

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

IN THE MATTER OF APPLICATIONS)
52068, 52096 AND 52326 FILED TO)
APPROPRIATE THE PUBLIC WATERS OF AN)
UNDERGROUND SOURCE AND SPRING)
SOURCES WITHIN THE TEELS MARSH)
VALLEY HYDROGRAPHIC BASIN (114))
MINERAL COUNTY, NEVADA.

RULING

4966

GENERAL

I.

Application 52068 was filed on May 3, 1988, by American Gold Resources Corporation to appropriate 1.0 cubic foot per second (cfs) from an underground source of water for mining, milling, and domestic purposes within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 24, T.5N., R.32E., M.D.B.&M. The proposed point of diversion is described as being located within the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, T.4N., R.32E., M.D.B.&M.¹

II.

Application 52096 was filed on May 16, 1988, by American Gold Resources Corporation to appropriate 1.0 cfs from unnamed springs for mining, milling and domestic purposes within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 24, T.5N., R.32E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.4N., R.32E., M.D.B.&M.²

III.

Application 52326 was filed on July 14, 1988, by American Gold Resources Corporation to appropriate 1.0 cfs of water from an unnamed spring for mining, milling and domestic purposes within the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 24, T.5N., R.32E., M.D.B.&M. The proposed point of diversion is described as being located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 14, T.4N., R.32E., M.D.B.&M.³

¹ File Number 52068, official records in the office of the State Engineer.

² File Number 52096, official records in the office of the State Engineer.

³ File Number 52326, official records in the office of the State Engineer.

FINDINGS OF FACT

I.

Applications 52068 and 52096 were timely protested⁴ by Maurice Castagne on the following grounds:

The American Gold Resource Corp was fully aware that this spring area was improved and maintained by Maurice Castagne Pres. Western Gold & Uranium Inc who owns lode & placer claims at the spring area. American Gold Resources Corp has been using this facility for water to support a 2 yr surface drilling program without notifying Maurice Castagne or applying for a state water permit. American Gold Resources Corp may be in violation of utilizing state waters from a private pond facility without a valid permit.

The American Gold Resources Corp now leases 137 lode claims from Western Gold & Uranium Inc. These claims are situated approx 2 miles NE of this spring area.

This pond or facility is located approx. in Sec 11-14 T4N R32E of Mineral County Nevada.

This pond facility is described in an old Permit No. 38856 previously held by Maurice Castagne.

Our protest is directed at protecting our source of developed water supply for mining purposes.

II.

On August 23, 2000, the office of the State Engineer obtained information from the Nevada Secretary of State's office indicating that American Gold Resources Corporation was incorporated on October 9, 1985.

III.

On August 23, 2000, the office of the State Engineer received information from the Nevada Secretary of State's office regarding the corporate status of American Gold Resources Corporation. This information indicates that American Gold Resources Corporation is

currently classified as a revoked 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.⁵ 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 revocation of the incorporation status of the applicant, American Gold Resources Corporation, by the Nevada Secretary of State, 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 the subject matter of this action and determination.⁶

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁷

⁴ File Numbers 52068 and 52096, official records in the office of the State Engineer.

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

⁶ NRS chapters 533 and 534.

- 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.

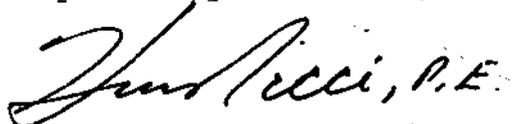
III.

Applications 52068, 52096 and 52326 were filed by a corporation that is currently classified as a revoked entity by the Nevada Secretary of State's office. The State Engineer concludes that upon revocation of American Gold Resources Corporation's corporate 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.

RULING

Applications 52068, 52096 and 52326 are hereby denied on the grounds that their approval would threaten to prove detrimental to the public interest. No ruling is made on the merits of the protests.

Respectfully submitted,



HUGH RICCI, P.E.

State Engineer

HR/DJL/cl

Dated this 28th day of
September, 2000.