

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

IN THE MATTER OF APPLICATION 58689 )  
FILED TO APPROPRIATE EFFLUENT WATER )  
WITHIN THE COLD SPRINGS VALLEY )  
GROUNDWATER BASIN (100), WASHOE )  
COUNTY, NEVADA. )

RULING

# 4561

GENERAL

I.

Application 58689 was filed on April 2, 1993, by Ron Smith to appropriate 1 million gallons per day of treated effluent water from the Cold Springs Wastewater Treatment Plant. The application indicated that the proposed manner of use and the proposed place of use would be determined by a secondary application to be filed in the future.<sup>1</sup>

II.

On April 9, 1996, ownership of the subject application was assigned to Cold Springs 2000.<sup>1</sup>

III.

By letter dated April 24, 1997, Washoe County informed the State Engineer's office that it was 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 NEV92026 issued by the Nevada Division of Environmental Protection.<sup>1</sup>

IV.

Application 58689 was timely protested by Washoe County on the following grounds:<sup>1</sup>

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.

<sup>1</sup> File No. 58689, official records in the office of the State Engineer.

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.

FINDINGS OF FACT

I.

Application 58689 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 interest in the effluent water generated by the treatment facility.<sup>2</sup> An examination of the records of the office of the State Engineer failed to produce an agreement between Washoe County and the applicant for utilization of the effluent water. The State Engineer finds that the applicant has failed to establish an ownership interest in the effluent water the subject application seeks to appropriate.

CONCLUSIONS

I.

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

II.

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

- a. there is no unappropriated water at the proposed source, or

---

<sup>2</sup> NRS § 533.440.

<sup>3</sup> NRS Chapter 533.

<sup>4</sup> NRS § 533.370(3).

- b. the proposed use conflicts with existing rights, or
- c. the proposed use threatens to prove detrimental to the public interest.

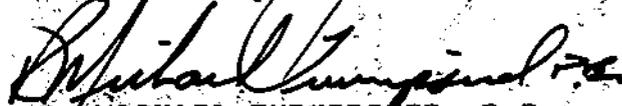
III.

An application to appropriate effluent water from a wastewater treatment facility is subject to the provision established under the reservoir - secondary permit procedure. This requires the applicant to provide evidence that an agreement for utilization of the effluent water has been enacted with the owner/operator of the wastewater treatment facility. The records of the State Engineer contain no such agreement between Cold Springs 2000 or it's predecessor 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 effluent water.

**RULING**

The protest to Application 58689 is upheld and Application 58689 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 does not have an ownership agreement with the wastewater treatment plant owner/operator allowing for the utilization of said water.

Respectfully submitted,



R. MICHAEL TURNIPSEED, P.E.  
State Engineer

RMT/MDB/ab

Dated this 26th day of  
August, 1997.