

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

IN THE MATTER OF APPLICATION 48565 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE BIG SMOKY VALLEY - )  
NORTHERN PART HYDROGRAPHIC BASIN )  
(137B), NYE COUNTY, NEVADA. )

**RULING**  
**#5655**

**GENERAL**

**I.**

Application 48565 was filed on November 28, 1984, by Sequoia Thermal Corporation to appropriate 2.4 cubic feet per second of underground water in the Big Smoky Valley – Northern Part Hydrographic Basin, Nye County, Nevada. The proposed manner of use is for geothermal power purposes within the NE¼ NE¼ of Section 27, T.14N., R.43E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NE¼ of said Section 27.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

By certified letter dated May 24, 1985, the Applicant was advised by the Office of the State Engineer that geothermal permits required spent fluids to be injected back into the groundwater system and their proposed plan to recycle spent geothermal waters to irrigation would require additional water right applications to appropriate water for another major use. The Applicant was requested to provide additional information concerning its injection plan. A signed certified mail receipt was returned to the Office of the State Engineer on May 31, 1985. No response was received from the Applicant.<sup>1</sup> The State Engineer finds that the Applicant was properly noticed at its correct address of record of the need to provide additional information in the subject application but has failed to do so; therefore, Application 48565 can be considered for denial.

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<sup>1</sup> File No. 48565, official records in the Office of the State Engineer.

## II.

By letter dated April 18, 2000, the Applicant was requested by the Office of the State Engineer to submit written evidence of a continued interest in Application 48565. Copies of this letter were also sent to the Applicant's agent of record and to all listed officers of the corporation. All parties were advised that a response to this request must be received in the Office of the State Engineer by June 30, 2000. The Applicant was also advised that a failure to respond within the allotted time period would result in the consideration of Application 48565 with the evidence available. The letter to the Applicant was returned to the Office of the State Engineer by the U.S. Postal Service as undeliverable and no response has been received from the Applicant's agent or any corporate officer.<sup>1</sup> The State Engineer finds that the Applicant has been properly noticed at its correct address of record of the need to provide written evidence of a continued interest in the subject application but has failed to do so; therefore, Application 48565 can be considered for denial.

## III.

The State Engineer finds that there has been no correspondence from the Applicant or its agent for over 20 years.<sup>1</sup>

## IV.

On May 13, 2005, the Office of the State Engineer made inquiries to the Nevada Secretary of State's office, through their official website, regarding the corporate status of the Sequoia Thermal Corporation. A search of the corporate information database failed to show any listing for this corporation.<sup>1</sup>

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.<sup>2</sup>

Nevada Revised Statute § 533.325 provides that except as otherwise 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

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<sup>2</sup> Black's Law Dictionary, 1028 (5<sup>th</sup> ed. 1979).

Revised Statute § 533.010 defines a 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 the Applicant, Sequoia Thermal Corporation, is not a valid corporate entity in the State of Nevada; therefore, it is disqualified from obtaining a water right permit under Nevada water law.

### **CONCLUSIONS**

#### **I.**

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

#### **III.**

The Applicant has been requested to provide the State Engineer with additional information. No written response to any prior request for additional information has ever been received in the Office of the State Engineer and there has been no correspondence from the Applicant or its agent for over 20 years. The State Engineer concludes that the failure to express any interest in the application for over 20 years and the failure to submit requested information demonstrates the Applicant's lack of interest in pursuing Application 48566. The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

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<sup>3</sup> NRS chapters 533 and 534.

<sup>4</sup> NRS § 533.370(5).

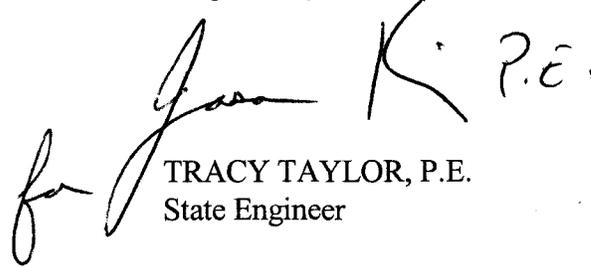
IV.

The Applicant is not a valid corporation as determined by the Nevada Secretary of State's office. The State Engineer concludes the Applicant is ineligible to apply for a water right in the State of Nevada and therefore, to grant a permit would threaten to prove detrimental to the public interest.

**RULING**

Application 48565 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,

 P.E.

TRACY TAYLOR, P.E.  
State Engineer

TT/WHR/jm

Dated this 1st day of  
September, 2006.