

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

IN THE MATTER OF APPLICATION )  
65722 FILED TO APPROPRIATE THE )  
PUBLIC WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE CALIFORNIA )  
WASH HYDROGRAPHIC BASIN (218), )  
CLARK COUNTY, NEVADA. )

RULING

**# 5482**

GENERAL

I.

Application 65722 was filed on December 15, 1999, by Stallion Sand and Gravel, LLC. to appropriate 1.0 cubic foot per second of water from an underground source for mining purposes within a portion of the NW¼ of the NW¼ of Section 27, T.16S., R.65E., M.D.B.&M.<sup>1</sup> The proposed point of diversion is described as being located within the NE¼ of the NW¼ of Section 27, T.16S., R.65E., M.D.B.&M.

II.

Application 65722 was timely protested by the United States Department of the Interior, National Park Service, by agent Charles W. Pettee, on the grounds that there is no water available for appropriation, that the application would impair the water rights of the United States, and that the public interest would not be served by granting the application.<sup>1</sup>

FINDINGS OF FACT

I.

On November 29, 2004, the Office of the State Engineer obtained information from the Nevada Secretary of State, which indicated that the corporate status of Stallion Sand and Gravel, LLC. had been dissolved.<sup>1</sup>

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

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<sup>1</sup> File No. 65722, official records of the Office of the State Engineer.

organization, partnership, association, corporation, legal representative, trustee, etc.<sup>2</sup>

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 state or any state, or an agency of the United States Government.

The State Engineer finds that upon dissolution of the applicant's incorporation status on record with the Nevada Secretary of State, 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.<sup>3</sup>

#### II.

The State Engineer is prohibited by law from granting a permit under an application to appropriate the public waters where:<sup>4</sup>

- A. there is no unappropriated water at the proposed source;

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<sup>2</sup> Black's Law Dictionary, 1028 (5th ed. 1979).

<sup>3</sup> NRS chapters 533 and 534.

<sup>4</sup> NRS chapter 533.370(4).

- 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.

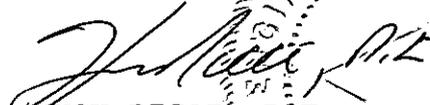
**III.**

Application 65722 was filed by a corporation that is currently classified as a dissolved entity by the Nevada Secretary of State's Office. The State Engineer concludes that upon the dissolution of the applicant's incorporation status, it 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.

**RULING**

Application 65722 is hereby denied on the grounds that to grant a water right application to an entity not entitled to apply 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/DJL/jm

Dated this 15th day of

March, 2005.