

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

IN THE MATTER OF PERMIT 10313, )  
CERTIFICATE 2728, AND PERMIT )  
11426, CERTIFICATE 3387, FILED TO )  
APPROPRIATE THE UNDERGROUND )  
WATERS WITHIN THE BLACK ROCK )  
DESERT HYDROGRAPHIC BASIN )  
(28), PERSHING COUNTY, NEVADA. )

**RULING**  
**#6132**

**GENERAL**

**I.**

Permit 10313 was issued on September 29, 1939, to Guy Saval to appropriate 2.0 cubic feet per second (cfs) of groundwater for placer mining and domestic purposes within the Black Rock Desert Hydrographic Basin, Pershing County, Nevada. The point of diversion is identified as a well located within the NW¼ SW¼ of Section 26, T.34N., R.29E., M.D.B.&M.<sup>1</sup>

**II.**

Permit 11426 was issued on May 10, 1947, to Rosegold Placers, Inc., (Rosegold) to appropriate 3.0 cfs of groundwater for placer mining and domestic purposes within the Black Rock Desert Hydrographic Basin, Pershing County, Nevada. The point of diversion is identified as a well located within the NW¼ SW¼ of Section 26, T.34N., R.29E., M.D.B.&M.<sup>2</sup> The described point of diversion is nearly identical to that described under Permit 10313. After filing proof of beneficial use of the water, Certificate 3387 was issued on January 9, 1950.

**FINDINGS OF FACT**

**I.**

The original holder of Permit 10313 was Guy Saval of Fallon, Nevada. After filing proof of beneficial use of the water on September 10, 1943, the State Engineer issued water right Certificate 2728 for 1.075 cfs. The surviving spouse of Guy Saval conveyed the water right to Ryle G. Hopkins as receiver for Reo Seco Mining Company.<sup>1</sup> In 1946 Ryle G. Hopkins assigned the permit to Rosegold.

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<sup>1</sup> File No. 10313, official records in the Office of the State Engineer.

<sup>2</sup> File No. 11426, official records in the Office of the State Engineer.

## II.

On April 26, 1971, Everett and Margaret F. Hess filed Application 26090 to appropriate 3.0 cfs from two wells for placer mining and domestic purposes within the Black Rock Desert Hydrographic Basin, Pershing County, Nevada. The point of diversion is identified as a well located within the NW¼ SW¼ of Section 26, T.34N., R.29E., M.D.B.&M.<sup>3</sup> The remarks section of the application indicates that the application includes land and improvements described under Application 11426 by the former owners of said land. By letter dated June 8, 1971, the Applicant, under Application 26090,<sup>4</sup> indicated that he would attempt to see if title to Permits 10313 and 11426 had been passed through by deed to him as current owner of the land. No documentation was ever filed requesting conveyance of the Permits to the Hesses. Application 26090 was denied on October 18, 1972, by Ruling 1875 for failure to pay permit fees.<sup>3</sup>

## III.

By letter dated February 8, 1972, the Office of the State Engineer informed Rosegold, owner of record of Application 11426, that Application 26090 had been received to appropriate water from the same well identified under Permit 11426. The State Engineer also asked Rosegold if it still owned or controlled the use of the water right and if it was beneficially using water for the permitted purpose. By letter dated February 9, 1972, a former officer of Rosegold informed the State Engineer that Rosegold had merged with Double-O Timber and Mining Company during 1951 and that he was unaware of the existence of either corporation at the present time.<sup>2</sup> This same letter provided the State Engineer with some suggestions of persons or entities to contact in an effort to determine if Rosegold still existed.

By letter dated February 11, 1972, the State Engineer informed a suggested contact that this office was attempting to contact Rosegold, but had no current address and asked for any assistance that might be provided in contacting the permittee. An office memorandum dated March 31, 1972, indicates that the Office of the State Engineer again attempted to clarify ownership and locate the owner of record. A response was received in the Office of the State Engineer on March 29, 1972, by the Acting Treasurer for Rosegold that indicated it was not at the present time using any water for any purpose.<sup>2</sup>

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<sup>3</sup> File No. 26090, official records in the Office of the State Engineer.

<sup>4</sup> File Nos. 10313, 11426 and 26090, letter dated June 8, 1971, (date stamped June 8, 1972), from Everett Hess, official records in the Office of the State Engineer.

In 1989, staff from the Office of the State Engineer conducted an informal field investigation at the point of diversion of Permit 11426 and found the well capped, no activity in the area and no sign of recent activity at the site, although extensive mining facilities in disrepair were present.<sup>5</sup>

On August 25, 2009, staff from the Office of the State Engineer conducted an informal field investigation of the points of diversion under Permits 10313 and 11426 and found the wells capped and no placer mining activity in the area.<sup>6</sup>

On or about July 27, 2011, the Office of the State Engineer inquired with the Nevada Secretary of State as to whether the name of the permit holder was in existence and the Secretary of State had no records indicating such a company is in existence.

On July 27, 2011, the Office of the State Engineer database was checked and no record of pending conveyance documents was on file transferring the water rights to any other water right holder. The State Engineer finds no report of conveyance transferring ownership of Permit 10313 and 11426 has ever been filed in the Office of the State Engineer.

Based on the evidence, that the permittee has failed to provide a current address for more than 37 years, there is no evidence of the existence of Nevada Rosegold Placers, Inc., as a business in the state of Nevada, the wells are capped, there is no mining activity in the area and there is no sign of recent activity at the site, and no entity or person has requested conveyance of the water right into the name of another water right holder in nearly 40 years, the State Engineer finds there is substantial evidence of an intent to abandon the water rights.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>7</sup>

#### II.

Nevada Revised Statute § 534.090(4) provides that a right to use groundwater may be lost by abandonment. Abandonment is a question of fact to be determined from all the surrounding

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<sup>5</sup> See, Report of Informal Field Investigation, File No. 10313 dated October 12, 1989, official records in the Office of the State Engineer.

<sup>6</sup> See, Field Investigation No. 1118, File No. 10313 official records in the Office of the State Engineer.

<sup>7</sup> NRS Chapters 533 and 534.

circumstances. A water right holders non-use of a water right is some evidence of an intent to abandon the right and the longer the period of non-use, the greater the likelihood of abandonment.

The State Engineer concludes there is substantial evidence to support a declaration that Permits 10313, Certificate 2728, and Permit 11426, Certificate 3387, have been intentionally abandoned by the permit holder.

**RULING**

Permits 10313, Certificate 272, and Permit 11426, Certificate 3387, are hereby declared abandoned.

Respectfully submitted,

 P.E.  
JASON KING, P.E.  
State Engineer

Dated this 28th day of  
July, 2011.