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

IN THE MATTER OF PERMIT 10542,) CERTIFICATE 2576, FILED TO) APPROPRIATE THE UNDERGROUND) WATERS WITHIN THE SILVER STATE) VALLEY HYDROGRAPHIC BASIN) (32), HUMBOLDT COUNTY, NEVADA.)	**RULING** **#6081**

GENERAL

I.

Permit 10542 was issued February 5, 1941, to West Coast Mines, Inc. to appropriate 3.0 cubic feet per second (cfs) of groundwater for mining, milling, and domestic purposes within the Silver State Valley Hydrographic Basin, Humboldt County, Nevada. The point of diversion is identified as a well located within the NE¼ SE¼ of Section 24, T.37N., R.36E., M.D.B.&M.[1]

FINDINGS OF FACT

I.

The owner of Permit 10542 is West Coast Mines, Inc. of Winnemucca, Nevada. After filing proof of beneficial use of the water on February 11, 1941, the State Engineer issued water right Certificate 2576 for 0.78 cfs to West Coast Mines, Inc., on March 6, 1941.

A review of File No. 10542 shows that over the last 69 years only two inquiries have been received regarding Permit 10542.[2] The first request, by Gus Rogers, was a letter dated February 20, 1953, requesting the application map of Permit 10542. On April 3, 1953, Mr. Rogers filed Application 14957 to appropriate 1.0 cfs for irrigation purposes. The point of diversion described in his application is identical to that of Permit 10542. A field investigation was conducted by a representative of the State Engineer's office in the company of Mr. Rogers on July 27, 1953.[3] The representative concluded in his memorandum that West Coast Mines, Inc., was no longer active. He

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[1] File No. 10542, official records in the Office of the State Engineer.
[2] *See,* letter received in the Office of the State Engineer from Gus Rogers dated February 20, 1953, and memorialized telephone call from Ray Shannon received January 15, 2010, File No. 10542, official records in the Office of the State Engineer.
[3] *See,* Memorandum, August 26, 1953, File No. 14957, official records in the Office of the State Engineer.

could not locate any information in the Secretary of State's office for West Coast Mines, Inc. Their representative in Winnemucca was deceased and it appeared that no one had replaced him. Based on the information that West Coast Mines, Inc., was no longer using the well and had abandoned the place of use, it was recommended that Application 14957 be approved. Permit 14957 was approved on August 24, 1953, for 1.0 cfs for irrigation and domestic purposes. Permit 14957 was cancelled on May 24, 1957, for failure to file Proof of Beneficial Use and Cultural Map or an Extension of Time.

The second inquiry was received by telephone from Ray Shannon. It was indicated that Mr. Shannon or his company may have some interest in Permit 10542. He was advised that the permit is in the name of West Coast Mines, Inc. and that a Report of Conveyance and corresponding deeds are required to update ownership of the certificated water right if he wanted to use water under Permit 10542. To date, no correspondence has been received from Mr. Shannon.

On January 21, 2010, staff from the Office of the State Engineer conducted a field investigation at the point of diversion under Permit 10542 and found the well in disrepair and no active mining or exploration activity in the area.[4] The Pansy Lee mill site is located within the described place of use of Permit 10542 and is in disrepair. All that remains at the site is the concrete footings of the mill; however, the mill site is now situated on mining claims controlled by Infrastructure Materials Corp. An Internet search of Infrastructure Materials Corp. led to a subsidiary company, Silver Reserve Corp. of Reno, Nevada. A representative of Silver Reserve Corporation, was contacted by telephone on September 15, 2010, to gage their interest in Permit 10542.[5] Mr. Frost indicated that Silver Reserve Corporation was in the process of selling the property. He was advised, if they did have an interest in the water right, they would have to submit a Report of Conveyance and chain of title from West Coast Mines, Inc., to get the permit in their name. To date, there has been no title documents filed in the Office of the State Engineer by this entity.

The State Engineer finds there is no evidence of the continued existence of West Coast Mines, Inc. The State Engineer finds no water has been placed to beneficial use 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 well has

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[4] *See,* Field Investigation, January 21, 2010, File No. 10542, official records in the Office of the State Engineer.

[5] *See,* Memorandum, September 15, 2010, File No. 10542, official records in the Office of the State Engineer.

not been used for over 52 years and the mining project of West Coast Mines, Inc. 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 § 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 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 10542, Certificate 2576, has been intentionally abandoned by the permit holder.

III.

There is also no evidence of West Coast Mines, Inc., being registered with the Secretary of State's office since 1953. A field investigation showed no signs of mining activity and that the well and mill site were abandoned. The State Engineer further concludes that this demonstrates an intent to abandon the water right.

RULING

Permit 10542, Certificate 2576, is hereby declared abandoned.

Respectfully submitted,

JASON KING, P.E.
State Engineer

Dated this 6th day of

December, 2010.

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[6] NRS Chapters 533 and 534.