be approved as said approval would threaten to prove detrimental to the public interest.

**RULING**

Application 45417 S-3 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,



HUGH RICCI, P.E.

State Engineer

HR/MDB/cl

Dated this 4th day of  
May, 2001.