

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

IN THE MATTER OF PERMIT 2372,)
CERTIFICATE 242, FILED TO)
APPROPRIATE SURFACE WATER)
WITHIN THE JERSEY VALLEY)
HYDROGRAPHIC BASIN (132),)
LANDER COUNTY, NEVADA.)

RULING
#6137

GENERAL

I.

Permit 2372 was issued July 10, 1912, to Jersey Valley Mines, Company to appropriate 2.0 cubic feet per second (cfs) of water from Rock Spring for mining and domestic purposes within the Jersey Valley Hydrographic Basin, Lander County, Nevada. The point of diversion is described as being located within the SW¹/₄ NW¹/₄ of Section 34, T.27N., R.40E., M.D.B.&M.¹

II.

The owner of record of Permit 2372 is Jersey Valley Mines, Company of Battle Mountain, Nevada. After filing proof of beneficial use of the water, the State Engineer issued Certificate 242 for 0.20 cfs of water on December 12, 1914.

There appears to be a discrepancy in the actual point of diversion described on the permit and certificate. The application described both the SW¹/₄ SW¹/₄ of Section 35 and the SW¹/₄ NW¹/₄ of Section 34. Both Rock Spring and Abel Spring are shown on the supporting water right map submitted by the owner. The Proof of Completion of Work filed on August 21, 1912, clearly depicts Abel Spring as the point of diversion described as being within the SW¹/₄ NW¹/₄ of Section 34, T.27N., R.40E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Mining activities commenced in the Jersey Canyon shortly after discovery of silver and lead in 1874. Ore was shipped from the area from 1880 to 1910. Small shipments were made during the years of 1921 and 1929.² John W. Abel worked the mining claims sometime before 1905.³ In

¹ File No. 2372, official records in the Office of the State Engineer.

² Nevada Bureau of Mines and Geology, Open File Report 85-3, pp. 75-76.

³ Allen C. Bragg, *Humboldt County 1905*, The North Central Nevada Historical Society, p. 9 (1976).

November 1911, Abel's heirs sold land and appurtenant water rights to Jersey Valley Mines, Company.¹ On March 9, 1912, Jersey Valley Mines, Company filed Application 2372.¹

A letter dated, December 15, 1919, written by J. L. Durrett in support of Application 5234 states that Jersey Valley Mines, Company had not operated their property in four or five years and that all the equipment "is practically all moved out of the mill at this writing."⁴

On October 4, 1929, a field investigation was conducted by the Division of Water of Resources. It was learned that a Marius Allard and George Hermilin had purchased the improvements of the Jersey Valley Mines, Company from Pershing County, presumably for back taxes; however, no record of conveyance was ever filed with the Office of the State Engineer.⁵

There is no evidence of Jersey Valley Mines, Company being registered with the Nevada Secretary of State's office. Recent field investigations showed no signs of mining activity and that the point of diversion and mill site are abandoned.

It is readily apparent that Jersey Valley Mines, Company had clearly abandoned its mining claim and therefore its water rights by 1915. There is no correspondence from any officer or successor in interest of Jersey Valley Mines, Company in File No. 2372.

The State Engineer finds there is no evidence of the continued existence of Jersey Valley Mines, Company. The State Engineer finds no water from Abel Spring has been placed to beneficial use for the manner described under Certificate 242 for a long period of time and no entity or person has ever formally requested conveyance of the water right into the name of another water right holder. The State Engineer finds that the evidence indicates that the waters from Abel Spring have not been used for over 95 years and the mining project of Jersey Valley Mines, Company has been long abandoned.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁶

II.

Nevada Revised Statute § 533.060 provides for the loss of a water right by abandonment. The Nevada Supreme Court has also determined that a surface water right may be lost due to

⁴ File No. 5234, official records in the Office of the State Engineer.

⁵ File No. 8214, official records in the Office of the State Engineer.

⁶ NRS Chapters 533 and 534.

abandonment.⁷ Abandonment is a question of fact to be determined from all the surrounding circumstances. A water right holder's 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 Permit 2372, Certificate 242 has been intentionally abandoned by the permit holder.

RULING

Permit 2372, Certificate 242 is hereby declared abandoned.

Respectfully submitted,



JASON KING, P.E.
State Engineer

Dated this 5th day of
August, 2011.

⁷ *In re Manse Spring and its Tributaries*, 60 Nev. 280, 287, 289-291, 108 P. 2d 311 (1940).