

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

IN THE MATTER OF APPLICATION 65477)
FILED TO APPROPRIATE THE PUBLIC)
WATERS OF AN UNDERGROUND SOURCE)
WITHIN THE IMLAY AREA HYDROGRAPHIC)
BASIN (072), PERSHING COUNTY,)
NEVADA.)

RULING

5025

GENERAL

I.

Application 65477 was filed on September 2, 1999, by Sea Bed Minerals, L.L.C. to appropriate 0.45 cubic foot per second of underground water for mining, milling and domestic purposes. The proposed place of use is described as being located within all of Section 8, T.32N., R.35E., M.D.B.&M. The proposed point of diversion is described as being located within the NW¼SE¼ of said Section 8.¹

FINDINGS OF FACT

I.

On November 8, 2000, and April 24, 2001, the office of the State Engineer obtained information from the Nevada Secretary of State's office regarding the corporate status of Sea Bed Minerals, L.L.C.¹ This information indicated that Sea Bed Minerals, L.L.C. was classified as a revoked entity.

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

¹ File Number 65477, official records in the office of the State Engineer.

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

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 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, Sea Bed Minerals, L.L.C., by the Nevada Secretary of State, the applicant ceased to be a "person" and thereby became disqualified from obtaining a water right permit under the Nevada Water Law.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.³

II.

The State Engineer is prohibited by law from granting an application to appropriate the public waters where:⁴

- 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.

³ NRS chapters 533 and 534.

⁴ NRS § 533.370(3).

III.

Application 65477 was 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 the revocation of Sea Bed Minerals, 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.

RULING

Application 65477 is hereby denied on the grounds that its approval would threaten to prove detrimental to the public interest.

Respectfully submitted,



HUGH RICCI, P.E.

State Engineer

HR/MDB/d1

Dated this 22nd day of
May, 2001.