

IN THE MATTER OF APPLICATION)  
25376, FILED BY DONALD T. )  
HALL TO APPROPRIATE EFFLUENT)  
WATER FROM INCLINE VILLAGE )  
IMPROVEMENT DISTRICT SEWER )  
TREATMENT PLANT. )

R U L I N G

GENERAL:

Application 25376 was filed on December 4, 1969, by Donald T. Hall to appropriate 9.283 c.f.s. of effluent water from Incline Village Improvement District Sewer Treatment Plant. The application indicates that water is to be used for general recreational (irrigation of golf course landscaping, fishing, hunting, boating, etc.). The proposed place of use encompasses 37 sections within T.14N., R.20E.; T.14N.,R.19E.; T.13N.,R.19E.; T.13N.,R.20E.; M.D.B.&M., all within Carson Valley, Douglas County, Nevada. The proposed point of diversion is described as being within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  Section 17, T.14N.,R.20E. The map filed in support of the application indicates that the point of diversion is located on the west bank of the Carson River.

A hearing in the matter of Application 25376 and Applications 25764, 25764-S1, 25764-S2 and 26325 was held in Carson City, Nevada on October 26, 1976.

Applications 25764, 25764-S1, and 25764-S2 were also filed to appropriate effluent from the Incline Village treatment plant.

Application 26325 was filed to appropriate effluent from Douglas County Sewer Improvement District No. 1 Waste-water Reclamation Plant.

The applicant under 25376 was represented at said hearing by Thomas J. Hall. Mr. Hall indicated at the hearing (page 11, lines 21 through 24 in the transcript of hearing) "Well, we don't have any initial testimony to present, other than as is included in the application, and no further work has been done relative to the application pending action by the State Engineer."

At the hearing a question was addressed to Mr. Hall as to whether his application is to obtain water after discharge into the Carson River or from some point from within the export line of the District. Mr. Hall's response (page 12, lines 6 through 10 in the transcript) "In response to that question, I am not personally familiar with the full intent of use for the application. My father is in Southern California, and as I understand the application, it is receive the water from the discharge point."

A memorandum on behalf of Incline Village General Improvement District was submitted at the hearing as Exhibit No. 2. This memorandum is on file in the State Engineer's office. Prior to acceptance of the memorandum, Mr. Hall inquired (page 73, lines 25 and 26 of the transcript) "If the parties feel moved they could submit a like memorandum supporting their position?" Mr. Hall also indicated at the hearing (page 95, lines 19 and 20 of the transcript) "I would like to file a memorandum of our position."

The hearing officer indicated that the record would be maintained open until December 1 for the submission of any supplemental memorandums, briefs or supporting information. Mr. Hall concurred in this time for submission of information. (page 103, line 20 of the transcript).

Although there were limited questions of witnesses by Mr. Hall at the hearing, no testimony or information was submitted in support of Application 25376. No briefs, memorandums or other supporting information or material was submitted before December 1 or to and including this date.

There is no information or evidence available to indicate that the applicant, Donald T. Hall, has acquired any interest in or easements to or through the facilities to convey effluent to the proposed point of diversion under Application 25376. There is evidence to the contrary in Mr. Berkson's, Counsel for Incline Village General Improvement District, statement at the hearing (page 104, lines 6 through 10) "For example, if the decision of the State Engineer is that someone can come in here, such as Mr. Hall, without the consent, the approval, or the responsibility of the District and appropriate from within the export line the effluent..."

Further, no evidence has been presented to indicate any control by the applicant over the proposed place of use or in fact any indication of how application of water to beneficial use is to be accomplished.

OPINION:

It is the opinion of the State Engineer that there is and can be no assurance that there will be water available at the proposed point of diversion under Application 25376. It is a further opinion that because of the factors described above, the application does not meet the criteria of an intent to place the water sought to be appropriated to beneficial use and has not demonstrated the capability to place the water sought to be appropriated to beneficial use.

It is a further opinion of the State Engineer that if the water sought to be appropriated under Application 25376 is first discharged into the Carson River that said water becomes a part of the waters of the Carson River stream system and can therefore not be appropriated under Application 25376 because there is no unappropriated water for a direct diversion from the Carson River stream system.

RULING:

Application 25376 is denied on the grounds that there is not water available for appropriation at the point of diversion and that the applicant has not furnished or submitted data or information to demonstrate the intent and capability of placing the water sought to be appropriated to a beneficial use.

Respectfully submitted,

  
Roland D. Westergard  
State Engineer

RDW:jw

Dated this 7th day of  
March, 1977.