

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

IN THE MATTER OF PERMITS 6316,)
7126 AND 9838 FILED TO)
APPROPRIATE THE PUBLIC WATERS)
WITHIN THE GRANITE SPRINGS)
VALLEY HYDROGRAPHIC BASIN (78),)
PERSHING COUNTY, NEVADA.)

RULING

#6105

GENERAL

I.

Permit 6316 was granted on February 11, 1921, to C.H. Jones for power, mining and domestic use and is now held in the name of Pacific Smelting and Metals Corporation.¹ Permit 7126 was granted on September 3, 1924, to J. H. Causten for mining, milling and domestic use and is now held in the name of Pacific Smelting and Metals Corporation.² Permit 9838 was granted on July 16, 1935, to Gold Silver & Tungsten, Inc., for mining, milling and domestic use.³ All three permits were for the appropriation of surface water from springs.

FINDINGS OF FACT

I.

On November 30, 2010, the State Engineer received a *Petition Requesting State Engineer to Declare as Forfeited for Nonuse or Otherwise Abandoned Water Rights within the Granite Springs Valley, Hydrographic Basin No. 79* [sic]. The Petition alleges that Permits 6316, 7126 and 9838 have not been placed to beneficial use in decades and that the Nevada Secretary of State is devoid of any records depicting the existence of either corporate entity in the state of Nevada. By letter dated December 9, 2010, the State Engineer attempted to contact the permit holders to determine if they are in existence or whether there is any interest in responding to the Petition. The letter to Gold, Silver & Tungsten, Inc. was returned on December 17, 2010, by the United States Postal Service

¹ File No. 6316, official records in the Office of the State Engineer.

² File No. 7126, official records in the Office of the State Engineer.

³ File No. 9838, official records in the Office of the State Engineer.

marked as "No such number." The letter to Pacific Smelting and Metals Corporation was returned on December 20, 2010, by the United States Postal Service marked as "No mail receptacle." The State Engineer finds there is no information that these entities exist any longer as companies in the state of Nevada.

II.

On October 28, 2010, an informal field investigation was conducted at the points of diversion and places of use under these permits by a basin engineer with the Division of Water Resources. The field investigation confirmed that there is no ongoing mining or milling related activity at the site and no evidence that any such activity has been undertaken in quite some time.⁴ There are no improvements at the points of diversion, little evidence of pipelines or storage tanks and no evidence of mill sites. Included with the petition is an affidavit from the ranch manager of the ranch that has the grazing allotment in the area, which indicates that he has visited the area on a regular basis since 1989 and that he has never witnessed mining or milling activity in the area.

The State Engineer finds from all the surrounding facts and circumstances that it appears the water right holders have abandoned these permits.

CONCLUSIONS

I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.⁵

II.

Nevada Revised Statute § 533.060 provides for the abandonment of water rights. The non-use of the water by a water right holder is some evidence of an intent to abandon the right and the longer the period of non-use the greater the likelihood of abandonment. A prolonged period of non-use may raise an inference of an intent to abandon. Abandonment is a question of fact to be determined from all the surrounding circumstances. The State Engineer concludes the evidence strongly suggests that these water rights have been abandoned.

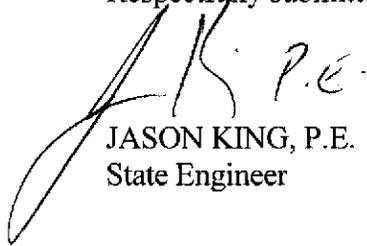
⁴ Report of Field Investigation No. 1143, dated January 13, 2011, official records in the Office of the State Engineer.

⁵ NRS Chapter 533.

RULING

Permits 6316, 7126 and 9838 along with their corresponding Certificates 1082, 1083 and 2521 are hereby declared abandoned.

Respectfully submitted,



JASON KING, P.E.
State Engineer

Dated this 15th day of
March 2011.