

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

IN THE MATTER OF APPLICATION 70405 )  
FILED TO APPROPRIATE THE PUBLIC )  
WATERS OF AN UNDERGROUND )  
SOURCE WITHIN THE CARSON DESERT )  
HYDROGRAPHIC BASIN (101) CHURCHILL )  
COUNTY, NEVADA. )

**RULING**

**#5633**

**GENERAL**

**I.**

Application 70405 was filed on September 15, 2003, by Specialty Clays Corporation to appropriate 0.05 cubic foot per second of water from an underground source for mineral exploration and mining activities within the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SE $\frac{1}{4}$ , of Section 24, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SW $\frac{1}{4}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 25, T.18N., R.30E., M.D.B.&M. and the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 19, T.18N., R.31E., M.D.B.&M. The proposed point of diversion is described as being located within the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 25, T.18N., R.30E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The State Engineer notified the applicant and its agent by letter dated October 6, 2004, that Application 70405 was ready to be approved, and that in accordance with NRS § 533.435 the sum of \$159.00 must be submitted to the Office of the State Engineer for the issuance of the permit under the application. The letter assigned a sixty (60) day time limit from October 6, 2004, to submit the required fees or the application would be subject to denial. The letter informing the applicant

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<sup>1</sup> File No. 70405, official records in the Office of the State Engineer.

of the permit fee requirement was returned by the United States Postal Service to the Office of the State Engineer stamped "return to sender".<sup>1</sup>

By certified letter dated December 6, 2004, the Office of the State Engineer again notified the applicant and its agent that \$159.00 permit fee must be submitted to said office within thirty (30) days from the date of the notice, and they were once again cautioned that failure to do so would result in the denial of Application 70405. The certified letters to the applicant were returned by the U.S. Postal Service to the Office of the State Engineer stamped "return to sender" and "moved, left no address". A properly endorsed receipt for the certified letter to the agent was received in the Office of the State Engineer on December 8, 2004.<sup>1</sup>

It has been a long established policy within the Office of the State Engineer that it is the applicant's responsibility to inform said office of any ownership or address changes, which may occur regarding a water right application. The State Engineer finds that the proper owner of record was notified at the correct address of record of the permit fee requirement and that no fees have been received. The State Engineer further finds that time allowed for receiving the permit fee has expired and that Application 70405 is now subject to denial.

### **CONCLUSIONS**

#### **I.**

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>2</sup>

#### **II.**

The State Engineer is required by NRS § 533.435 to collect a fee for the issuance of a permit. The State Engineer concludes that as the statutory fees were not submitted to the Division of Water Resources the permit cannot be granted.

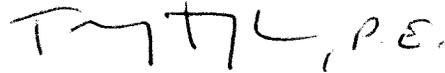
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<sup>2</sup> NRS chapters 533 and 534.

**RULING**

Application 70405 is hereby denied on the grounds that the applicant has failed to timely submit the statutory permit fees.

Respectfully submitted,

Handwritten signature of Tracy Taylor, P.E. in black ink.

TRACY TAYLOR, P.E.  
State Engineer

TT/TW/jm

Dated this 1st day of

August, 2006.