

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

IN THE MATTER OF APPLICATION 43428)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF THE PLEASANT VALLEY)
HYDROGRAPHIC BASIN (130), PERSHING)
COUNTY, NEVADA.)
)

RULING
5102

GENERAL

I.

Application 43428 was filed on March 30, 1981, by Pleasant Valley Enterprises, Inc., to appropriate 0.5 cubic foot per second of water from unnamed springs. The proposed manner and place of use is for mining, milling and domestic purposes within portions of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 25, the E $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and the N $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 36, all within T.28N., R.37E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 36.¹

FINDINGS OF FACT

I.

On November 20, 2000, the Office of the State Engineer obtained information from the Nevada Secretary of State's Office regarding the corporate status of Pleasant Valley Enterprises, Inc.¹ This information indicated that Pleasant Valley Enterprises, Inc. was classified as a revoked entity.

Nevada Revised Statute § 533.325 provides that only a "person" can file an application to appropriate water. In general usage, a "person" is defined to be a human being, firm, labor organization, partnership, association, corporation legal representative, trustee, etc.²

¹ File No. 43428, official records in the Office of the State Engineer.

² Black's Law Dictionary, 1028 (5th ed. 1979).

Nevada Revised Statute § 0.039 provides that except as otherwise expressly provided in a particular statute or required by the context, "person" means a natural person, any form of business or social organization, and any other non-governmental legal entity including, but not limited to, a corporation, partnership, association, trust or unincorporated organization. The term does not include a government, governmental agency or political subdivision of a government. Nevada Revised Statute § 533.010 defines person as used in chapter 533 to include the United States and the State of Nevada. Nevada Revised Statute § 534.014 defines person to include any municipal corporation, power district, political subdivision of this or any state, or an agency of the United States Government.

The State Engineer finds that upon revocation of the incorporation status of the applicant, Pleasant Valley Enterprises, Inc., by the Nevada Secretary of State, the applicant ceased to be a "person" and thereby became disqualified from obtaining a water right permit under the Nevada Water Law.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and 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;
- B. the proposed use or change conflicts with existing rights;
- C. the proposed use or change conflicts with protectible interests in existing domestic wells as set forth in NRS § 533.024; or

³ NRS chapters 533.

⁴ NRS § 533.370(3).

D. the proposed use or change threatens to prove detrimental to the public interest.

III.

Application 43428 was filed by a corporation that is currently classified as a revoked entity by the Nevada Secretary of State's Office. The State Engineer concludes that upon the revocation of Pleasant Valley Enterprises, Inc.'s incorporation status, the applicant became ineligible to apply for a water right in the State of Nevada. Therefore, to grant a water right to an applicant no longer entitled to apply for a water right would threaten to prove detrimental to the public interest.

RULING

Application 43428 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.
State Engineer

HR/MB/jm

Dated this 20th day of
February, 2002.