

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

IN THE MATTER OF APPLICATION 61666)
FILED TO APPROPRIATE EFFLUENT WATER)
WITHIN THE COLD SPRINGS VALLEY)
GROUNDWATER BASIN (100), WASHOE)
COUNTY, NEVADA.)

RULING

4569

GENERAL

I.

Application 61666 was filed on November 3, 1995, by Hamilton Properties, Inc. to appropriate the 548 cubic feet per second (cfs) of treated effluent water from the Cold Springs Valley Wastewater Treatment Plant. The proposed manner of use and the proposed place of use is for irrigation purposes on 280 acres of land located within the S $\frac{1}{2}$ of Section 3, T.21N., R.18E., M.D.B.&M.¹

II.

Application 61666 was timely protested by Washoe County on the following grounds:¹

Washoe County is the Permittee under the discharge permit issued by the Nevada Division of Environmental Protection for proposed the Cold Springs Wastewater Treatment plant (copy included). The facility will be constructed by the developer and dedicated to Washoe County. Washoe County will be responsible for the operation and maintenance of the facility.

At this time the Cold Springs facility is merely being proposed. At such time the construction of the plant is imminent, Washoe County will then file the appropriate primary application. Washoe County may then enter into an agreement or agreements with secondary applicants for beneficial use of this source.

III.

Application 61666 was timely protested by Reno Park Water Company on the following grounds:¹

¹ File No. 61666, official records in the office of the State Engineer.

Reno Park Water Company is the local water purveyor in the Cold Springs Valley area and has existing water rights for service in Cold Springs Valley and a portion of the Long Valley hydrologic basin both within the State of Nevada.

Reno Park Water Company has a responsibility to its customers to protect the quantity and quality of the water supply in the Cold Springs Valley and Long Valley hydrologic basins. Until such time as the manner and use of the effluent from the proposed Cold Springs Wastewater Treatment Plant is known, no application for appropriation of said effluent should be granted.

IV.

Information contained within Washoe County's protest to the granting of Application 61666 indicates that Washoe County is the entity which was responsible for the operation and maintenance of the Cold Springs Valley Wastewater Treatment Plant and the holder of the plant's discharge Permit NEV 92026 issued by the Nevada Division of Environmental Protection.¹

FINDINGS OF FACT

I.

Application 61666 requests an appropriation of effluent water from the Cold Springs Valley Wastewater Treatment Plant. Effluent water discharged from the point of first treatment is subject to appropriation for a beneficial use under the reservoir - secondary permit procedure. This requires the applicant show by documentary evidence that an agreement has been entered into with the owner of the wastewater treatment plant for a permanent and sufficient interest in the reservoir to impound enough water for the purpose set forth in the application.² An examination of the records of the office of the State Engineer failed to produce an agreement between Washoe County and the applicant. The State Engineer finds that the applicant has failed to establish an agreement evidencing an interest in the reservoir.

² NRS § 533.440.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴

- a. there is no unappropriated water at the proposed source, or
- b. the proposed use conflicts with existing rights, or
- c. the proposed use threatens to prove detrimental to the public interest.

III.

An application to appropriate effluent water from a wastewater treatment facility is subject to the provision established under the reservoir - secondary permit procedure that requires the applicant provide 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 enough water for the purpose set forth in the application. The records of the State Engineer contain no such agreement between Hamilton Properties, Inc. and Washoe County. The State Engineer concludes that it would not be in the public interest to grant an application to appropriate effluent water for a secondary use where the applicant does not have an agreement for a permanent interest in the reservoir.

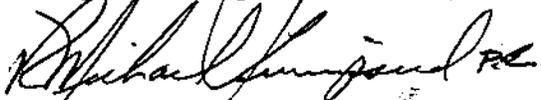
³ NRS Chapter 533.

⁴ NRS § 533.370(3).

RULING

Washoe County's protest to Application 61666 is upheld and Application 61666 is hereby denied on the grounds that it would not be in the public interest to grant an application to appropriate effluent water where the applicant has not complied with the provisions of NRS §.533.440. No ruling is made on the merits of the Reno Park Water Co., Inc.'s protest.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.
State Engineer

RMT/MDB/ab

Dated this 1st day of
October, 1997.