

OF THE STATE OF NEVADA

ORDER

City of Reno
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University of Nevada-Reno
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This office has determined through field investigation conducted on June 9, 1988, that treated wastewater (effluent) is now being diverted from the Reno/Sparks Wastewater Treatment Facility to irrigate property owned or otherwise controlled by the University of Nevada located within portions of Sections 14, 15 and 22, T.19N., R.20E., M.D.B.&M. Records in the office of the State Engineer further reflect that there are presently no approved permits for this use of the subject treated wastewater on these lands.

Subsection 1 of NRS 533.030 provides:

"Subject to existing rights, all water may be appropriated for beneficial use as provided in this chapter and not otherwise."

NRS 533.035 provides:

"Beneficial use shall be the basis, the measure and the limit of the right to the use of water."

Subsections 1 and 2 of NRS 533.070 provide:

"The quantity of water from either a surface or underground source which may hereafter be appropriated in this state shall be limited to such water as shall reasonably be required for the beneficial use to be served."

"Where the water is to be diverted for irrigation purposes, or where the water is to be stored for subsequent irrigation purposes, the state engineer in determining the amount of water to be granted in a permit to appropriate water shall take into consideration the irrigation requirements in the section of the state in which the appropriation is to be made. The state engineer shall consider the duty of water as theretofore established by court decree or by experimental work in such area or as near thereto as possible. He shall also consider the growing season, type of culture, and reasonable transportation losses of water up to where the main ditch or channel enters or becomes adjacent to the land to be irrigated, and may consider any other pertinent data deemed necessary to arrive at the reasonable duty of water. In addition, in the case of storage of water, reservoir evaporation losses should be taken into consideration in determining the acre-footage of storage to be granted in a permit."

NRS 533.345 provides:

"Every application for a permit to change the place of diversion, manner of use or place of use of water already appropriated shall contain such information as may be necessary to a full understanding of the proposed change, as may be required by the state engineer."

Subsection 3 of NRS 533.440 provides:

"Effluent discharged from the point of the final treatment from within a sewage collection and treatment system shall be considered water as referred to in chapter 533 of NRS, and shall be subject to appropriation for beneficial use under the reservoir-secondary permit procedure described in this section. Nothing in this section shall preclude appropriation in accordance with and subject to the provisions of NRS 533.325 to 533.435, inclusive."

NRS 533.460 provides:

"The unauthorized use of water to which another person is entitled, or the willful waste of water to the detriment of another, shall be a misdemeanor, and the possession or use of such water without legal right shall be prima facie evidence of the guilt of the person using or diverting it."

The field investigation discloses that you or others under your supervision and control are, in fact, disposing of the subject treated wastewater through the process of the unpermitted irrigation of the aforementioned cultivated land and, accordingly, demonstrating an unauthorized beneficial use of the subject wastewater.

Therefore, it appears you are in violation of the provisions of NRS 533.030(1), NRS 533.070, NRS 533.345, NRS 533.440(3) and NRS 533.460.

On March 6, 1987 and March 18, 1987 the University of Nevada-Reno and City of Reno, respectively, filed Applications to Change 50670 and 50696 with the office of the State Engineer. These applications sought to change the point of diversion of Truckee River decreed rights from the Pioneer Ditch to Steamboat Creek a tributary of the Truckee River. The purpose of the applications was to provide highly treated sewage effluent for irrigation of lands described under the decreed rights. The applications completed the statutory publication and protest periods and became ready for action on September 13, 1987 and August 21, 1987, respectively. The applications were timely protested by the Pyramid Lake Paiute Tribe of Indians and the Truckee-Carson Irrigation District. An administration hearing had been set before the State Engineer for June 29, 1988.

On May 17, 1988, the City of Reno, the applicant under Application to Change 50696, submitted to the State Engineer a request to withdraw Application 50696. Additionally, on May 18, 1988, University of Nevada-Reno, the applicant under Application to Change 50670, submitted to the State Engineer a request to withdraw Application 50670.

The State Engineer has reviewed the entire record in this matter and based upon said review enters the following Order:

The applicants under Applications to Change 50696 and 50670, the City of Reno and University of Nevada-Reno, respectively, are hereby temporarily ordered to immediately cease and desist the above described diversion until such time as the State Engineer can set and conduct an administrative hearing for the purpose of allowing the applicants to show cause why the order to cease and desist diversion should not be made permanent.

All parties are noticed by this Order that a hearing before the State Engineer has been set in this matter for 9:00 A.M., Wednesday, August 10, 1988 in the Washoe County Commission Chambers, 1205 Mill Street, Reno, Nevada. At that time, both the applicants and protestants under Applications to Change 50696 and 50670 may make evidentiary presentations and arguments in support of or in opposition to the cease and desist order being continued permanently.

It is further ordered that the applicants request to withdraw Applications to Change 50696 and 50670 be held in abeyance pending a determination in this matter as to whether the temporary cease and desist order should be made permanent or vacated.



Peter G. Morros
State Engineer

Dated at Carson City, Nevada,

this 5th day of JULY, 1988

cc: Federal Water Master
Division of Environmental Protection
Lyman McConnell, Esq.
Charles Douthwaite, Esq.
Laura B. Ahearn, Esq.
Don Klasic, Esq.