

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

IN THE MATTER OF APPLICATION 31470)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE HOT CREEK VALLEY)
HYDROGRAPHIC BASIN (156) NYE COUNTY,)
NEVADA.)

RULING

#5445

GENERAL

I.

Application 31470 was filed on May 4, 1977, by Hot Creek Reclamation Co., Inc., to appropriate 10.8 cubic feet per second of water from an underground source for irrigation purposes within Section 36, T.5N., R.50E., M.D.B.&M. The proposed point of diversion is described as being located within the NE¼ NW¼ of Section 36, T.5N., R.50E., M.D.B.&M.¹

FINDINGS OF FACT

I.

On September 28, 2004, 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 Hot Creek Reclamation Company, Incorporated. A search of the corporate information database showed no record of the Hot Creek Reclamation Company, Incorporated as being a current 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 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

¹ File No. 31470, official records in the Office of the State Engineer.

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

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, Hot Creek Reclamation Co., Inc., 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.

II.

A letter dated April 25, 1997, within File No. 31470, indicates that an attempt was made to transfer ownership of this application along with numerous other applications through a submittal by Gregory J. Chachas received April 10, 1997. A number of deficiencies were noted and the letter requested Mr. Chachas correct the deficiencies through the submittal of additional documentation. A search of records on file in the Office of the State Engineer show some of the applications noted in the letter of April 25, 1997, were transferred to new ownership. However, Application 31470 was not transferred to new ownership and remains in the name of the Hot Creek Reclamation Co., Inc. A search of the Nevada Division of Water Resources, Titles Database, shows there are no pending deeds or other information on file to transfer ownership of Application 31470.¹

The State Engineer shall not consider or treat the person to whom an application is conveyed as the owner or holder of the application until a report of the conveyance is confirmed.³ The State Engineer finds Hot Creek Reclamation Co., Inc., is the owner of record in the Office of the State Engineer regarding Application 31470.

CONCLUSIONS

I.

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

³ NRS § 533.386(4).

⁴ NRS chapters 533 and 534.

II.

The State Engineer concludes the Hot Creek Reclamation Co., Inc., is the current of owner of record of Application 31470.

III.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁵

- 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.

IV.

Application 31470 was filed by a corporation that is currently not listed as a corporate entity 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 water right to an applicant no longer entitled to apply for a water right would threaten to prove detrimental to the public interest.

RULING

Application 31470 is hereby denied on the grounds that to grant a water right application to an applicant not entitled to apply for a water right would threaten to prove detrimental to the public interest.

Respectfully submitted;



HUGH RICCI, P.E.
State Engineer

HR/TW/jm

Dated this 4th day of

November, 2004.

⁵ NRS § 533.370(4).