

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

IN THE MATTER OF APPLICATION)
47052 FILED TO APPROPRIATE)
THE PUBLIC WATERS OF RED)
MOUNTAIN CREEK WITHIN THE)
HUALAPI FLAT HYDROGRAPHIC)
BASIN (24), WASHOE COUNTY,)
NEVADA.)

RULING
5982

GENERAL

I.

Application 47052 was filed on July 6, 1983, by the Hualapi Utility Cooperative to appropriate 10 cubic feet per second of water from Red Mountain Creek for the purpose of recharging the ground-water basin ultimately for irrigation and domestic use. The proposed place of use is described as being located within various sections of T.33N., R.23E., T.33N., R.24E., T.33½N., R.24E., T.34N., R.22E., T.34N., R.23E., T.34N., R.24E., T.35N., R.21E., T.35N., R.22E., T.35N., R.23E., T.35N., R.24E., T.36N., R.21E., T.36N., R.22E., T.36N., R.23E., T.36N., R.23½E., T.36N., R.24E., T.37N., R.22E., T.37N., R.23E., T.37N., R.23½E., and T.37N., R.24E., M.D.B.&M. The proposed point of diversion is described as being located within the SE¼ SE¼ of Section 15, T.35N., R.23E., M.D.B.&M.¹

FINDINGS OF FACT

I.

On March 26, 2009, the Office of the State Engineer obtained information from the Nevada Secretary of State verifying that the Applicant, Hualapi Utility Cooperative, is currently classified as a revoked corporate entity in the state of Nevada.

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

¹ File No. 47052, 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 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 upon revocation of the incorporation status of the Applicant, the Applicant ceased to be a "person" and thereby became 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.³

II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public water 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
- D. the proposed use or change threatens to prove detrimental to the public interest.

III.

The State Engineer concludes it would threaten to prove detrimental to the public interest to issue a permit under these circumstances.

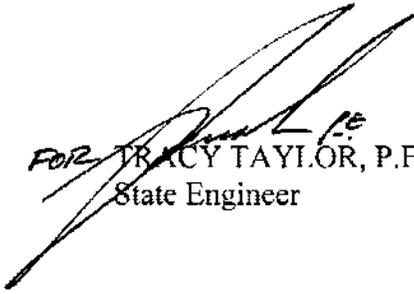
³ NRS chapters 533 and 534.

⁴ NRS § 533.370(5).

RULING

Application 47052 is hereby denied on the grounds its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,


FOR TRACY TAYLOR, P.E.
State Engineer

TT/SJT/jm

Dated this 20th day of

April, 2009.