

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

IN THE MATTER OF APPLICATION 29739 )  
FILED TO APPROPRIATE EFFLUENT WATER )  
FROM WITHIN THE TRUCKEE MEADOWS )  
GROUNDWATER BASIN (87), WASHOE )  
COUNTY, NEVADA. )

RULING

# 4958

GENERAL

I.

Application 29739 was filed on October 24, 1975, by Apco Minerals, Inc., to appropriate 1.0 cubic feet per second of sewage effluent for milling and mining purposes within all of Section 25, the E½ of Section 26, and the N½ of Section 36, T.19N., R.22E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 14, T.19N., R.20E., M.D.B.&M. Information contained within the application file indicates that the effluent water discharged from the Reno-Sparks Waste Water Treatment Plant will be conveyed by the Truckee River and then pumped from the river to the proposed place of use.<sup>1</sup>

II.

Application 29739 was timely protested by the Truckee-Carson Irrigation District on the following grounds: "violation of provisions of allocations of water under Truckee River Agreement and U.S. vs. Orr Ditch et al."<sup>1</sup>

III.

Title to Application 29739 has been assigned to several companies with the current owner of record in the office of the State Engineer being Pallas Resource Corporation which acquired title on June 1, 1994.<sup>1</sup>

<sup>1</sup> File No. 29739, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

Effluent discharged from a wastewater treatment facility is subject to appropriation under the reservoir-secondary permit procedure.<sup>2</sup> This requires that an agreement must be in effect between the owner of the waste treatment plant and the effluent appropriator for a permanent and sufficient interest in the reservoir to impound enough water for the purpose set forth in the application.<sup>3</sup> By certified letter dated May 31, 1995, the office of the State Engineer requested the applicant and its agent to provide information regarding the consumptive use of water for the milling and mining project proposed under Application 29739. The applicant was also requested to provide the office of the State Engineer with a copy of any agreement between the Reno-Sparks Treatment Plant and Pallas Resource Corporation authorizing its utilization of the effluent water. The applicant was cautioned that failure to submit the requested information within thirty days from the date of the letter would result in a denial of the application. A response to the State Engineer's request for information was timely received in the office of the State Engineer on June 30, 1995, which contained the consumptive use information but omitted the necessary utilization agreement. A second certified letter date November 12, 1998, was sent to the applicant and its agent requesting a copy of the utilization agreement and again the applicant was allowed thirty days to submit the requested agreement with the understanding that a failure to timely do so would result in a denial of Application 29739.

A properly endorsed receipt for the November 12, 1998, certified mailing to the applicant's agent was received the office of the State Engineer. However, the envelope containing the notice

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<sup>2</sup> NRS § 533.440(3).

<sup>3</sup> NRS § 533.440(2).

to the applicant was returned by the U.S. Postal Service marked "Pallas Resource Corporation Moved-Left No Address-Unable to Forward."<sup>1</sup> To this date, no response to the requests to provide a copy of the utilization agreement has been received in the office of the State Engineer.<sup>1</sup> It has been a long established policy within the office of the State Engineer that it is the applicant's responsibility to inform said office of any changes that may occur in the applicant's address of record. The State Engineer finds that on two separate occasions the applicant and its agent were noticed at their addresses of record of the requirement to provide a copy of the utilization agreement with the understanding that failure to timely do so would result in the denial of Application 29739. The State Engineer further finds that the applicant's failure to provide this information allows Application 29739 to be considered for denial.

#### CONCLUSIONS

##### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>4</sup>

##### II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:<sup>5</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.

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<sup>4</sup> NRS chapter 533.

<sup>5</sup> NRS § 533.370(3).

**III.**

Under the provisions of NRS § 533.440, before an application which requests an appropriation of effluent water can be considered for approval, an agreement must be in effect between the wastewater treatment plant operator and the applicant authorizing its use of the effluent. On two separate occasions the owner of record of Application 29739 was requested by the office of the State Engineer to provide said office with a copy of the required agreement and both times the applicant has failed to comply. The State Engineer concludes in the absence of the required agreement that the approval of Application 29739 would violate the provisions established by NRS § 533.440 and would threaten to prove detrimental to the public interest.

**RULING**

Application 29739 is hereby denied on the grounds that its approval would violate the provision of NRS § 533.440 and would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/MDB/cl

Dated this 23rd day of  
August, 2000.