

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

IN THE MATTER OF APPLICATION 63386 )  
FILED TO APROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND SOURCE )  
WITHIN THE IVANPAH VALLEY NORTHERN )  
PART HYDROGRAPHIC BASIN (164A), )  
CLARK COUNTY, NEVADA. )

RULING

# 4964

GENERAL

I.

Application 63386 was filed on August 28, 1997, by Primm Development, L.L.C., to appropriate 1.0 cubic foot per second, not to exceed 79.75 acre-feet annually, of water from an underground source for commercial and domestic purposes within a portion of the NW¼ NE¼ of Section 8, T.27S., R.59E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼ NE¼ of Section 8, T.27S., R.59E., M.D.B.&M.<sup>1</sup>

II.

Application 63386 was timely protested by The Primadonna Corporation, generally on the grounds that insufficient water exists in the basin, that granting the permit would conflict with existing water rights, and that the applicant is not financially able to place the water to beneficial use with reasonable diligence.<sup>1</sup>

FINDINGS OF FACT

I.

The State Engineer finds that the applicant, Primm Development, L.L.C., was incorporated in the State of Nevada on August 8, 1997, and that incorporation was revoked on May 1, 1999.

II.

Nevada Revised Statute § 533.325<sup>2</sup> provides that only a "person" can file an application to appropriate water. In general usage, a "person" is defined to be a human

<sup>1</sup> File No. 63386, official records in the office of the State Engineer.

<sup>2</sup> Any person who wishes to appropriate any of the public waters, or to change the place of diversion, manner of use or place of use of water already appropriated, shall, before performing any work in connection with such appropriation, change in place of diversion or change in manner or place of use, apply to the state engineer for a permit to do so

being, firm, labor organization, partnership, association, corporation, legal representative, trustee, etc.<sup>3</sup> Nevada Revised Statute § 0.039 provides that “[e]xcept 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 the revocation of the incorporation status of the applicant, Primm Development, L.L.C., by the Nevada Secretary of State on May 1, 1999, the applicant ceased to be a “person” and thereby became ineligible to apply for a water right.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and of the subject matter of this action and determination.<sup>4</sup>

#### II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>5</sup>

- A. there is no unappropriated water at the proposed source;
- B. the proposed use conflicts with existing rights; or
- C. the proposed use threatens to prove detrimental to the public interest.

#### III.

The State Engineer concludes that upon revocation of Primm Development, L.L.C.’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.

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<sup>3</sup> Black’s Law Dictionary, 1028 (5<sup>th</sup> ed. 1979).

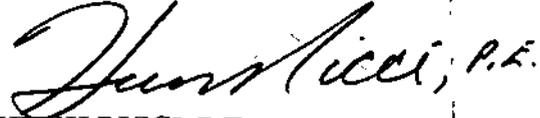
<sup>4</sup> NRS chapters 533 and 534.

<sup>5</sup> NRS § 533.370(3).

**RULING**

Application 63386 is hereby denied on the grounds that to grant a water right application to an entity not entitled to apply for a water right would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protest.

Respectfully submitted,



HUGH RICCI, P.E.  
State Engineer

HR/RAD/cl

Dated this 6th day of  
September, 2000.