

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

IN THE MATTER OF APPLICATION 71360)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND)
SOURCE WITHIN THE CARSON VALLEY)
HYDROGRAPHIC BASIN (105), DOUGLAS)
COUNTY, NEVADA.)

RULING

5995

GENERAL

I.

Application 71360 was filed on June 21, 2004, by Llama Lane, Inc., to appropriate 0.1 cubic feet per second (cfs) of water for quasi-municipal purposes within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 6, T.11N., R.21E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 6.¹

FINDINGS OF FACT

I.

The State Engineer finds that Llama Lane, Inc. is the original and current owner of record for Application 71360 and there are no pending Reports of Conveyances on file necessary to change ownership.

II.

The proposed point of diversion and place of use of Application 71360 are located in Douglas County, Nevada. On May 7, 2009, the office of the State Engineer made inquiries to Douglas County, through their official Douglas County Assessor's website, regarding the assessed ownership of the subject property. The State Engineer finds that the Applicant is not listed as the assessed owner of the property containing the proposed point of diversion and place of use.¹

III.

On May 7, 2009, 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 Llama Lane, Inc. A search of the corporate information database showed the corporate status of Llama Lane, Inc. as revoked.¹

¹ File No. 71360, official records in the Office of the State Engineer.

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 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 the Applicant, Llama Lane, Inc., due to its revoked corporate status, 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.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 conflicts with existing rights;
- C. or 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.

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

³ NRS chapters 533 and 534.

⁴ NRS § 533.370(5).

III.

The Applicant is a revoked corporation as determined by the Nevada Secretary of State's office. The State Engineer concludes the Applicant, as a revoked corporation, is ineligible to apply for a water right in the state of Nevada, and therefore, to grant a water right would threaten to prove detrimental to the public interest.

IV.

The State Engineer concludes that the Applicant does not own or control the land at the proposed point of diversion and place of use under Application 71360. The State Engineer further concludes that to grant an application to appropriate the public waters where the applicant does not own or control the lands would threaten to be detrimental to the public interest.

RULING

Application 71360 is hereby denied on the grounds that its issuance would threaten to prove detrimental to the public interest.

Respectfully submitted,



TRACY TAYLOR, P.E.
State Engineer

TT/TW/jm

Dated this 13th day of
July, 2009.