

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

IN THE MATTER OF PERMIT 10361,)
CERTIFICATE 2748, FILED TO)
APPROPRIATE THE UNDERGROUND)
WATERS WITHIN THE BLACK ROCK)
DESERT HYDROGRAPHIC BASIN (28),)
HUMBOLDT COUNTY, NEVADA.)

RULING
#6133

GENERAL

I.

Permit 10361, was issued January 4, 1940, to S. R. Huntington (original applicant was J. G. Huntington) to appropriate 1.0 cubic feet per second (cfs) of groundwater for mining, milling and domestic purposes within the Black Rock Desert Hydrographic Basin, Humboldt County, Nevada. The point of diversion is identified as a well located within the SW¼ NW¼ of Section 31, T.35N., R.31E., M.D.B.&M.¹

FINDINGS OF FACT

I.

Application 10361 was assigned to S. R. Huntington of Jungo, Nevada, on June 6, 1939. After filing proof of beneficial use of the water, on December 7, 1943, the State Engineer issued water right Certificate 2748 for 0.025 cfs to S. R. Huntington.

On August 25, 2009, staff from the Division of Water Resources conducted an informal field investigation at the point of diversion under Permit 10361 and found the described shaft caved in, boarded over, and dry. There was no placer mining activity in the area.²

There has been no correspondence in the file since the Certificate was issued in December 1943. Based on the evidence, the permittee has failed to provide a current address for more than 66 years, that no water was being used, that the point of diversion is caved in, boarded over and dry, and that no entity or person has requested conveyance of the water right into the name of another water right holder in 66 years, the State Engineer finds that there is substantial evidence of an intent to abandon the water rights.

¹ File No. 10361, official records in the Office of the State Engineer.

² See Field Investigation No. 1118, File No. 10361, official records in the Office of the State Engineer.

CONCLUSIONS

I.

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

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 10361, Certificate 2748, has been intentionally abandoned by the permit holder.

RULING

Permit 10361, Certificate 2748, is hereby declared abandoned.

Respectfully submitted,


JASON KING, P.E.
State Engineer

Dated this 29th day of
July, 2011.

³ NRS Chapters 533 and 534.