

(b.) If, in the case of a race constructed for any other purpose than the continuous flow of water, such race is not used for its proper purpose during any continuous period of not less than six months ; or

(c.) If, in the case of any race, it is so damaged or out of repair as to be unfit for its proper use, and so continues for not less than two consecutive months without steps being *bona fide* taken to repair the damage and render the race fit for its proper use with the least possible delay. 5

Abandonment from incapacity of race.
1898, No. 38, sec. 15

188. In any case where the licensee of a race fails or neglects to construct within the period prescribed in that behalf a race of sufficient capacity to carry the number of sluice-heads registered, then forthwith on the expiration of such period all sluice-heads in excess of the number which the race is then capable of carrying shall be deemed to be intentionally abandoned. 10

Abandonment from acts and conduct.
Ibid, sec. 154

189. Irrespective of any of the foregoing provisions of this Act, a mining privilege shall be deemed to be intentionally abandoned whenever from the acts or conduct of the holder an intention to abandon may be conclusively inferred : 15

Provided that a mere declaration of intention not to abandon shall be no evidence of such intention, unless such declaration is accompanied by unambiguous acts or conduct in support thereof. 20

Certificate by Warden of abandonment.
Ibid, sec. 155

190. Upon being satisfied that any mining privilege has been abandoned by operation of law the Warden shall certify in writing that such abandonment has been established, and also the date on or before which it occurred. 25

Procedure for obtaining such certificate.
Ibid, sec. 156

191. With respect to every such certificate of abandonment, the following provisions shall apply :—

(a.) Such certificate may be given by the Warden either in the course of disposing of any application for any mining privilege in respect of the whole or any part of the land, or, in the absence of such application, upon summons to the alleged abandoning holder to show cause why the certificate should not be given. 30

(b.) Such summons shall be returnable not less than ten nor more than twenty-one days after service thereof, and may be issued by the Warden either of his own motion or on the report of the Registrar or any Inspector that the mining privilege is believed to be abandoned by operation of law. 35

(c.) Such certificate shall not be given in the course of disposing of any such application as aforesaid until such holder has had an opportunity of appearing and showing cause. 40

(d.) For such purpose there shall be advertised by and at the expense of the applicant a copy of such application, with a notification thereon that upon the hearing of such application a certificate of abandonment may be given, unless cause to the contrary is shown. 45

(e.) Not later than ten days before the day of hearing, the applicant shall serve on such holder, and also affix on the land or race to which the application relates, a copy of such advertisement. 50

(f.) Such notification may form part of the original application.