

IN THE MATTER OF APPLICATION 20586)
FILED BY BEATTY WATER AND SANITATION)
DISTRICT TO APPROPRIATE THE WATERS)
OF REVERT SPRINGS FOR MUNICIPAL AND)
DOMESTIC PURPOSES IN NYE COUNTY,)
NEVADA.)

R U L I N G

GENERAL:

Application 20586 was filed on July 16, 1962, for 3.094 c.f.s. from Revert Springs at a point within SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5, T. 12 S., R. 47 E., M.D.B. & M., for municipal and domestic purposes within Section 7, T. 12 S., R. 47 E., M.D.B. & M.

A protest to the granting of this application was filed on December 5, 1962, by Arthur F., Robert A. and Norman L. Revert, individually, and as trustees of the A. Revert Trust, on the grounds:

- "1. That the applicants do not fall within the provisions of N.R.S. 533.326 and are, therefore, not competent to file or prosecute or maintain such application.
- "2. That your protestants are the owners of all of the water of the said Revert Springs, the point of diversion specified in the application hereby protested; that the said protestants have a vested right to such water and that they and their predecessors in interest have owned said water for many years past and, in point of time, prior to 1905."

Application 20586 was signed by John M. Way as Trustee for Beatty Water and Sanitation District. In answer to the portion of the application "(If applicant is a corporation give date and place of incorporation; if a copartnership or association, give names of members)" Application 20586 indicates: "In process of incorporating".

Mr. William Beko, District Attorney of Nye County, was requested by letter dated April 4, 1963, to advise this office if a Beatty Water and Sanitation District had been formed, and if Mr. John M. Way had any connection with the District. Mr. Beko, by letter of reply dated April 11, 1963, advised that the Beatty Water and Sanitation District was approved by the voters of the District at the general election of November 6, 1962. He further advised

that thereafter necessary court proceedings were completed to form and organize the District in compliance with applicable Nevada Law and that Mr. John M. Way is one of the Directors of the District. Mr. Beko stated that, to the best of his knowledge, the application was filed without the consent or knowledge of any member of the District, in the absence of formal ratification by the Board of Directors and the application did not in any way represent District action. Mr. Beko further indicated that neither the County of Nye nor the Town of Beatty consented to, ratified or in any way approved the action of Mr. Way.

A letter dated April 12, 1963, and signed by Murriel Welch, Secretary-Treasurer, Beatty Water and Sanitation District, indicates that there is nothing in the minutes of that organization that ratifies Application 20586, filed by John M. Way as Trustee.

OPINION:

Because Application 20586 was filed on July 16, 1962, and because the Beatty Water and Sanitation District was not approved until November 6, 1962; and further, because the District Attorney of Nye County and the Secretary-Treasurer of the Beatty Water and Sanitation District have indicated that Mr. John M. Way was not authorized to file an application in the name of Beatty Water and Sanitation District, it is our opinion that the applicant under Application 20586 was not qualified, as required under the provisions of NRS 533.325 to file the application at the time it was filed.

The protest to the granting of Application 20586 refers to NRS 533.326. There is no such statute.

It is a further opinion that there is insufficient information available at this time to determine the existence or extent of vested rights on the source, Revert Springs.

RULING

Application 20586 is herewith denied on the grounds that the applicant was not qualified to file the application under the provisions of NRS 533.325.

Respectfully submitted,

ELMO J. DERICCO
State Engineer

Dated this 4th day of
October, 1963.