

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

IN THE MATTER OF PERMIT 10284, )  
CERTIFICATE 3110, FILED TO )  
APPROPRIATE THE UNDERGROUND )  
WATERS WITHIN THE BLACK ROCK )  
DESERT HYDROGRAPHIC BASIN )  
(28), HUMBOLDT COUNTY, NEVADA. )

**RULING**  
**#6152**

**GENERAL**

**I.**

Permit 10284 was issued June 27, 1939, to A. R. Weeter to appropriate 3.0 cubic feet per second (cfs) of groundwater for mining 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 SE¼ NW¼ of Section 26, T.35N., R.29E., M.D.B.&M.<sup>1</sup>

**FINDINGS OF FACT**

**I.**

The original holder of Permit 10284 was A. R. Weeter of Sulphur, Nevada. Mr. Weeter conveyed the water right to O. J. Streeter on April 4, 1942, who then conveyed the Permit to W. S. Peterson on January 15, 1948. After filing proof of beneficial use of the water on January 29, 1948, the State Engineer issued water right Certificate 3110 for 0.5 cfs to Mr. Peterson.

In the ensuing 61 years, four inquiries<sup>2</sup> have been received concerning Permit 10284 by the State Engineer's office requesting information of said Permit. The first three requests were never followed up by additional letters. The last inquiry, by telephone, was in April 2009, by Will Peterson who was advised by letter dated April 21, 2009, to submit a Report of Conveyance and corresponding deeds to update ownership of the certificated water right.<sup>1</sup> As of October 26, 2009, no correspondence has been received and there has been no correspondence with W. S. Peterson since the Certificate was issued in 1948.

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<sup>1</sup> File No. 10284, official records in the Office of the State Engineer.

<sup>2</sup> See letter received in the Office of the State Engineer, from Joan Louise Siegel dated February 23, 1971, letter received from Frank Lewis dated December 5, 1982, telephone call received from William Peterson on December 2, 1988, and telephone call from Will Peterson received April 21, 2009.

## II.

On August 25, 2009, staff from the Office of the State Engineer conducted an informal field investigation at the point of diversion under Permit 10284 and found the well (Sulphur Well) in disrepair and no placer mining activity in the area.<sup>3</sup> The place of use was the Sulphur Mill. The mill site is in a state of complete disrepair. The buildings are collapsed and numerous rusted iron parts and wood remnants are strewn about the site. Old piles of sulphur ore are overgrown with greasewood. The wooden structure at the point of diversion is collapsed; the standing water is overgrown with algae and grasses and rusted pipes and valves are visible and have clearly not been used in years.<sup>3</sup> The mill site and well are now on mining claims controlled by the Hycroft Gold mine and there was no evidence that the Hycroft mine ever used the water.

The State Engineer finds there is no evidence of Mr. Peterson using the water for a very long period of time, and no entity or person has requested conveyance of the water right into the name of another water right holder in nearly 60 years, demonstrating an intent to abandon the water right.

## CONCLUSIONS

### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>4</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 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 10284, Certificate 3110, has been intentionally abandoned by the permit holder.

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<sup>3</sup> See Field Investigation No. 1118, File No. 10284, official records in the Office of the State Engineer.

<sup>4</sup> NRS Chapters 533 and 534.

**RULING**

Permit 10284, Certificate 3110, is hereby declared abandoned.

Respectfully submitted,

  
JASON KING, P.E.  
State Engineer

Dated this 2nd day of  
December, 2011.