WATER-RIGHT DOCKET

Bandelier National Monument

Docket No: 2

RITO DE LOS FRIJOLES

Preliminary Docket Information

00-00-0000: pipeline water rights

II. Pipeline Water Rights

1. Location Diagram: NM-BAN 6978
2. Location Diagram: NM-BAN 7112
3. April 2, 1943: Application for Permit #2470
4. June 3, 1943: Affidavit of Publication
5. June 9, 1944: Proof of Completion of Work #2470
6. July 19, 1944: Certificate of Construction #2470
7. May 24, 1945: Application for time extension #2470
8. May 28, 1947: Declaration of Beneficial Use
9. Feb.13, 1948: License to Appropriate Water #2470

BANDELIER NATIONAL MONUMENT

Water Rights #2

Bandelier Pipelines

Rito de los Frijoles courses through Frijoles Canyon, the location of a visitor center, hotel and appurtenances to same.

Water is diverted from the river by pipeline at a point approximately one and 3/4 miles upstream from the main visitor area. The appropriation, as detailed in this docket, is for a diversion of .03 second feet during the summer by Bandelier pipelines #1 and #2 to feed two separate reservoirs. Pipeline #1 is 8998 feet in total length and feeds a 20,000 gallon reservoir. Pipeline #2, totaling 7691 feet, feeds a 10,000 gallon reservoir.

There are three irrigation ditch diversions below the Monument's pipeline diversion. The pipeline application states that it does not interfere with the ditch diversion rights. According to N.P.S. Land Ownership Record, deed #4, A.J. Abbot acquired a Jan.27, 1915 license #802, to divert .50 second feet for irrigation. By state code, this is an appurtenant right which became federal property upon federal acquisition of the land. Mrs. Frey, apparently a successor to Abbot, has made an unproved claim that she owns this right. Also, the amount of this ditch right is subject to question. Correspondence mentions that it may now only be for .0715 second feet, as opposed to .50 second feet. Since the pipeline priority is junior to the ditch diversion, these questions should be settled.

A letter of Jan.31, 1963, from the Chief of the Branch of Water Resources to the Regional Director, Southwest Region, mentions that the 1960 case of U.S. v. H.F. Ballard (184 F. Supp.) held that the U.S. cannot lose water rights by non-use. However, in this case the attempt by the U.S. to enjoin private appropriation of the unused feeding waters outside the boundaries of Carlsbad Cavern National Park was rejected. The decision ordered the U.S. to drill for other water sources and to make better use of its existing storage capacity. Therefore, federal water rights should not be relied upon as being untouchable regardless of the circumstances.

By William Cruzen
LW SSC
December, 1966

02-24-1948: memorandum to regional director from chief regarding proof of water use at band

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
~~CHICAGO, ILLINOIS~~
Washington 25, D. C.

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

February 24, 1948.

MEMORANDUM for the Regional Director, Region Three.

Please refer to our memorandum of January 13 enclosing two copies each of Mr. Lassiter's letter of May 28, 1947, and the Engineer's Proof of water use at Bandelier National Monument under Water Right Permit No. 2470, with the request that these papers be placed in Bandelier National Monument Deed No. 5.

Our attention has just been called to a memorandum of September 27, 1945, from the Chief of Lands to your office, requesting that Bandelier Deeds Nos. 4 and 5 be changed to Deeds Nos. 3 and 4 respectively. Our memorandum of January 13 should, therefore, have requested insertion of the enclosed papers in Deed 4 rather than Deed 5. Our own records have now been changed to conform with the Chief of Lands' memorandum of September 27, 1945.

(SGD.) A. [illegible] L. [illegible]

Chief, Water Resources Branch.

In duplicate.



01-04-1952: memorandum to regional director from assistant chief regarding water rights dockets nos. 1 and 2

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D. C.

In reply refer to:
L54 BAND

January 4, 1952

Memorandum

To: Regional Director, Region Three

From: Assistant Chief, Water Resources Branch

Subject: Water Right Dockets Nos. 1 and 2, Bandelier National Monument

Attached are original Bandelier National Monument Water Right Dockets Nos. 1 and 2, formerly Deeds 3 and 4, for transmittal to the Superintendent after you have changed the numbering on your assemblies from the old deed numbers to the docket numbers. These dockets are henceforth to be retained in the files of the Superintendent of Bandelier National Monument as the official records of these water rights, and the copies now in his files should be destroyed.

By reference to our memorandum of May 10, 1944, to you, we note that folders for these assemblies were forwarded to you on that date, with a list of the papers to be inserted from your files. The attached assemblies should be compared with the ones in your office before transmittal in order to be sure that they are identical.

These water right dockets are being transferred to the files of the Superintendent of Bandelier National Monument in compliance with the procedure outlined in Mr. Tolson's memorandum of June 18, 1951, to all Regional Directors, relating to filing of water right assemblies.

(SGD) GORDON W. ROBERTSON

Gordon W. Robertson
Assistant Chief, Water Resources Branch

In triplicate

Attachments 2

Copy referred to Supt., Bandelier, Jan. 29, 1952 Feb. 14

Water Right Dockets Nos. 1 and 2, formerly Deeds 3 and 4, are transmitted herewith. However, instead of destroying the copies now in your files, please forward them to General Superintendent Davis for his records.

Land Division
Region Three Office

Copy to: Gen. Supt., SWNM

In reply refer to:
L54 BAND

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D. C.

February 5, 1952

Memorandum

To: Regional Director, Region Three

From: Assistant Chief, Water Resources Branch

Subject: Water Right Dockets Nos. 1 and 2, Bandelier

We have Mr. McColm's memorandum of January 30 relating to the conflict in numbering of the Bandelier National Monument water right deeds which now bear Docket Nos. 1 and 2.

We find in our files a copy of a memorandum of February 24, 1948, to you from the Chief, Water Resources Branch, referring to a previous memorandum of September 27, 1945, to you from the Chief of Lands, advising that Bandelier Deeds Nos. 4 and 5 had been changed to Nos. 3 and 4 in this Office and requesting that your own copies be renumbered correspondingly.

In view of the misunderstanding, it will be advisable for you to check the assemblies in your office with those to be sent to the Superintendent before transmittal, to be sure that the contents are identical. Otherwise, the matter is of no further consequence, since all assemblies now bear the same docket numbers.

(SGD) GORDON W. ROBERTSON
Gordon W. Robertson
Assistant Chief, Water Resources Branch

In triplicate

File clerk
O.K. 7/14/52 BEM

00-00-0000: license to appropriate water

STATE OF NEW MEXICO
OFFICE OF STATE ENGINEER

LICENSE TO APPROPRIATE WATER

License No. 2470 Book "L" Refers to Permit No. 2470

WHEREAS, on the 2nd day of April, 1943, the United States of America, Department of the Interior, National Park Service, Southwestern National Monuments of Santa Fe, County of Santa Fe, State of New Mexico, filed in the Office of the State Engineer of New Mexico, map and Formal Application, numbered 2470, for Permit to appropriate 11.00 acrefeet of water per annum from the Rito de los Frijoles, of the Rio Grande System, from January 1st to December 31st of each year for domestic and industrial uses and the irrigation of 1 acre of land in the W½ Section 24 and E½ Section 23, Township 18 North, Range 6 East, N.M.P.M., and

WHEREAS, on the 9th day of April, 1943, Notice of Publication was issued by the State Engineer, and proof of such publication was filed on the 14th day of June, 1943, and

WHEREAS, on the 16th day of June, 1943, no protests having been filed, said application was given due consideration and formally approved by the State Engineer for 0.03 cubic feet of water per second by direct diversion and 30,000 gallons of storage with the provision that it be not exercised to the detriment of any others having prior valid and existing rights to the use of the waters of said stream system and that 3 acrefeet of water per acre per annum be the maximum use on lands irrigated, and

WHEREAS, on the 9th day of June, 1944, the owner and holder of said Permit No. RA-2470 duly filed Proof of Completion of Works and certificate that said works had been inspected by J. R. Lassiter, a federal engineer and found to be properly constructed and adequate for the delivery of 0.03 cubic feet of water per second for domestic, recreational and industrial purposes and the irrigation of 1 acre of land, and,

WHEREAS, on the 19th day of July, 1944, the State Engineer of New Mexico issued Certificate of Construction No. 2470 accepting said works as being properly constructed and adequate for the purposes named, and,

WHEREAS, on the 24th day of May, 1945, the owner and holder of said Permit No. 2470 was granted an extension of time in which to file Proof of Application of Water to Beneficial Use, and

WHEREAS, on the 28th day of May, 1947, the owner and holder of said Permit No. 2470 duly filed Proof of Application of Water to Beneficial Use and report of final inspection made by J. R. Lassiter, Regional Engineer of the National Park Service, recommending issuance of a License to appropriate the surface waters of the State of New Mexico, in accordance with the laws of said State.

NOW, THEREFORE, I, John H. Bliss, State Engineer of the State of New Mexico, by virtue of the authority vested in me by the laws of said State, do hereby grant to the United States of America, Department of the Interior, National Park Service, of Santa Fe, County of Santa Fe, State of New Mexico, a license with a priority dating from the filing of Application No. 2470, being April 2, 1943 to appropriate 11 acrefeet of water per annum from the Rito de los Frijoles, part to be used for domestic, recreational and industrial uses during the entire year and not more than 3 acrefeet to be used for the irrigation of 1 acre of land located in the E½ of Section 23 and W½ of Section 24 both in Township 18 North, Range 6 North, N.M.P.M., during the irrigation season from April 1st to September 30th of each year, same to be used as above stated and can be changed only as provided by law, provided that the same shall not be exercised to the detriment of any others having prior valid and existing rights to the use of the waters of said stream system.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 13th day of February A. D. 1948.

State Engineer



01-13-1948: letter to state engineer from nps regarding request for an extension of time

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS
Washington 25, D. C.

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

January 13, 1948.

Mr. John H. Bliss,
State Engineer,
Santa Fe, New Mexico.

My dear Mr. Bliss:

In reply to your letter of January 5, we request that you consider our request for an extension of time in which to make proof of water use at Bandelier National Monument under Permit No. 2470 as cancelled. In cancelling the request, we also ask that you return the request, purchase order, and voucher to this Office for destruction.

It is also requested that you send the license, which you are about to issue, to this Office rather than to our Regional Office in Santa Fe.

We regret that there has been the confusion of the last few weeks. It is our general policy to handle all water right matters from this Office. We made an exception in the case of proof on this right because of the proximity of Mr. Lassiter, with the result that our records became somewhat incomplete.

Sincerely yours,

(SGD)
A. van V. Dunn,
Chief, Water Resources Branch.

cc: Regional Director, Region Three (2).



01-05-1948: memorandum to director from regional engineer regarding water rights

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

January 5, 1948.

MEMORANDUM for the Director,
Attention: Hydraulic Engineer Dunn.

Mr. J. H. Bliss, State Engineer of New Mexico, called me this morning relative to your letter to him of December 8, regarding the water rights at Bandelier National Monument, Permit No. 2470.

Mr. Bliss stated that he did not know how to act on your letter since he was in the process of issuing the final license as a result of my filing on May 28, 1947, of Proof of Application of Water for Beneficial Use. Since he was ready to issue the final license, I told him to return your letter with the application for extension of time to you.

After my conversation with Mr. Bliss, I looked up our files, and decided that a copy of my report to the State Engineer was never sent to your office, as extra copies were included in our files. There are enclosed two copies of my letter of May 28, 1947 to the State Engineer, and two copies of the accompanying Declaration of Use.

It is expected that within a few days, Mr. Bliss will issue a final license in the amount of .03 second foot with a limit of 11 acre-feet to be used during the season April 1 to September 30.

J. R. Lassiter,
Regional Engineer.

In duplicate.
Enclosure 2953188.

cc: Custodian, Bandelier, with
copy of enclosures.

12-05-1947: letter to state engineer from chief, water division regarding request for extension of time

Send to Bandelier
for .....
.....
By JMW Date 12-19
Fred

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
~~CHICAGO, ILLINOIS~~
Washington 25, D. C.

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

December 5, 1947.

Mr. J. H. Bliss,
State Engineer,
Santa Fe, New Mexico.

My dear Mr. Bliss:

The enclosed request for an extension of time in which to make beneficial use of water under Permit No. 2470, at Bandelier National Monument, is somewhat unique because proof of full demand for the water is available, and the source of supply and water system capacity are available. The inability to make proof for licensing results from the inadequacy of outlet conveniences, basically a public housing shortage in the Monument similar to that in the typical American city. We are faced with the added problem that the urban housing is more essential than that in the recreation areas of the nation at this time.

In considering this request, therefore, it is hoped that you will take cognizance of the significant priority system which must be followed by the United States, if its postwar recovery is to be successful.

A voucher for $10.00 to cover the fee required under Section 77-206(e) of the 1941 water code is enclosed, and should be signed and returned for payment.

Sincerely yours,

(SGD.) A. VAN V. DUNN
A. van V. Dunn,
Chief, Water Division.

Enclosure 656.

cc: Regional Director, Region Three (2).



Oct. 7, 1947

Memorandum for files,

Water rights have been taken care of by Mr. Lassiter. He advised that he submitted the final information last spring. He could not locate the final approval from the State but will follow it up.

Fred M. Bennion
Custodian

05-28-1947: letter to state engineer from regional engineer regarding two copies of proof of application of water to beneficial use

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

May 28, 1947.

Mr. John H. Bliss, State Engineer,
State of New Mexico,
Santa Fe, New Mexico.

Dear Mr. Bliss:

There are enclosed two copies of Proof of Application of Water to Beneficial Use and two copies of Final Inspection and Report, relating to permit No. 2470.

It is requested that you review these submissions and if found satisfactory, approve them and issue a license to appropriate water.

There is also enclosed original and two copies of voucher which is to be filled in with the cost of the filing fees, and signed by you and returned to this office, after which it will be placed in line for payment.

Yours very truly,

JAMES R. LASSITER

J. R. Lassiter,
Regional Engineer.

Enclosure 2850830.

cc: The Director.

05-28-1947: letter to state engineer from nps regarding water system installed in band

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

May 28, 1947.

Declaration of Use

Final Inspection and Report, Permit No. 2470

To: Mr. John H. Bliss, State Engineer, Santa Fe, New Mexico

The final inspection of the water system installed in Bandelier National Monument, administered by the National Park Service of the Department of the Interior, was made on April 2, 1947. It was found that the installation was in complete accordance with the details as shown on drawing entitled "Bandelier Pipe Lines, NM-BAN-6978" which was filed in your office on May 8, 1943.

1. The point of diversion is in the Rito de los Frijoles lying south 30 degrees 27 minutes east 1752.84 feet from point #9 on the Ramon Vigil Grant.

2. There were no changes from the plans as filed with the original application.

3. The pipe line has a capacity of .027 second feet to the first reservoir, .025 second feet to the second reservoir and an estimated capacity of .03 second feet when serving the developed area in conjunction with the reservoirs.

4. The beneficial use of water is based on the attendance figures maintained at Bandelier National Monument. This use is shown in detail under additional data shown on the Proof of Application of Water to Beneficial Use.

5. The period of heavy use is throughout the summer when tourist travel is at the peak. Overnight guests at the lodge are estimated to use 150 gpd per person, and day-use visitors to the area use 25 gpd per person. Residents and employees, totaling 16, are estimated to use 100 gpd per person. Irrigation use which is on scattered plots throughout the area is estimated at 7240 gpd. From the period April 1 to September 30, the full capacity of the system will be used. For the remainder of the year not more than .01 second feet will be required.

6. Approximately two acres of land within the developed area of the monument are irrigated with an average rate of 2 acre-feet per acre.

7. The holder of the permit is the same as original applicant.

8. The entire installation is within the area under the immediate control of the applimant.

I hereby certify that I am the engineer who made the inspection in the field of the works known as Bandelier National Monument Pipe Lines under permit No. 2470, diverting water from Rito de los Frijoles and have found them in satisfactory condition to deliver the full amount of water actually applied beneficially on the total area described in this report. I recommend that the State Engineer issue a certificate of construction and a license to appropriate the surface waters of the State of New Mexico in compliance with the laws of said state, and in accordance with recommendations herein contained. The said license to be limited to 11 acre-feet of water delivered on the land during the season April 1 to September 30, and to be limited to the said area upon which the water has been applied beneficially, as more fully described under permit No. 2470.

J. R. Lassiter,
Regional Engineer.

STATE OF NEW MEXICO
COUNTY OF SANTA FE

Subscribed and sworn to before me at Santa Fe, New Mexico, this twenty-eighth day of May, 1947.

Imogene C. Brooks
Notary Public

My commission expires 4/7/50.

05-28-1947: letter to state engineer from nps regarding water system installed in band, page 3cont

Manufacturing, Mining, Power and Like Purposes

The maximum diversion allowed under this permit is ..... cubic feet of water per second; the average amount required for above use is about ..... cubic feet of water per second.

During ..... (year), a maximum of ..... second feet was diverted and used in ..... quarter of section ....., Township ....., Range ....., N.M.P.M., for ..... purposes. State whether water is returned undiminished to the stream or whether some is consumptively used; if the latter, state the average amount in second feet consumed or lost: .....

Additional Data or Explanations not Included in above Statements

August - 1946 -

Lodge Guests - 1120 guest days @ 150 gpd	=	168,000
Camp Ground - 1380 camper days @ 100 gpd	=	138,000
Day Visitors - 3145 @ 20 gpd	=	62,900
Guest Use in August	=	368,900
Maximum Day Use (Assumed 1/15 of Total)	=	24,600
Employees Daily Use - 16 X 100 gpd	=	1,600
		3,000
Irrigation -		
Maximum Day Use -	=	29,200
Pipe Line Capacity 0.03 cu ft	=	22,800
Used from storage	=	6,400

The undersigned, being first duly sworn, upon my oath, state that I have read the foregoing statements and that the same are true to the best of my knowledge and belief.

..... Permittee

Subscribed and sworn to before me this ..... day of ....., 19

..... Notary Public

My commission expires:

00-00-0000: proof of application of water to beneficial use: surface waters

SUBMIT IN DUPLICATE ACCOMPANIED BY $5.00 FEE FOR ISSUING LICENSE TO APPROPRIATE

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

SURFACE WATERS

Permit No. 2470

Name of permittee

Post office address , County of ,

State of . If acting for permittee, give your name and title .

This permit, numbered , was formally approved by the State Engineer , 19 , to appropriate of water from , a tributary of , for purposes.

The point of diversion from the stream, or the outlet from the channel reservoir, is situated at a point in the quarter of the quarter of section , Township , Range , N.M.P.M., whence the of section , Township , Range , bears feet distant.

County Pipe Line has a working capacity of 0.03
(Name of main canal or conduit)

cubic feet per second. (If more than one, give name or location and capacity of each):

Storage capacity of reservoir is 20,000 gallons ~~acre feet.~~

Irrigation and Domestic Uses

The amount of water required to be delivered on the land during the Season
(year, irrigation season)

from June 1 to Sept 30

for irrigation and domestic purposes is 0.03 cu ft per second
(ac. ft. per ac., or sec. ft.)

and for the remainder of the year is 0.01 cu ft per second for

Domestic purposes.

During 1946 (year) approximately 2 acre feet per acre

was applied to beneficial use on 2 acres of land described as follows:

Subdivision	Section	Township	Range	Acres	Owner

See "Additional Data" for explanation of Domestic Use.

05-24-1945: letter to state engineer from chief regarding application for extension of time

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 54, ILL.



May 24, 1945.

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

State Engineer,

Santa Fe, New Mexico.

Dear Sir:

In filing the attached application for extension of time in which to make beneficial use of water under water right permit No. 2470, attention is called to the extent that such use is dependent on uncontrolled attendance at Bandelier National Monument. In order to keep further requests to a minimum, we request as long an extension as possible. Like the use of a municipality, the exact date of full use can only be estimated.

Very truly yours,

A. van V. Dunn,
Chief, Water Rights Division.

Enclosure 242. cc: Regional Director, Region Three (2).

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 54, ILLINOIS

No. RD-168.
June 4 1945

MEMORANDUM for the Regional Directors.

Your attention is called to paragraph 10 of the memorandum of February 16 (No. RD-102) relating to water rights, which specifies that correspondence on such matters shall be submitted to the Director in duplicate. The majority of such correspondence is being received with no second copy, particularly when regional officials forward communications from the field areas. All field officials should see that sufficient copies are provided for proper distribution.

Please distribute copies of this memorandum to the appropriate officials in your regions.

Acting Director.

0-660-05.7 Water Rights.
11601

05-24-1945: application for extension of time

IMPORTANT—Read Instructions on Back Before Filling Out This Form

Application for Extension of Time
in Which to Perfect An Appropriation of Surface Waters

Book No. L File No. 2470

Before the State Engineer
Santa Fe, New Mexico

The undersigned, United States of America, Department of the Interior, National Park Service, by A. van V. Dunn, Chief, Water Rights Division of Chicago, County of Cook, State of Illinois, hereby applies for an extension of time in which to apply water to beneficial use *under file No. 2470 recorded in the State Engineer's Office. Said permit was formally approved by the State Engineer, June 16, 19 43 **. The prevailing dates set by the State Engineer are as follows:

File Formal Application for Permit on or before -- , 19 .

Complete the Works on or before completed , 19 .

Apply Water to Beneficial Use on or before June 16, , 19 45 .

The period of time fixed by the above limiting dates has proved to be insufficient and additional time is requested for the following reasons (reasons should be stated in detail and, if desired or necessary, may be accompanied by photographs, affidavits, etc., as evidence in support of statement): The water system was constructed to provide water for an increasing number of annual visitors and the permit No. 2470 covers the use up to the capacity of the pipe line. The attendance and water demand have been below normal during the war as shown by the following record of the annual number of visitors for the past 10 years: 1935 - 12,381; 1936 - 12,944; 1937 - 14,380; 1938 - 14,619; 1939 - 10,998; 1940 - 13,669; 1941 - 11,727; 1942 - 4,392; 1943 - 4,171; and 1944 - 7,472. Irrigation and other operating water use has also been curtailed through wartime restrictions since the pipe line was completed. The extension of time is essential until we can prove use on attendance commensurate with that between 1935 and 1941 as anticipated after the war.

Request is hereby made to extend the time previously granted by the State Engineer by changing the above limiting dates to read as follows:

File Formal Application for Permit on or before -- , 19 .

Complete the Works on or before -- , 19 .

Apply Water to Beneficial Use on or before June 16, , 1947-48 , or 2 years after close of the war.

I, A. van V. Dunn ,

being first duly sworn, upon my oath, depose and say that I have read the foregoing statements, affidavits, etc., and that the same are true to the best of my knowledge and belief.

(Sgd) A. van V. Dunn Applicant

County of Cook)
State of Illinois)

(Seal) Subscribed and sworn to before me this 24th day of May , A. D., 19 45 .

My commission expires: January 16th, 1947 (Sgd) C. A. Sandberg
Notary Public

F I L E D

*(a) File Formal Application for Permit to Appropriate, (b) Complete the Works, or (c) Apply Water to Beneficial Use.
**Leave this date blank if Notice of Intention only has been filed.

28
OFFICE STATE ENGINEER
SANTA FE, N. M.

EXTENSION OF TIME

Approval of State Engineer

The Number of this Application is 2470 Recorded in Book L

Date of Receipt of Application May 28, 1945 Extension of Time Granted two years

This is to certify that I have examined the above application for additional time in which to perfect an appropriation of water and, after considering the merits thereof, do hereby grant an extension of time to the following dates:

File Formal Application for Permit on or before _____, 19____.

Complete the Works on or before _____, 19____.

Apply Water to Beneficial Use on or before June 16, 1947, 19____.

Witness my hand this 28th day of May A. D., 19 45

(Sgd) Thomas M. McClure
State Engineer

INSTRUCTIONS

See Manual of Revised Rules and Regulations

This application shall be filed in duplicate accompanied by a fee of $10.00. In making request for additional time, fill out only those dates applicable.

Due diligence should be exercised by the applicant at all times in order to complete his appropriation promptly and within the time limits set in the permit. Should conditions unavoidably delay the work, however, the State Engineer may, upon request of the applicant, grant reasonable extensions of time as provided by statute, but not to exceed 2 years for any single extension. Extensions of time to complete works or to apply water to beneficial use may, in general, aggregate not more than 5 years as to either completion of works or application to beneficial use; provided, however, that in any case where it may be shown by sworn affidavits and other evidence that at least one-fourth (¼th) of the work has been constructed within the aggregate time allowed for completion of works, the State Engineer may, upon such reasonable terms and conditions as he may prescribe, extend the time for such additional periods as he may deem necessary. The construction of at least one-fourth of the works is required by statute as evidence of the good faith and intentions of the permittee, and failure to complete such partial construction within the time allowed must be taken as evidence of the permittee's inability or lack of intention to proceed with the filing.

Extensions of Time may be granted in the following cases:

1. If time in which to file Formal Application for Permit has expired and holder of Notice of Intention can show good reason why additional time in which to prepare filing maps, plans, etc., should be granted, the State Engineer may extend the limiting date. It should be noted that Extensions of Time are granted on Notices of Intention only in unusual or special cases and that in no case may the aggregate time allowed for filing Formal Application, maps, etc., exceed three (3) years.

2. After formal approval of the application by the State Engineer, the permittee is given a certain length of time in which to construct his project, but if, for good and sufficient reason he should be unable during this period to complete such construction, he may, upon proper showing before the State Engineer, be granted an extension of time to complete the works.

3. Permittee may find that unusual conditions make it impossible for him to apply water to beneficial use within the period of time allowed. In such case the State Engineer may, if he deems the reasons submitted sufficient, grant permittee additional time to apply water to beneficial use.

In addition to the statements appearing in this form, applicant may submit photographs of works completed, destroyed, etc., affidavits and/or any other pertinent evidence in support of his application for extension of time. They should be labeled "Exhibit A," "Exhibit B," etc. Such evidence may be specifically required by the State Engineer as evidence of construction of at least one-fourth of the works.

No extension of time shall be granted unless sufficient proof is shown to justify such extension.

Note: If additional space is required, use a separate sheet of paper and attach securely hereto.

08-30-1944: letter to hydraulic engineer from assistant state engineer regarding two copies of certificate of construction on permit

COPY

STATE OF NEW MEXICO

Thomas M. McClure
State Engineer

OFFICE OF
STATE ENGINEER

SANTA FE

August 30, 1944.

Mr. A. van V. Dunn,
Hydraulic Engineer,
U.S. Department of the Interior,
National Park Service,
Chicago, 54, Illinois.

Re: File No. 2470

Dear Mr. Dunn:

The two copies of Certificate of Construction on Permit No. 2470 that you returned to us have been received.

We are returning to you the corrected copy. We regret any inconvenience this error might have caused you.

Very truly yours,

Thomas M. McClure,
State Engineer.

By: (Sgd.) John H. Bliss
Assistant State Engineer.

rm
encl.
Copy of Certificate of
Construction

07-19-1944: certificate of construction: certificate no. 2470

STATE OF NEW MEXICO

OFFICE OF STATE ENGINEER

CERTIFICATE OF CONSTRUCTION

Certificate No. 2470 Book L Refers to Permit No. 2470

This is to certify that the works known as the Bandelier Pipe Lines, constructed under authority of Permit No. 2470, diverting its water supply from Rito de Los Frijoles, a tributary of the Rio Grande at a point whence Corner No. 9 of the Ramon Vigil Grant bears N. 30° 27' W., 1732.64 feet distant, being located in the NW¼SE¼ of Section 15, Township 18 North, Range 6 East, N. M. P. M., after having been inspected and certified by J. R. Lassiter, a federal engineer and the certification filed in the Office of State Engineer of New Mexico, were accepted as properly constructed and adequate for the delivery of 0.03 cubic feet of water per second for domestic, recreational, industrial purposes, and the irrigation of 1 acre of land, the constructed works consisting of small diversion dam, collecting pipe, system of pipe lines, and two storage tanks of 10,000 gallons and 20,000 gallons respective capacities.

WITNESS my hand this 19th day of July, 1944.

(Sgd) Thomas M. McClure
State Engineer

F I L E D

Aug 28 1944

OFFICE STATE ENGINEER
SANTA FE, N. M.

08-14-1944: letter to hydraulic engineer from state engineer regarding copy of corrected certificate of construction

C O P Y

STATE OF NEW MEXICO

Thomas M. McClure
State Engineer

OFFICE OF
STATE ENGINEER

SANTA FE

File No. 2470

August 14, 1944.

Mr. A. van V. Dunn,
Hydraulic Engineer,
U. S. Department of the Interior,
National Park Service,
Chicago, 54, Ill.

Dear Sir:

Enclosed herewith is copy of corrected certificate of construction. We shall appreciate your returning to this office the first copy sent you.

Thanking you for calling this error to our attention.

Very truly yours,

(Sgd.) Thomas M. McClure
State Engineer.

RECEIVED
SEP 6 1944
REGIONAL PLANNING
DEPARTMENT

m
encl.
cc-Mr. Chas. A. Richey,
Asst. Regional Director,
Box 1728,
Santa Fe, N. M.

08-09-1944: letter to state engineer from hydraulic engineer regarding certificate of construction relating to water right permit no. 2

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 54, ILL.



ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

August 9, 1944.

Mr. Thomas M. McClure,
State Engineer,
Santa Fe, New Mexico.

Dear Mr. McClure:

We have just received a copy of the Certificate of Construction relating to Water Right Permit No. 2470 for Bandelier National Monument and signed by you on July 19, 1944.

On the last line the certificate refers to "10,00 gallons and 20,000 gallons respective capacities". The smaller reservoir should have 10,000 and not 1,000 gallon capacity and the typographic error should be corrected to eliminate doubt.

Yours very truly,

(SGD.) A. VAN V. DUNN

A. van V. Dunn,
Hydraulic Engineer.

cc: Regional Director, Region Three (2).

Thomas Bandelier

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 54, ILL.

August 9,1944.



ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

MEMORANDUM for the Regional Director, Region Three.

The enclosed two copies of certificate of construction under water right Permit No. 2470 are to be inserted at the top of the assemblies in the copies of Bandelier National Monument Deed 5 in the Region Three office and Bandelier National Monument files.

The signed copy has been attached to the Director's assembly of the same deed. It is assumed that the signed original was retained by the State Engineer as that procedure seems to be quite common. However, if it was sent to you it should be forwarded here for the Director's assembly.

By the attached copy of a letter to the State Engineer you will note a typographical error in reservoir capacity on the certificate. Instead of correcting the certificate now, it is proposed to attach the State Engineer's letter of reply when received.

(SGD.) A. VAN V. DUNN

A. van V. Dunn,
Hydraulic Engineer.

Enclosure 812576.
In duplicate.
Forwarded 8/11 (illegible)

06-20-1944: letter to assistant regional director from state engineer regarding duplicate of the proof of completion of works no. 247

660.05.7

STATE OF NEW MEXICO
Office of
STATE ENGINEER
Santa Fe

June 20, 1944.

File No. 2470

Mr. Charles A. Richey,
Assistant Regional Director,
Region Three,
Dept. of Interior,
National Park Service,
Box 1728,
Santa Fe, N. M.

Dear Sir:

Enclosed herewith is duplicate of the proof of completion of works No. 2470 in the name of the National Park Service for their files.

The proof of application of water to beneficial use will be due in this office on June 16, 1945, and forms for this purpose will be sent you.

Very truly yours,

/s/ Thomas M. McClure

State Engineer.

m
encl.

00-00-0000: proof of completion of works

(SUBMIT IN DUPLICATE ACCOMPANIED BY $5.00 FEE FOR CERTIFICATE OF CONSTRUCTION)

PROOF OF COMPLETION OF WORKS

SURFACE WATERS

State of New Mexico } ss.
County of Santa Fe

Permit No. 2470

I, United States of America, Department of the Interior, National Park Service, by Charles A. Richey, Assistant Regional Director, Region Three of Santa Fe, New Mexico, County of Santa Fe, State of New Mexico, being first duly sworn, do hereby certify that I am the owner and holder of a permit to appropriate water from Rito de los Frijoles (river, spring, arroyo, seepage, etc.), a tributary of Rio Grande (river, stream system, closed basin, etc.), in the County of Sandoval, for domestic, recreational, and industrial purposes;

that Formal Application for said permit together with necessary maps, plans and specifications was received and filed in the office of the State Engineer of New Mexico under No. 2470; that said application, maps, plans, and specifications were approved by the State Engineer on the 16 day of June, 19 43; that the works necessary to accomplish the appropriation of water in accordance with the terms of said permit have been completed; that the following statement of facts is submitted in proof of the completion of said works; and that said statement and each and all of the items contained therein are true to the best of my knowledge and belief.

Charles A. Richey
Assistant Regional Director, Region Three

Subscribed and sworn to before me this 9 day of June, 19 44

My commission expires 4-7-46 Dorothy C. Brooks
Notary Public.

STATEMENT

1. Name of appropriator United States of America, Department of the Interior, National Park Service
2. Postoffice address P. O. Box 1728, Santa Fe, New Mexico
3. The direct source of supply is Rito de los Frijoles (reservoir, river, lake, drainage, etc.) in the Rio Grande basin or stream system.
4. The point of diversion (or outlet from channel storage) is situated at a point in the northwest quarter of the southeast quarter of section 15, Township 18 N, Range 6 E, N. M. P. M., whence the Ramon Vigil Grant Corner No. 9 of the ——— of section ———, Township ———, Range ———, bears N 30°27' W, 1732.64 feet distant.
5. The constructed works consist of Diversion dam, perforated collecting pipe buried in intake ditch, control gate chamber, diversion and distribution pipes, and two distribution tanks. (enumerate diversion dams, main canals, headgates, pipelines, flumes, reservoirs, laterals, etc.)
6. DIVERSION CANAL FROM STREAM OR FROM CHANNEL RESERVOIR (direct diversion project, diversion to off-channel reservoir, or diversion from a channel reservoir).

The main canal or conducting channel is constructed of earth with 10" perforated iron pipe buried therein (earth, concrete, pipe, etc.) and has the following properties: total length, 50 feet; bottom width, 2 feet; side slopes of 1 ft. to 1 ft.; effective or working depth, 2 feet; fall of ——— feet per 1,000 feet; area of cross-section, ——— square feet; and will discharge at maximum effective depth, ——— second-feet of water. If a pipe line, circular flume, etc., give inside diameter or other pertinent dimensions, length, effective slope, etc., cross-sectional area and capacity in second-feet: The pipe intake, with following 2 inch diversion pipe has an effective grade of 7.913 ft. per 1000 ft. and capacity of approximately 0.03 cubic ft. of water per second.

7. DIVERSION DAM

The diversion dam is constructed of masonry (brush, rock, concrete, masonry, etc.); crest length, 30 feet; crest width, 5 feet; height above stream bed, 5 feet; depth below stream bed, variable feet; side-slopes of negligible to _____ on upstream and _____ to negligible on downstream faces; and contains about 50 cubic yards of material.

8. STORAGE DAM

The storage dam is a — (gravity, arch, hollow arch, etc.) type constructed of _____ (earth, rock, concrete, masonry, etc.), with a core wall or impervious fill of _____; maximum height of dam above stream bed, _____ feet; depth below stream bed, _____ feet; upstream slope, _____ to _____ with _____ riprapping; downstream slope, _____ to _____, with _____ riprapping; free board above maximum high water line, _____ feet; crest length, _____ feet; crest width, _____ feet; crest elevation (sea level or assumed datum), _____ feet; drainage area above dam, _____ square miles; area of reservoir at high-water line, _____ acres; capacity of reservoir, _____ acre feet; dam contains about _____ cubic yards of material; total cost of dam and outlet works $_____.

The spillway is located _____ (at side, over center of dam, or elsewhere); is _____ feet long lined with _____; has a bottom width of _____ feet; cross-sectional area at maximum high water, _____ feet; maximum discharge capacity, _____ second-feet; and has a flow-line elevation (sea level or assumed datum) of _____ feet.

The outlet works consist of (describe fully, giving size, type and location of gates with respect to dam and access thereto; length, material, shape, cross-sectional area and location of outlet conduit with respect to dam, also flow-line elevation and discharge at full reservoir level): _____

The 2" diversion pipes discharge into two concrete tanks or reservoirs of 10,000 gallon and 20,000 capacities, respectively, whence distribution is made by 3" and 4" pipes respectively.

9. MAIN CANAL BELOW OFF-CHANNEL RESERVOIR AND/OR OTHER MAIN CANALS (describe each according to outline given under No. 6 of Statement): _____

The 10" pipe terminates at control valves whence 9218 feet of 2" C.I. pipe convey the water to the distribution tanks.

10. Does permittee hold all necessary rights-of-way for above works without controversy? Yes

11. Construction of works was completed prior to 1941

Additional Remarks: _____

ENGINEER'S CERTIFICATE

State of New Mexico
County of Santa Fe, } ss.

I, J. R. Lassiter, Regional Engineer, National Park Service
County of Santa Fe, State of New Mexico, having been duly sworn, upon my oath state that I am a ~~qualified registered~~ federal engineer and/or land surveyor; that I have inspected the works as above set forth and find them to be completed in accordance with the foregoing statement of facts; that they are properly and safely constructed and are now in a satisfactory condition for acceptance.

Signed J. R. Lassiter

License No. _____

Subscribed and sworn to before me this 9th day of June, 1941

My commission expires 4/7/46

Dionysia B. Brown
Notary Public.

09-16-1943: letter to hydraulic engineer from state engineer regarding error made on the approval of the application for permit to a

SEP 21 1943

STATE OF NEW MEXICO

OFFICE OF

STATE ENGINEER

THOMAS M. McCLURE
STATE ENGINEER

SANTA FE

File No. 2470

September 16, 1943.

Bandelier

Mr. A. van V. Dunn,
Hydraulic Engineer,
National Park Service
Water Rights Section
San Francisco, California.

Dear Mr. Dunn:

We have your letter of the 13th advising that an error was made on the approval of the application for permit to appropriate water on application No. 2470, National Park Service.

The correction has been made on the original, and we authorize you to make the same change on your copy. We have also found the original application has never been signed and notarized by the applicant. We are therefore returning the application to you for this purpose and ask you to please see that this is done at once and returned to this office as this is our only record of the application.

Very truly yours,

Thomas M. McClure
State Engineer.

By: Jean Teague
Chief Clerk.

JT
encl.

09-13-1943: letter to state engineer from hydraulic engineer regarding dozen copies of the blank forms used in proof of completion

September 13, 1943.

State Engineer,

Santa Fe, New Mexico.

Dear Sir:

Will you please send us a dozen copies of the blank forms used in Proof of Completion of Work under a water right permit.

As a further matter, we have just received a copy of the Water Right Permit No. 2470 from the Superintendent and note that under your approval the direct diversion reads 0.03 acre feet per second instead of cubic feet per second. We shall only prove diversion to the extent of pipe capacity of 0.03, or 0.027, cubic feet per second. We wonder whether you would like to have the permit returned for correction or let the matter stand until proof is made.

We should probably explain, too, that we are still holding your voucher for filing fee relating to this permit. The voucher was not received until after the first of July when old appropriations closed. We have not yet received release of our 1944 fiscal year funds, but expect them daily and will see that payment is made promptly on their receipt.

AvVD:SH

A. van V. Dunn,
Hydraulic Engineer.

FILE COPY

00-00-0000: proof of completion of works: surface waters; permit no. 2470

(SUBMIT IN DUPLICA\ ACCOMPANIED BY $5.00 FEE FOR CER (CATE OF CONSTRUCTION)

PROOF OF COMPLETION OF WORKS

SURFACE WATERS

State of New Mexico } ss.
County of Santa Fe

Permit No. 2470

I, United States of America, Department of the Interior, National Park Service, by Charles A. Richey, Assistant Regional Director, Region Three of Santa Fe, County of Santa Fe State of New Mexico, being first duly sworn, do hereby certify that I am the owner and holder of a permit to appropriate water from Rito de los Frijoles (river, spring, arroyo, seepage, etc.), a tributary of Rio Grande (river, stream system, closed basin, etc.), in the County of Sandoval, for domestic, recreational, and industrial purposes; that Formal Application for said permit together with necessary maps, plans and specifications was received and filed in the office of the State Engineer of New Mexico under No. 2470; that said application, maps, plans, and specifications were approved by the State Engineer on the 16 day of June, 1943; that the works necessary to accomplish the appropriation of water in accordance with the terms of said permit have been completed; that the following statement of facts is submitted in proof of the completion of said works; and that said statement and each and all of the items contained therein are true to the best of my knowledge and belief.

Charles A. Richey
Assistant Regional Director, Region Three

Subscribed and sworn to before me this 9th day of June, 19 44

My commission expires 4/7/46

Sgnd. Imogene C. Brooks
Notary Public.

STATEMENT

1. Name of appropriator United States of America, Department of the Interior, National Park Service
2. Postoffice address P. O. Box 1728, Santa Fe, New Mexico
3. The direct source of supply is Rito de los Frijoles (reservoir, river, lake, drainage, etc.) in the Rio Grande basin or stream system.
4. The point of diversion (or outlet from channel storage) is situated at a point in the northwest quarter of the southeast quarter of section 15, Township 18 N, Range 6 E, N. M. P. M., whence the Corner No. 9 of the Ramon Vigil Grant of section, Township, Range, bears N 30°27' W., 1732.64 feet distant.
5. The constructed works consist of Diversion dam, perforated collecting pipe buried in intake (enumerate diversion dams, main canals, headgates, pipelines, flumes, reservoirs, laterals, etc.) ditch, control gate chamber, diversion and distribution pipes, and two distribution tanks.
6. DIVERSION CANAL FROM STREAM OR FROM CHANNEL RESERVOIR (direct diversion project, diversion to off-channel reservoir, or diversion from a channel reservoir).
   The main canal or conducting channel is constructed of earth with 10" perforated iron pipe buried therein (earth, concrete, pipe, etc.)
   and has the following properties: total length, 50 feet; bottom width, 2 feet; side slopes of 1 ft. to 1 ft.; effective or working depth, 2 feet; fall of feet per 1,000 feet; area of cross-section, square feet; and will discharge at maximum effective depth, second-feet of water. If a pipe line, circular flume, etc., give inside diameter or other pertinent dimensions, length, effective slope, etc., cross-sectional area and capacity in second-feet: The pipe intake, with following 2 inch diversion pipe has an effective grade of 7.913 ft. per 1000 ft. and capacity of approximately 0.03 cubic ft. of water per second.

7. DIVERSION DAM

The diversion dam is constructed of masonry (brush, rock, concrete, masonry, etc.); crest length, 30 feet; crest width, 5 feet; height above stream bed, 5 feet; depth below stream bed, variable feet; side-slopes of negligible to ____ on upstream and ____ to negligible on downstream faces; and contains about 50 cubic yards of material.

8. STORAGE DAM

The storage dam is a — (gravity, arch, hollow arch, etc.) type constructed of ____ (earth, rock, concrete, masonry, etc.), with a core wall or impervious fill of ____; maximum height of dam above stream bed, ____ feet; depth below stream bed, ____ feet; upstream slope, ____ to ____ with ____ riprapping; downstream slope, ____ to ____, with ____ riprapping; free board above maximum high water line, ____ feet; crest length, ____ feet; crest width, ____ feet; crest elevation (sea level or assumed datum), ____ feet; drainage area above dam, ____ square miles; area of reservoir at high-water line, ____ acres; capacity of reservoir, ____ acre feet; dam contains about ____ cubic yards of material; total cost of dam and outlet works $____.

The spillway is located ____ (at side, over center of dam, or elsewhere); is ____ feet long lined with ____; has a bottom width of ____ feet; cross-sectional area at maximum high water, ____ feet; maximum discharge capacity, ____ second-feet; and has a flow-line elevation (sea level or assumed datum) of ____ feet.

The outlet works consist of (describe fully, giving size, type and location of gates with respect to dam and access thereto; length, material, shape, cross-sectional area and location of outlet conduit with respect to dam, also flow-line elevation and discharge at full reservoir level):

The 2" diversion pipes discharge into two concrete tanks or reservoirs of 10,000 gallon and 20,000 capacities, respectively, whence distribution is made by 3" and 4" pipes respectively.

9. MAIN CANAL BELOW OFF-CHANNEL RESERVOIR AND/OR OTHER MAIN CANALS (describe each according to outline given under No. 8 of Statement):

The 10" pipe terminates at control valves whence 9218 feet of 2" G.I. pipe convey the water to the distribution tanks.

10. Does permittee hold all necessary rights-of-way for above works without controversy? Yes

11. Construction of works was completed prior to 1941

Additional Remarks: ____

ENGINEER'S CERTIFICATE

State of New Mexico
County of Santa Fe } ss.

I, J. R. Lassiter, Regional Engineer, National Park Service

County of Santa Fe Federal, State of New Mexico, having been duly sworn, upon my oath state that I am a ~~registered~~ engineer and/or land surveyor; that I have inspected the works as above set forth and find them to be completed in accordance with the foregoing statement of facts; that they are properly and safely constructed and are now in a satisfactory condition for acceptance.

Signed Sgnd. J.R.Lassiter

License No. ____

Subscribed and sworn to before me this 9th day of June, 19 44

My commission expires 4/7/46

Sgnd. Imogene C. Brooks
Notary Public.

File ny

FILED
Apr. 2 1943
OFFICE STATE ENGINEER

IMPORTANT—READ INSTRUCTIONS ON BACK BEFORE FILLING OUT THIS FORM

Santa Fe, N. M.

APPLICATION FOR PERMIT

To Appropriate the Public Surface Waters of the State of New Mexico

Book No. "L" File No. 2470

1. Date of receipt of formal application April 2, 1943
2. Name of applicant United States of America, Department of the Interior, National Park Service, by Charles A. Richey, Superintendent, Southwestern National Monuments,
   Post Office address P.O. Box 1728, Santa Fe, County of Santa Fe,
   State of New Mexico
3. If applicant is a corporation give: (a) Date and place of organization
   (b) Amount of capital stock, $ (c) Amount paid in, $
   (d) Names and addresses of directors
4. Quantity of unappropriated water applied for 11.00 acre feet;
   (a) By direct diversion 11.0 acre feet; (b) by storage acre feet;
   (c) During summer months direct diversion of 0.03 sec. ft. is proposed with winter reductions to fit needs. The storage is purely regulatory for daily and hourly fluctuations and to provide fire protection.
5. Period of annual use January 1 to December 31
6. Source of water supply: (a) Name of stream or watercourse Rito de los Frijoles in Sandoval County
   (b) which is a tributary of Rio Grande
   (c) or is situated in Sections 15,14,23-25, Township 18 N, Range 6E (unsurveyed)
7. Location of point of diversion or outlet from channel-reservoir storage: NW quarter of the SE quarter of Section 15, Township 18N, Range 6 E, N.M.P.M., at a point whence the Corner No. 9 of Ramon Vigil Grant of Section , Township , Range , bears N 30° 27' W , 1732.64 feet distant.
8. To be used for Domestic, recreational and industrial purposes.
9. If used for IRRIGATION AND DOMESTIC PURPOSES fill in the following:
   (a) Application is hereby made for 3 acre feet of water per acre for irrigation and domestic (and domestic) purposes; (b) if application is made for water during the non-irrigation season, state the need for the same: Irrigation will be incidental and limited to hose sprinkling of small plots of native shrubbery around buildings. Domestic use at various employees residences is required all year.
   (c) number of acres to be irrigated acres, described as follows:

Subdivision	Sec.	Twp.	Rge.	Acres	Owner
E ½	23	18 N	6 E)	1	United States
W ½	24	"	")		

This irrigation is too scattered in plots of 5 to 100 square feet to be defined specifically. It is all limited to portions of aforesaid section in Bandelier National Monument on the floor of Rito de los Frijoles Canyon.

This claim does not involve any rights in the Rito de los Frijoles Ditch System under license No. 802 in the same general vicinity, which are claimed by Mrs. Evelyn C. Frey.

10. If used for MANUFACTURING, MINING, POWER OR LIKE PURPOSES fill in the following:
(a) Application is hereby made for 0.03 second feet of water to be used for domestic, recreational and industrial purposes;
(b) power to be generated -- horsepower; (c) conducted by 2" G. I. pipe (give size and description of conduit)
9218 feet in length; (d) from a point in the NW quarter of SE quarter of Section 15, Township 18 N, Range 6 E, N.M.P.M., (e) to a point where the water will be returned to the stream substantially undiminished in quantity in the NW quarter of NW quarter of Section 25, Township 18 N, Range 6 E whence the (see question 14) of Section ____, Township ____, Range ____ bears ____ feet distant; (f) the amount of water which will be consumptively used in the above operation is: probably not over 30%

11. Describe diversion dam, stating construction materials, character of foundation, dimensions, etc. masonry dam is 30' long, 5' thick and 5' high with spillway full width of creek. A 10" perforated iron pipe 50' long is buried in a ditch from resulting pool which drains into concrete collecting vault with control gates at intake to 2" pipe.

12. Hydraulic properties of main canal or conduit Bandelier Pipe Line No. 1 (name or number):
Bottom width ____ feet; depth of water at full operating capacity ____ feet; total depth including freeboard ____ feet; side slopes ____ horizontal to 1 vertical; diameter (pipe line or circular flume) 0.1725 feet; slope 7.913 feet per 1000 feet; hydraulic radius 0.043125 feet; coefficient of roughness (n) 0.014; velocity at full capacity 1.1337 feet per second; capacity 0.025 cubic feet per second; length of canal 8998 ft. of which first 7471 ft. is also common to Pipe Line No. 2, the location being as shown on the filing maps accompanying this application.

12a. Hydraulic properties of main canal or conduit Bandelier Pipe Line No. 2 (name or number):
Botton width ____ feet; depth of water at full operating capacity ____ feet; total depth including freeboard ____ feet; side slopes ____ horizontal to 1 vertical; diameter (pipe line or circular flume) 0.1725 feet; slope 9.244 feet per 1000 feet; hydraulic radius 0.043125 feet; coefficient of roughness (n) 0.014; velocity at full capacity 1.223 feet per second; capacity 0.027 cubic feet per second; length of canal 7691 ft. of which first 7471 ft. is also common to Pipe Line No. 1, the location being as shown on the filing maps accompanying this application.

13. Hydraulic properties of storage dam: Maximum height above foundation -- feet; length of crest ____ feet; maximum width at base ____ feet; crest width ____ feet; slope of upstream face ____; slope of downstream face ____; elevation at crest of dam ____ feet; elevation of spillway crest ____ feet; elevation of flow line of outlet conduit ____ feet; freeboard (above high water line at maximum spill) ____ feet; width of spillway ____ feet; discharge capacity of spillway ____ cubic feet per second; size and character of outlet conduit ____; discharge capacity of outlet under full head ____ cubic feet per second; type of dam, construction material, etc., ____

Elevation or Depth above Outlet	Area of Water Surface, Acres	Storage Capacity, Acre Feet	Remarks

14. Additional data or explanations: The water is used for sanitary and culinary purposes at 5 employees' residences, a hotel with rooms for 65 people, a campground with capacity for 190 people, at a 12-man dormitory, at public comfort stations, and at the Monument Utility Area and stables. It has also served a CCC camp of 225-man capacity. Between 1932 and 1940 public attendance increased from 4,164 to 14,619 per year. All use has dropped during the war, but is expected to return to the normal trend of increase with peace. Two concrete reservoirs with total capacity of 30,000 gallons provide regulatory distribution.

Monument sewage is treated in a septic tank and sprayed on the bank of Rito de las Frijoles, according to a design approved by the U. S. Public Health Service and State Sanitary Engineer, such that it filters back to the creek relatively undepleted in quantity.

15. Estimated costs: Main canal or conduit . . . $ 7,000.
Storage dam . . . . . $ —
Structures $ 8,000
Total cost $ 15,000 to distribution reservoirs.

16. Time required to begin construction completed;
time required to complete the works completed;
time required to fully apply water to beneficial use until 2 years after war.

17. References:

I, {United States of America, Department of the Interior, National Park Service, by Charles A. Richey, Superintendent, Southwestern National Monuments,} applicant, being first duly sworn, upon my oath, depose and say that I have read the foregoing statements and that the same are true to the best of my knowledge and belief:

/s/ Charles A. Richey, Applicant

Subscribed and sworn to before me this 25th day of September, 19 43.

/s/ Imogene C. Brooks
(Notary Public)

My commission expires 4-7-46.

Approval of State Engineer

Number of this permit 2470 Date received corrected
Recorded in Book L Page 2470 Publication of Notice ordered April 9, 1943
Notice of Intention received Name of Paper Santa Fe New Mexican
Formal Application received April 2, 1943 Affidavit of Publication filed June 14, 1943
Date returned for correction Date of approval June 16, 1943

This application is approved for 0.03 cubic feet per second ~~acre feet~~ of water by direct diversion and 30,000 gallons ~~acre feet~~ of storage water from Rito de los Frijoles (source of supply) provided it is not exercised to the detriment of any others having prior valid and existing rights to the use of the waters of this stream system and further provided that 3 acre feet per acre per annum shall be the maximum use on lands irrigated.

Construction of works to be completed on or before June 16, 1944
Water to be applied to beneficial use on or before June 16, 1945

This is to certify that I have examined the above application for permit to appropriate the public surface waters of the State of New Mexico and hereby approve the same subject to the foregoing provisions and conditions.

Witness my hand and seal this 16th day of June, A.D., 19 43.

/s/ Thomas M. McClure
State Engineer

Instructions and Explanations for Filling Out This Form

(See Manual of Rules and Regulations)

This form shall be filled in by typewriter in duplicate and shall be accompanied by the proper filing fee. Maps, plans, specifications, etc., must also be submitted at the time of filing formal application.

Before filling in this form, it is suggested that applicant read the Manual of Rules and Regulations for proceeding before the State Engineer. Sections I, VII, VIII and the foreparts of Sections II and V, particularly, are pertinent.

If application is to enlarge an existing project or amend a permit, fill out application to cover only the enlarged or amended portion, then, under Section 8, give the data necessary to define or describe the original works.

Sec. 1. This section to be filled in by the State Engineer.

Sec. 2. Fill in the name and address of the applicant.

Sec. 3. If applicant is a corporation, company or firm, fill in blanks under this section. If a corporation, give date of filing certificate of incorporation with the Corporation Commission.

Sec. 4. The quantity of water to be appropriated for irrigation purposes shall be stated in acre feet delivered on the land. Applicant shall apply for no more water than can be put to reasonable beneficial use (see pps. 5, 17 and 22 of Manual). Excessive and wasteful uses do not constitute a valid water right.

The amount to be used wholly or in part by direct diversion shall be noted in (a); that to be used wholly or in part by storage, in (b). Under (c) give any additional information necessary to properly describe or define the proposed use.

The rate of delivery of water shall not exceed the statutory limit of one cubic foot per second for each 70 acres delivered on the land, excepting in the case of flood water diversions when a higher rate is permissible.

Sec. 5. For irrigation purposes, the period of annual use shall be limited to that period when water may be reasonably applied to beneficial use on the land (see sec. 9).

Sec. 6. Fill in each blank in this section. Even though the source of water supply may not normally reach it, the main stream to which the supply is theoretically tributary shall be given.

Sec. 7. The point of diversion shall be tied by course and distance to some legal subdivision corner if within reasonable distance thereof, or, if on unsurveyed land, shall be tied to some permanent easily-located natural object. If located on unsurveyed lands, the point of diversion shall be described as accurately as possible by legal subdivision "as projected" from the nearest government survey.

In a direct diversion project, or in case of diversion to an off-channel reservoir, the point of diversion is the location of the canal headgates on the bank of the stream or water-course. If water is to be stored behind a dam across the source of supply, the point of diversion then becomes the location of the outlet gates from the reservoir.

Sec. 8. State all purposes for which water is to be used.

Sec. 9. Fill in this section only if water is to be used for irrigation and domestic purposes. Need must be shown for the use of any water claimed during the non-irrigation season. When necessary to clearly define the acreage to be irrigated the lands shall be described to the nearest 2½ acre subdivision.

Sec. 10. Fill in this section only if water is to be used for manufacturing, mining, power or like purposes. The application shall give the maximum flow in second feet required for the above purpose. It is important to show the point of return to the stream and also the amount of water, if any, which will be consumed in the operation.

Sec. 11. This section should describe the pertinent features of the diversion dam and appurtenances.

Sec. 12 and 12 a. Fill in all blanks detailing the hydraulic properties of the main canal or canals in the system.

Sec. 13. Fill in all blanks detailing the hydraulic properties of the storage dam and spillway. Under "type of dam, construction material, etc.," state whether dam is gravity, arch, gravity-arch, etc.; whether of concrete, earth and rock, masonry, etc.; type and thickness of riprap and of cut-off or core wall. Areas and capacities should be given in the table for each 5-foot interval, or less if necessary in obtaining reasonable accuracy. Under "Remarks" indicate notations such as "flowline," "crest of spillway," "high water line," etc., applicable to the corresponding elevations.

If more space is needed, continue under Sec. 14 or us separate sheet of paper and attach securely hereto.

Sec. 14. Give any additional data necessary to describe or define the proposed works, or old works to be amended or enlarged hereby.

Sec. 15. In this section give reasonable estimates of the cost of the main canal or canals and of the storage dam or dams.

Sec. 16. Give applicant's estimates of the time necessary to start and to complete construction and to apply water to beneficial use.

Sec. 17. Give references of a bank and of a merchant with whom applicant does business or to whom he is well known.

Applicant must sign affidavit before a Notary Public or other proper official qualified to administer oaths.

(If additional space is necessary in filling out any part of application, use a separate sheet of paper and attach securely hereto.)

00-00-0000: affidavit of publication

Bandelier
Deed 5

Affidavit of Publication

FILED

MAY 14 9 43

OFFICE STATE ENGINEER
SANTA FE, N.M.

State of New Mexico, County of State Fe } ss

I, A. N. Morgan, being first duly sworn, declare and say that I am the (Business Manager) (Editor) of the Santa Fe New Mexican, a daily newspaper, published in the English Language, and having a general circulation in the City and County of Santa Fe, State of New Mexico, and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 of the Session Laws of 1937; that the publication, a copy which is hereto attached, was published in said paper once each week for three consecutive weeks, and on the same day of each week in the regular issue of the paper during the time of publication, and that the notice was published in the newspaper proper, and not in any supplement, once each week for three weeks consecutively, the first publication being on the 15th day of May 19 43, and the last publication on the 29th day of May 19 43; that payment for said advertisement has been (duly made), or (assessed as court costs); that the undersigned has personal knowledge of the matters and things set forth in this affidavit.

A. N. Morgan
Editor (Manager)

Subscribed and sworn to before me, this 12th day of May A.D., 194[illegible]

[illegible]
Notary Public

My Commission expires [illegible]

STATE ENGINEER'S OFFICE
Number of Application 5407

Santa Fe, N. M., April 9, 1943

Notice is hereby given that on the 2nd day of April 1943 in accordance with Section 20, Chapter 49, Irrigation Laws of 1907 The United States of America, Department of the Interior, National Park Service, by Charles A. Richey, Superintendent, Southwestern National Monuments, P. O. Box 1728, Santa Fe, County of Santa Fe, State of New Mexico, made formal application to the State Engineer of New Mexico for a permit to appropriate the Public Waters of the State of New Mexico.

Such appropriation is to be made from Rito de los Frijoles in the amount of 11.0 acre feet per annum to be used for fire protection, sanitary and general domestic use and to irrigate various plots of land within Bandelier National Monument described as follows:

Subdiv.	Sec.	Township	Range	Acres
E½	23	19 N.	6 E.	1
W½	24	19 N.	6 E.	1

Water to be diverted from said stream at a point located in the NW¼SE¼ Section 15, Township 19 North, Range 6 West, N. M. P. M., at a point whence the corner No. 9 of Ramon Vigil Grant bears N. 30° 27' W. 1752.64 feet distant, and conveyed through a 2 inch pipe to 2 concrete reservoirs having a combined capacity of 30,000 gallons.

Any person, firm, association or corporation deeming that the granting of the above application would be truly detrimental to their rights in the water of said stream system shall file a complete statement of their objections substantiated by affidavits with the State Engineer and serve a copy on applicant on or before the 7th day of June, 1943, the date set for the Engineer to take this application up for final consideration, unless protested. In case of protested applications all parties will be given a reasonable length of time in which to submit their evidence in detail or arrange a date convenient for a hearing or appoint a referee satisfactory to all to take testimony. Appearance is not necessary unless advised officially by letter from the State Engineer.

THOMAS M. McCLURE
State Engineer.

Approved: May —3 1943
OSCAR L. CHAPMAN
Assistant Secretary.

Pub. May 15, 22 — 29— 1943

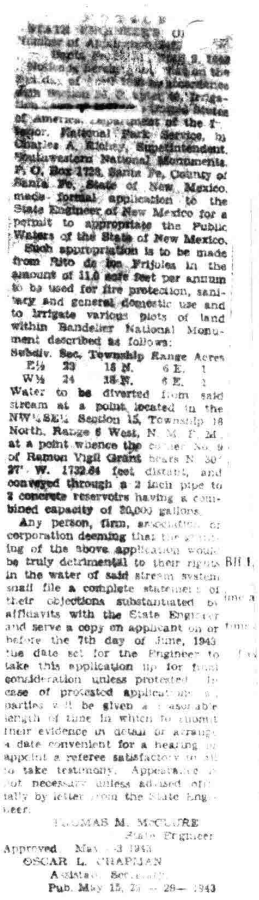
BILL

time at $ .....

times, $ .....

Tax $ .....

$ .....



...WATER ENGINEERS Of
...Number of Application 345
...Santa Fe, New Mexico, May 3, 1943
...Notice is hereby given that on the ...day of ... 1943 the undersigned ... filed in the office of the State Engineer, Santa Fe, New Mexico, an application, numbered as above, for a permit to appropriate the public waters of the State of New Mexico, as follows:
...United States of America, Department of the Interior, National Park Service, by Charles A. Richey, Superintendent, Southwestern National Monuments, P. O. Box 1728, Santa Fe, County of Santa Fe, State of New Mexico, made formal application to the State Engineer of New Mexico for a permit to appropriate the Public Waters of the State of New Mexico.
Such appropriation is to be made from Rito de los Frijoles in the amount of 11.0 acre feet per annum to be used for fire protection, sanitary and general domestic use and to irrigate various plots of land within Bandelier National Monument described as follows:

Subdiv.	Sec.	Township	Range	Acres
E½	23	18 N.	6 E.	1
W½	24	18 N.	6 E.	1

Water to be diverted from said stream at a point located in the NW¼SE¼ Section 15, Township 18 North, Range 6 West, N. M. P. M., at a point whence the corner No. 9 of Ramon Vigil Grant bears N. 30° 27' W. 1732.04 feet distant, and conveyed through a 2 inch pipe to 2 concrete reservoirs having a combined capacity of 20,000 gallons.
Any person, firm, association, or corporation deeming that the granting of the above application would be truly detrimental to their rights in the water of said stream system shall file a complete statement of their objections substantiated by affidavits with the State Engineer and serve a copy on applicant on or before the 7th day of June, 1943 the date set for the Engineer to take this application up for final consideration unless protested. In case of protested applications parties will be given a reasonable length of time in which to submit their evidence in detail or arrange a date convenient for a hearing to appoint a referee satisfactory to all to take testimony. Appearance is not necessary unless advised officially by letter from the State Engineer.
THOMAS M. McCLURE
State Engineer
Approved May 3 1943
OSCAR L. CHAPMAN
Assistant Secretary
Pub. May 15, 23 — 29— 1943

Bandelier
Deed 5
(Permit 7)

Affidavit of Publication

State of New Mexico } ss
County of Santa Fe }

MAY 14 9 43
OFFICE STATE ENGINEER
SANTA FE, N.M.

I, A. N. Morgan, being first duly sworn, declare and say that I am the (Business Manager) (Editor) of the Santa Fe New Mexican, a daily newspaper, published in the English Language, and having a general circulation in the City and County of Santa Fe, State of New Mexico, and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 of the Session Laws of 1937; that the publication, a copy which is hereto attached was published in said paper once each week for three consecutive weeks, and on the same day of each week in the regular issue of the paper during the time of publication, and that the notice was published in the newspaper proper, and not in any supplement, once each week for three weeks consecutively, the first publication being on the 15th day of May 1943, and the last publication on the 29th day of May 1943; that payment for said advertisement has been (duly made), or (assessed as court costs); that the undersigned has personal knowledge of the matters and things set forth in this affidavit.

A. N. Morgan
Editor

Subscribed and sworn to before me, this 12th day of May AD 1943

Notary Public

My Commission expires

Land History

05-13-1945: land ownership record

Form NPS-L-1

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

LAND OWNERSHIP RECORD

State New Mexico — Tract No. 1

County Sandoval — Deed No. 1

Civil Subdivision Santa Fe Nat'l Forest Area 22,392.00 acres Bandelier National Monument
Name of Park or Area

Area based on unsurveyed planimetor Date 5-13-45 South and Southwest
Section of Park or Area

Legal Description: All lands in unsurveyed Tps. 17 and 18 N., R. 6 E., New Mexico Principal Meridian, lying north of the Canada de Cochiti Grant, south of the Ramon Vigil Grant and west of the Rio Grande River.

Method of Acquisition: Transfer Appropriation or Source of funds:

Cost (if purchased) or estimated value:

Acquired from: Santa Fe National Forest by Presidential Proclamations dated February 11, 1916 and February 25, 1932

Accepted by Secretary (__) Opinion of Att'y. Gen.-title in U. S. (__) date:

Physical Characteristics: Previous to February 25, 1932 this area was administered by the Forest Service as they usually administer their lands. The monument was open to hunting and grazing was encouraged. The floor of Frijoles Canyon was under special use permit to a concessioner who farmed about 50 acres and had improved the canyon to carry on a small stock raising and dude ranch business. Two ditch systems had been completed and a water right perfected which seems to still be valid. The Forest Service at government expense had constructed a system of trails over the area, built telephone lines and a ranger station. They had also constructed numerous drift fences. pole corrals, watering tanks and other facilities to encourage grazing. The whole area was heavily grazed, but only a very small area was cleared and farmed.

Improvements on Land at time of Acquisition: Constructed by U. S. Forest Service; 50 miles of fire trails, 20 miles of telephone lines, ranger station, barn, warehouse and some 15 or more corrals, watering tanks, drift fences and other facilities to encourage grazing. Estimated value of government improvements; $25,000. Constructed by private interests; Old Frijoles Canyon Lodge, unknown number of chicken coops, pig pens, corrals, fences, sha shacks, sheds, water systems, tramway from cliff to bottom of canyon, roads, parking areas, wood yards, etc., Estimated Value - $25,000.

Existing or outstanding special use permits, reservations, rights, or rights of way: Right of public to use existing or subsequently constructed public roads. Water Right to waters of Frijoles Creek; Preferential right to operate concession in Frijoles Canyon. Right to retain garden plot in Frijoles Canyon. Mrs. Evelyn C. Frey claims these rights.

Report Based on: Copies of proclamations

Prepared by: James L. Siler (in part) date: June 1945

Map References: Land Status atlas sheets 1 and 13

Remarks:

NATIONAL PARK SERV

State New Mexico

LAND OWNERSHIP RECORD

Tract No. _____

County Sandoval

Deed No. 5

Civil Subdivision _____ Area _____ acres _____ Bandelier National Monument
Name of Park or Area

Right application filed based on ~~Entry~~ April 2, 1943 Date _____ Developed areas of Monument
Section of Park or Area

Legal Description: Water Right Application 2470, License _____, with priority of April 2, 1943.

Method of Acquisition: Appropriation Appropriation or Source of funds: Water Rights

~~Appropriation~~ estimated value: $1,500

Acquired from: State of New Mexico

Accepted by Secretary (__) Opinion of Att'y. Gen.-title in U. S. (__) date: _____

Physical Characteristics: A conditional right to divert 0.03 sec. ft. from Frijoles Creek for domestic, recreational and industrial purposes at developed areas in Bandelier National Monument on portions of land covered by Deed 1 in sections 23 & 24, T18N, R8E, N.M.P.M.

Improvements on Land at time of Acquisition: _____

Existing or outstanding special use permits, reservations, rights, or rights of way: _____

Report Based on: Records of Water Rights Section

Prepared by: A. van V. Dunn, Hydraulic Engineer date: 10/28/43

Map References: NM-BAN-6978

Remarks: License dependent on proof of full beneficial use.

Appurteant to Deed No. 1

Supporting Hydro Data

00-00-0000: analytical statement

USGS-WRD Form GW

Surface Water

ANALYTICAL STATEMENT
NPS

COUNTY Sandoval

LAB NO. 51020

Location Bandelier National Monument, N.Mex.
*Rito de los Frijoles
Source (type of well) *
Owner National Park Service

Date drld ____ Cased to ____ ft
Depth ____ Diam ____
WSP ____
Water level ____ ft
Sampled after pumping ____ hrs
Yield ____ GPM (meas or est)
Ft of coll Near head water area
Appearance ____
Temp (°F) 32 Use ____
Collector E.J.Widmer & J.C.Maxon
Chemist L. Alarid
Date completed Feb. 4, 1963
Checked by E. F. Williams
Date transmitted FEB - 6 1963

Date of collection Jan. 21, 1963 1630
Ignition Loss ____ Color 4
Dissolved Solids:
Residue at 180°C 121
Calculated (Sum) 112
Tons per Acre Foot 0.16
Hardness as $CaCO_3$ 29
Non-carbonate Hardness 0
% Na 40 SAR 0.8 pH 7.5
Specific Conductance (micromhos at 25°C) 101

Rmks: Wtr clear; partially frozen over by ice and snow.

Provisional records, subject to revision

	epm	ppm
SiO_2		58
Fe		0.01
Fe(total)		0.05
Ca	0.40	8.1
Mg	0.18	2.2
Na	0.41	9.5
K	0.04	1.7
	1.03	
Na + K		
HCO_3	0.97	59
CO_3	0.00	0
SO_4	0.03	1.6
Cl	0.05	1.6
F	0.02	0.3
NO_3	0.00	0.1
	1.07	B 0.03

Received with memo 2 Feb-18, 1963
To Div from Act. Reg Div. SW

have

ECORD STATIONS AND MISCELLANEOUS SITES

Miscellaneous sites during water year 1960--Continued

Location	Drainage area (sq mi)	Measured previously (water years)	Measurements	
			Date	Discharge (cfs)
Grande basin--Continued				
, T.11 S., R.19 E., ast of Riverside,	-	1957-59	10- 6-59	0
			10-28-59	0
			11-18-59	0
			12- 9-59	0
			1-26-60	0
			2-16-60	c11.6
			3-11-60	c12.6
			3-30-60	c11.5
			4-12-60	c6.33
			4-27-60	c12.2
			5-19-60	c5.08
			8-17-60	c2.25
			9- 8-60	c4.36
5, T.15 S., R.13 E., ro Apache Indian n boundary, 6.2 heast of Cloudcroft,	-	1958-59	5-17-60	*.41
			7-21-60	*.18
			9- 7-60	*.39
4, T.14 S., R.14 E., ve mouth and 12.2 heast of Cloudcroft,	-	1958-59	5-17-60	0
			7-21-60	*.01
			9- 7-60	*.15
5, T.26 S., R.24 E., s Ranch, 10 miles of White City,	-	1953-59	10-16-59	*.61
			11-17-59	*.54
			12-15-59	*.82
			1-13-60	*.68
			2-17-60	*.68
			3-18-60	*.63
			4- 1-60	*.79
			4-13-60	*.63
			5- 2-60	*.59
			5-12-60	*.78
			5-26-60	*.74
			6-21-60	*.63
			6-30-60	*.63
			7-22-60	*.65
			8-18-60	*.70
			9- 2-60	*.85
			9-19-60	*.60
.23, T.25 S., R.24 E., southwest of White Mex.	-	1952-59	10- 5-59	*1.21
			10-16-59	*0.39
			11- 5-59	*2.78
			11-17-59	d2.47
			12- 1-59	*2.63
			12-15-59	*2.30
			1- 4-60	*2.47
			1-13-60	*2.30
			2-17-60	*2.94
			3-18-60	*2.85
			4- 1-60	*1.07
			4-13-60	d.60
			5- 2-60	*.54
			5-12-60	*.60
			5-26-60	*1.00
			6-21-60	d1.64
			6-30-60	d.57
			7-22-60	*.93
			8-18-60	*.82
			9- 2-60	*.93
			9-19-60	*.78
7, T.24 S., R.26 E., 11 diversions, 5½ miles White City, N. Mex.	-	1907, 1952-59	10-16-59	*8.63
			11-17-59	*8.25
			12-15-59	*8.97
			1-13-60	*11.1
			2-17-60	*11.1
			3-18-60	*11.2
			4-13-60	*10.1
			5-12-60	*10.1
			5-26-60	*9.55
			6-21-60	*8.13
			6-30-60	*8.10
			7-22-60	*9.87
			9- 2-60	*9.27
			9-18-60	*9.72
			9-19-60	*9.18

sion.
lsbad Caverns water supply.

RIO GRANDE BASIN LOW FLOW INVESTIGATION

Four series of discharge measurements were made on streams in the vicinity of Los Alamos during the 1960 water year. The streams studied this year were Santa Clara and Guaje Creeks and Rito de los Frijoles. These studies are a continuation of those begun in 1959 (see WSP 1632, p. 508).

Discharge measurements, in cubic feet per second, on streams in the vicinity of Los Alamos, N. Mex., water year October 1959 to September 1960

River miles a/	Site No.	Oct. 12-14	May 16-17	June 20-22	Sept. 7
Santa Clara Creek					
	3	2.15	5.41	1.92	-
14.64	5	-	-	-	2.96
14.15	8	3.40	7.12	1.99	-
13.57	11	3.80	8.01	2.77	-
12.63	14	4.70	8.39	2.41	-
11.53	15	3.97	7.31	2.51	-
11.07	16	4.47	8.63	2.62	-
10.76	20	-	-	-	4.53
9.37	23	4.31	7.89	3.67	-
7.97		4.54			
	25	4.66	8.38	4.37	-
6.90			8.01		-
	26	4.47	8.98	4.33	-
6.50	29	-	-	-	4.68
4.78	30	4.38	8.19	4.27	-
4.21	31	3.64	6.42	3.63	-
3.28	34	3.46	†7.58	2.10	-
.00 (former gage)	35	-	.91	.21	-
.4	36	-	.71	.15	-
1.2	37	-	.21	-	-
2.1	38	-	.11	-	-
3.0	39	-	.30	-	-
4.0					
Guaje Creek					
	4	0.20	0.45	0.26	-
1.94	6	.42	.94	.54	-
1.50	8	.39	-	-	-
1.05	10	.39	1.06	.48	-
.64	11	.41	1.05	.57	-
.35	13	.46	1.53	.54	-
.04	-	-	-	-	-
.00 (Dam)	12	0	.91	0	0.26
.04	9	0	.61	0	.19
1.46	8	.01	.82	.04	-
1.75	7	0	-	.25	.25
2.03	6	0	1.05	.05	-
2.51	5	0	.98	0	-
2.80	3A	.09	.98	.15	-
2.88	2	.08	1.21	.12	.10
3.37	2A	.07	-	-	-
3.95	B	0	-	-	-
4.55	C	0	.67	-	-
4.85	D	0	-	-	-
5.10	E	0	-	-	-
5.50	F	0	-	-	-
5.77	G	-	.55	-	-
5.85	H	-	.32	-	-
6.80	I	-	.06	-	-
7.15	-	-	0	-	-
7.18					
Rito de los Frijoles					
	9	0.15	0.35	0.24	-
3.48	9A	.06	.43	.19	-
3.39	(South Fork)				-
	10	.12	.88	.46	-
3.33	16	.63	1.35	.92	-
1.97	19	.66	1.47	.94	-
1.37	22	.61	1.52	.99	-
.72	23	1.12	1.75	1.20	.94
.44	25-1	1.17	1.58	1.22	-
0.0		1.11			-
	2	1.36	2.12	1.17	-
.22	3	1.29	-	-	.82
.43	6	-	-	.85	-
.97	9	.92	1.54	1.08	-
1.90	10	1.02	1.75	-	-
2.18	11	.92	1.69		-
2.35		1.01	1.65	.66	-
		1.07	-	.92	-
2.70	15	1.05	-	.79	-
3.05	16	1.06	1.59	.61	-
3.21	20	.98	1.54	-	-
4.16		.90	-	-	-
	-	-	-	1.05	-
(b)	21	.90	1.65	.81	-
4.32	22	.96	1.46	-	-
4.55		-	1.55	.77	-
	26	.74	1.39	-	-
5.56		.95	-	.49	-
	27	.75	1.35	.45	-
6.96	28	.90	1.33	-	-
7.19	29	.79	-	.29	-
7.30	30	.64	1.22	-	-
7.65					

† Includes bypass flow.

a River miles for Santa Clara Creek are those beginning above former gaging station (lat 35°58', long 106°11', SW¼SW¼ sec.11, T.21 N., R.7 E., 5½ miles upstream from mouth and 5½ miles southwest of Española) to miles below; for Guaje Creek, beginning with miles above dam to miles below; for Rito de los Frijoles, beginning with miles above gaging station (lat 35°48'55", long 106°21'35", [illegible] miles southwest of Los Alamos) to miles below.

ata were made on streams in the vicinity of Los or the first period, measurements were made at he streams. Distance intervals were increased for d loss patterns were established. The streams con- ajo, and Los Alamos Creeks and Rito de los Frijoles, above the water supply reservoir was estimated for nately defined by the first three runs. All meas- se of overlapping measurements, to discharge on one

t per second, on streams in the vicinity of Los Alamos, ear October 1958 to September 1959

Apr. 14	June 2	Aug. 31			
Turkey Creek					
-	-	-			
-	-	-			
Santa Clara Creek					
-	-	-			
-	-	-			
2.21	2.71	2.68			
-	-	-			
-	-	-			
3.53	3.99	-			
-	-	-			
-	-	-			
3.94	4.36	4.14			
-	-	-			
-	-	-			
4.08	5.15	4.75			
-	-	-			
-	-	-			
4.80	4.73	6.57			
4.55	4.52	-			
5.30	4.91	5.58 4.06			
-	-	-			
-	-	-			
-	-	-			
5.31	4.86	-			
-	-	-			
-	-	-			
5.36	5.15	6.55			
5.07	5.17	6.18			
5.26	5.21	6.03			
6.00	5.26	5.41			
-	-	-			
-	-	-			
5.70	4.91	-			
5.80	4.96	5.62			
4.99	4.62	5.78			
4.61	4.39	-			
-	-	-			
3.60	3.91	4.82			

Je Creek tributary

Apr. 15	June 3	Sept. 1	Sept. 4	Sept. 8
-	-	-	-	-
-	-	-	-	-
Guaje Creek				
-	-	-	-	-
0.23	0.28	0.51	-	-
-	-	-	-	-
.40	.44	1.02	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-
.40	.51	1.99	-	-
.61	.52	2.04	-	-
-	-	-	-	-
.65	.58	2.63	-	-
-	-	-	-	-
.67	.00	1.84	-	-
-	.01	-	-	-
-	.00	-	-	-
.65	.03	2.28	-	-
.79	.04	2.29	-	-
.49	.00	2.29	-	-
.53	.02	2.74	-	-
.34	.00	2.26	1.01	0.23
-	.00	-	-	-

above mouth; for Santa Clara Creek, miles above former SW¼SW¼ sec.11, T.20 N., R.7 E., 5½ miles upstream from for Guaje Creek and tributary, beginning with miles nd Los Alamos Creek, miles above dam; Rito de Los g station (lat 35°53'55", long 106°21'35", at upper os Alamos) to miles below.

Discharge measurements, in cubic feet per second, on streams in the vicinity of Los Alamos, N. Mex., water year October 1958 to September 1959--Continued

River miles a/	Site No.	Oct. 17	Apr. 15	June 3	Sept. 1	Sept. 4	Sept. 8
			Guaje Creek tributary--Continued				
3.13	3	0.09	-	0.00	-	-	-
3.57	2	.05	0.42	.04	-	1.50	0.44
3.95	2A	-	-	-	-	1.08	.35
4.10	A	-	-	-	-	.98	.29
4.55	B	-	-	-	-	.70	.094
4.85	C	-	-	-	-	.16	0
5.10	D	-	-	-	-	.01	0
5.50	E	-	-	-	-	.14	.10
5.52	1A	-	.00	-	-	-	-
5.77	F	-	-	-	-	0	0
11.64	1	.02	-	-	-	-	-
			Quemazon Creek				
		Oct. 30	Apr. 15	May 28			
1.26	1A	0	0.01	0			
			Los Alamos Creek				
1.21	9	0	0	0			
1.15	8	.045	.28	.31			
.96	7	.045	-	-			
.79	6	.035	.29	.37			
.72	5	0	.17	.20			
.59	4	.11	.39	.41			
.49	3	.19	-	-			
.20	2	.12	.36	.38			
.03	1	.135	.50	.46			
			Rito de los Frijoles				
		Oct. 20	Apr. 16	Apr. 28	June 2	June 3	Sept.2	Sept. 3
4.97	1	-	-	0.14	0.05	-	-	-
4.79	2	-	-	.16	-	-	-	-
4.53	3	-	-	.17	.02	-	-	-
4.29	4	-	-	.16	0	-	-	-
4.01	6	-	-	.12	.07	-	-	-
3.86	7	-	-	0	0	-	-	-
3.64	8	-	-	.24	-	-	-	-
3.48	9	-	-	.26	.22	-	.12	-
3.87	9C	-	-	-	.14	-	-	-
3.63	South Fork 9B	-	-	-	.24	-	-	-
3.59	South Fork 9A	-	-	.60	.20	-	.16	-
3.33	10	-	-	.98	.46	-	.26	-
3.05	11	-	-	.94	-	-	-	-
2.78	12	-	-	1.00	-	-	-	-
2.50	13	-	-	1.23	-	-	-	-
2.45	14	-	-	1.26	-	-	-	-
2.20	15	-	-	1.42	-	-	-	-
1.97	16	-	-	1.45	.99	-	.57	-
1.74	17	-	-	1.2[illegible]	-	-	-	-
1.52	18	-	-	1.21	-	-	-	-
1.37	19	-	-	1.26	.89	-	.80 .74	-
1.15	20	-	-	1.44	1.08	-	-	-
.86	21	-	-	1.33	-	-	-	-
.72	22	-	-	1.56	1.01	-	.93	-
.44	23	-	-	1.91	1.19	-	.98	-
.23	24	-	-	1.95	-	-	-	-
0.0	25-1	1.61	2.80	2.36	1.47 1.22	-	1.17	1.19
.22	2	1.90	2.68	-	1.77	-	-	1.36
.43	3	1.48	2.51	-	1.34	1.47	-	-
.64	4	1.70	-	-	-	-	-	-
.81	5	1.54	-	-	-	1.57	-	-
.97	6	1.52	2.68	-	-	-	-	-
1.22	7	1.43	-	-	-	-	-	-
1.47	8	1.43	-	-	-	1.53	-	1.38
1.90	9	1.74	2.63	-	-	1.42	-	1.16
2.18	10	1.44	2.25	-	-	-	-	1.07
2.35	11	1.10	2.72	-	-	1.18 1.28	-	-
2.52	12	1.35	2.68 2.26	-	-	-	-	-
2.70	13	1.28	-	-	-	.94	-	1.04
2.90	14	1.28	2.15	-	-	-	-	-
3.05	15	1.48	1.55	-	-	1.09	-	1.18
3.21	16	1.20	2.15	-	-	1.01	-	-
3.53	17	1.74	-	-	-	-	-	-

a River miles for Turkey Creek are those above mouth; for Santa Clara Creek, miles above former gaging station at lat 35°53', long 106°11' SW¼SW¼ sec.11, T.20 N., R.7 E., 5½ miles upstream from mouth and 6½ miles southwest of Espanola; for Guaje Creek and tributary, beginning with miles above dam to miles below; Quemazon Creek and Los Alamos Creek, miles above dam; Rito de los Frijoles, beginning with miles above gaging station (lat 35°54'55", long 106°21'25", at upper Frijoles crossing, 5½ miles southwest of Los Alamos) to miles below.

Other Supporting Information

406-6-3-65

Assistant Regional Director, Operations
Through Regional Chief of Lands

May 28, 1965

Hydraulic Engineer

Field Trip to Study the Measuring Device and Water Use, Bandelier

I departed from Santa Fe at 8:15 a.m. on May 26 to Bandelier. Mr. Wilbur Heckler, District Engineer for the Surface Water Division of the U.S.G.S. had requested that we take this trip because of some problems encountered on the measuring device at Rito de los Frijoles. He furnished the transportation.

When we arrived at Bandelier, Chief Ranger Bob Morris took us to the measuring device.

During the past year U.S.G.S. had encountered several problems in compiling accurate data with this flume. The main problem is caused by a leak by both up-stream wing walls. We estimated approximately 20 gpm of unmeasured flow because of this situation. During the dead of winter, there is also a freezing problem both in the well house and in the intake pipe from the flume. We studied the general layout of the problem upstream at the flume and downstream. We then met with Superintendent Hyde and came up with the following solution to the problem:

The back side of the wing walls will be excavated and an ample amount of bentonite placed to stop the two leaks. We will excavate the soil to each side of the flume and fill with good field fill material. At the same time we will place insulating material around the intake pipe. We will also purchase a 36" piece of culvert 4' in length. This will be placed around the 2' stilling well and the void filled with vermiculite or some comparable insulating material. Supplies, materials and labor for this part of the job will be borne by the National Park Service and will be set up as an item under Work Order 3WR65B.

While we are repairing and remodeling this flume the U.S.G.S. will place an extension on the stilling well with a small door so that clean out can be accomplished in the well. They will supply the labor and material for this phase of the work.

In discussing the water right problems at Bandelier with the Superintendent, it was decided that we would make provisions for better protection of the water right from the creek. The old Bandelier water system used the creek as its source, but since the establishment of the AEC Water Line hook up, this water is now used only for irrigation purposes.and not very often. Therefore it was decided to place a 6" Parshall flume in the irrigation ditch to the orchard and establish a Log Book so that accurate records can be maintained. At the same time we will place a meter in the old pipeline with proper hose connections in the old chlorinating house. From time to time, we will sprinkle the picnic area and measure this use. A Log Book will also be kept on this use. This project will be accomplished simultaneously with the remodeling of the flume and will be charged to the same Work Order Account. For expediting purposes, it was decided we would purchase materials and begin construction on June 10 so that the U.S.G.S. can schedule their labor force in advance.

We left Bandelier at 1:05 p.m. and returned to Santa Fe arriving here at 2:30 p.m.

(SIGNED)

William E. Fields

cc: Director (2)
Superintendent, Bandelier
ARD, Administration
ARD, Cooperative Activities
Dr. Erik Reed

02-13-1964: memorandum to director from assistant regional director regarding measuring device, rito de los frijoles

102-2-15-64
WR Copy

Southwest Region
Santa Fe, New Mexico

L54
Band

FEB 13 1964

Memorandum

To: Director

From: Assistant Regional Director, Resource Planning

Subject: Measuring Device, Rito de los Frijoles, Bandelier National Monument

We are in receipt of an Advance Station Description concerning the subject measuring device at Bandelier and Report of Discontinued Station on the same creek.

As you recall we moved the measuring station from the Canyon above Bandelier Headquarters to a more accessible site near the Headquarters area. This was done as an item under 3-WR-63B.

These documents are informational only, but since this station is used as a partial Proof of Beneficial Use we have filed this in our Docket No. 1, Bandelier National Monument.

By copies of this memorandum we are sending this to WODC and Superintendent, Bandelier for insertion in their docket.

(SIGNED)
Leslie P. Arnberger

In duplicate ✓

Enclosure filed in D. 1

cc: WODC (2) w/c enc.
Superintendent, Bandelier, w/c enc

01-31-1963: memorandum to director from acting regional director regarding continued operation, gauging station

Correct
WRS
gmm

FEB 5 8 25 AM '63

Southwest Region
Santa Fe, New Mexico

L54

JAN 31 1963

Memorandum

To: Director

From: Acting Regional Director

Subject: Continued Operation, Gaging Station, Rito de los Frijoles, Bandelier National Monument

Enclosed is a copy of a letter received from the Division Hydrologist, U. S. Geological Survey, Denver, Colorado. This letter was written to us at our request in order that we might program the money for this project during this fiscal year.

This is being sent to you in order that you may be aware of our progress to date.

J. M. Carpenter

In duplicate

Enclosure

cc: Supt., Bandelier w/enclosure

01-31-1963: memorandum to regional director from chief regarding water rights

W O D C
FEB 4 1963
CHF
ADM
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L. A.
SPEC
CONT
SFTY
HABS
ACTION TAKEN DATE

January 31, 1963

L54

Memorandum

To: Regional Director, Southwest Region

From: Chief, Branch of Water Resources

Subject: Water Rights, Bandelier

The copy of Superintendent Henson's memorandum of November 26, 1962, to you on the acceptance of the new water and gas line has been routed through this Office.

When Mr. Dunn and I visited Bandelier early in November, we raised the question of maintaining the water rights to Rito de los Frijoles. Please refer also to Mr. Dunn's memorandum of September 11, 1962, and your reply of November 20, 1962. It would appear that now is the time to decide whether those water rights to the Rito de los Frijoles should be maintained or whether they should be abandoned. Will the Los Alamos supply be sufficient for all the park needs in the future? Can it be depended upon completely or is a standby source worthwhile?

If the decision is made to maintain the water rights, several possibilities should be considered, as follows:

1. Maintain the present pipeline right under License 2670 to 11 acre-feet per year with a priority of April 2, 1943. If the ruling, in United States vs H. F. Ballard, et al., that the United States cannot lose water rights through nonuse holds, it would appear that these rights could not be challenged when not exercised, although the state law prescribes forfeiture after nonuse for four years. However, maintenance of the pipeline as a standby would be sensible from an engineering as well as a legal point of view.

2. Maintain the Abbott-Frey ditch rights. How much of the 45 acre-feet originally granted to Abbott with a priority of January 1915 actually passed to the United States when the monument was established would have to be determined. Probably the most that could be claimed would be the maximum used during the four years preceding the monument's establishment. This Service should not recognize any partial abandonment of claims by Mrs. Frey. Mr. Dunn advises that the State Engineer questioned her action

KN

and the validity of the declaration at the time but this Service has done nothing about it. However, a check of the docket and the correspondence here fails to give any positive proof of such abandonment. The copy of the statement of Mrs. Frey in the docket is not a facsimile copy and contains several obvious errors. The original record in the State Engineer's office should be examined to check this unless you have more positive information. Any declaration of abandonment would weaken a Federal claim that the rights have not lapsed.

3. Amend part of the ditch rights with the 1915 priority to cover the pipeline diversions and subsequently withdraw Application 2470 and request cancellation of the 1943 rights. This assumes that United States rights to at least 11 acre-feet of water under the Abbott filing can be established. The amendment would be through changes in point of diversion, from ditch to pipe, and of place and purpose of use. However, such an application for amendment would have to be advertised and might be protested. Hence the withdrawal of Application 2470 should be deferred until after approval of the application to amend the Abbott rights unless it becomes necessary to do so to eliminate protest.

We shall be interested in learning the region's decisions on the Bandelier problem.

SIGNED
E. W. Reed

cc:
Superintendent, Bandelier
Chief, WCDC (2)

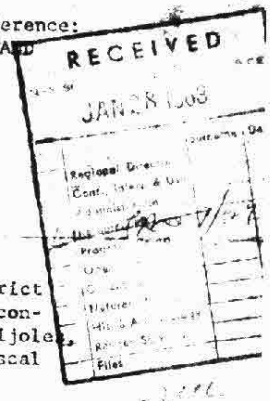
01-25-1963: letter to acting regional director from division hydrologist regarding operation of the gauging station on rito de los frijol

IN REPLY REFER TO

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
FEDERAL CENTER, DENVER 25, COLORADO

January 25, 1963

Your reference:
L-54 - BAND



Mr. George W. Miller
Acting Regional Director
National Park Service
P. O. Box 1723
Santa Fe, New Mexico

Dear Mr. Miller:

In accordance with your request to Mr. Wilbur Heckler, District Engineer, Santa Fe, New Mexico, the Geological Survey will continue the operation of the gaging station on Rito de Los Frijoles, Bandelier National Monument, New Mexico, during the 1963 fiscal year.

As outlined in your memorandum of January 18, 1963, to Mr. Heckler, you will be billed on a reimbursable basis in an amount not to exceed $1,000 during the fiscal year.

It is understood that the data collected on this project will be available for use by the Geological Survey in the preparation of reports that are released to the public.

Sincerely yours,

S. K. Jackson
Division Hydrologist

09-12-1962: memorandum to assistant regional director from civil engineer regarding field trip to band

Southwest Region
Santa Fe, New Mexico

L54
BAND

SEP 12 1962

Memorandum

To: Assistant Regional Director Arnberger

From: Civil Engineer

Subject: Field Trip to Bandelier National Monument to Reestablish Gaging Station

I left Santa Fe at 8:30 a.m. on August 28 enroute to Bandelier National Monument. Mr. Wilbur Hecklen, District Engineer of the Surface Water Branch of the U. S. Geological Survey, accompanied me.

The USGS has been operating a gaging station in the upper reaches of the Rito de los Frijoles for the AEC. A year ago the AEC decided to discontinue the operation and the National Park Service assumed the obligation of payment in order to keep the station operating. It was felt that these records were necessary for the proof of our Water Right. Last spring Mr. Heckler recommended that we move the station downstream closer to our headquarters because the present site is inaccessible except by foot and is very rough to maintain during the winter. The purpose of our trip was to pick a spot near the headquarters area where we can move the station for better accessibility and maintenance.

We arrived at Bandelier at 9:30 a.m. and since Superintendent Henson was on leave we reported to Chief Ranger Ed Widmer.

We discussed with Ranger Widmer the new water system which is planned. Water will be piped from the Los Alamos water system into the present headquarters system. I cautioned Mr. Widmer that under no condition should we cease using the present water system because we need to protect our present water rights which date back to 1915. The irrigation diversion should be utilized fully and if our present system is relegated to a standby system it should be fully utilized a few times a year and records kept of this use.

Mr. Heckler and I then "walked out" the Rito de los Frijoles to a point about one half mile upstream from our domestic pipeline diversion. We picked out a place near a tuff cliff overhang

about 200 yards upstream from the pipeline diversion. This would measure the total flow in the stream prior to any of our diversions. The soil in this area however appears porous and it is not feasible to get a vehicle into this area for construction purposes and maintenance and checking would have to be done on foot. For these reasons we decided to check downstream for another possibility.

As a preferable alternate we found a place about 100 yards upstream from the irrigation diversion which has better soil possibilities and can be reached by any type of vehicle. To get total flow then we would meter the water in the pipeline and add this to the stream reading. The meter could be installed in the old chlorinator house. This meter should be installed even if the recorder is placed above the pipeline diversion so we would have a record of our domestic use at headquarters with the present system.

Mr. Heckler and I agreed that the best solution would be the second plan.

We left Bandelier at 2:45 p.m. and arrived in Santa Fe at 3:45 p.m.

William E. Fields
Civil Engineer

Copy to: Regional Director
Assistant Regional Director Miller
Regional Chief of Lands
Supt., Bandelier
Wilbur Heckler

03-01-1962: memorandum to director from acting regional director regarding measurements of upper rito de los frijoles

Bandelier

Region Three
Santa Fe, New Mexico

L54
BAND

MAR 1 - 1962

Memorandum

To: Director

From: Acting Regional Director

Subject: Measurements of Upper Rito de los Frijoles by U. S. Geological Survey, Bandelier National Monument

A memorandum of February 19 from the Chief of the Water Resources Branch, concerning the above subject, suggested that we charge the cost of these measurements to the 143.2 M&P rather than the work order Construction Account 102.5.

After a careful review of the reasons for these measurements we have decided that they should be properly charged to the M&P Account. Therefore we are changing our cost estimate sheet by taking the $1,000 out of the Construction column and placing it in the M&P column.

On February 21 we sent your office charts showing final 1963 F.Y. and preliminary 1964 F.Y. programs for water resources investigations to be made by the U. S. Geological Survey. We are changing our chart by moving the $1,000 from Construction to M&P for the 1963 water resources investigations. This will change the M&P total from $15,510 to $16,510 and the Construction total from $13,000 to $12,000. Would you please change your charts accordingly.

Subsequent telephone conversations with Mr. Wilbur Heckler, District Engineer for the local branch of the U.S.G.S., indicates that for our purpose it would be better to move the gauging station to a spot within the Monument closer to our diversions. A project will be set up in the 1963 work order to do this work. It is anticipated that the work will be done by Park Service personnel.

George W. Miller
Acting Regional Director

In duplicate

Copy to: Chief, WODC (2)
Supt., Bandelier

Bandelier

WR Copy

February 19, 1962

L54-AL

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Branch

Subject: Measurements of Upper Rito de los Frijoles by U. S. Geological Survey, Bandelier National Monument

The memorandum of February 12 from Mr. Miller indicates that I have not made myself clear in previous correspondence.

There is doubtless some merit in obtaining records of the flow of Rito de los Frijoles at points of NPS diversion, and of the portion of that flow which NPS diverts, if there is any question of the adequacy of the supply for ultimate needs, or if there are conflicting claims by NPS and others to more than that available flow. In the latter case the quantities diverted by others should also be measured.

The AEC gauge is apparently too far up stream to be of maximum value to the Park Service, and there appears to be no such gauge at either the ditch or pipeline diversion. It is quite proper to move the gauge, and to use Water Resources Construction funds for that purpose. However, that work should be charged to Account 102.5-Bandelier because the gauge will become fixed equipment for some form of water resources work.

This will place the capital investment on the Park Service books. If the gauge was originally installed by AEC or USGS, any duplication of total Federal capitalization should be eliminated. It seems probable that the installing agency has liquidated all of the investment except the salvage value of the components which can be moved to the new site.

I assume that the Geological Survey has considered the merits of establishing ratios between the old and new tributary areas and resulting difference in runoff. This may not be important, but it would be unfortunate to lose the records over any extensive past period.

It is not yet clear to me why the annual use of the gauge (measurements and compilation of records) should be financed with the construction funds in the future, "to protect water rights", after the use of M&P funds was justified for the past year. There appears to be no controversial Federal water claim to protect (the relative interests of the United States and Mrs. Frey cannot be clarified any better by determination of total creek flow at the diversion point). Therefore, this justification appears to be incorrect.

You do appear to have PCP-U-26, to provide lateral from existing pipeline (Docket 2) to campground. You also have PCP-U-22, to provide facilities to pump 30 gpm to proposed development on Mesa, 600 feet higher than the Creek, with diversion from the Creek. The U-22 project, and part of campground development for which U-26 is related but not listed, are not in 1963 B&U program. It would be proper to finance proposed measurements under 3-WR-62B Bandelier, Account 102.5 as advance planning, except for the fact that the data will be too late for use in that connection.

It seems to me that the future records of total creek flow will be of value to determine when, if at all, the source will become inadequate for the increasing future water needs of the Monument. The inadequacy will probably be seasonal, and only when the old Abott rights (Docket 1) are exercised. The cost might be charged to Construction Account 134.2 under Work Order 3-WR-63A if there is a reasonable belief that more storage or a supplemental water source will be needed within the next 10 or 15 years. However, I believe that the measurements are more properly those needed for Monument operation whether further construction is contemplated or not. On the latter basis, the work should be charged to M&P Account 143.2, as during the past year, or some other noncapitalizing Monument fund for management and operation. I referred to M&O as a loose term to cover any such funds.

Your determination of the proper funds to use for the measurements will be satisfactory if based on the proper purpose, and that purpose is given in the justification and outline of work.

SIGNED
A. van V. Dunn
Chief, Water Resources Branch

Copy to: Superintendent, Bandelier
Chief, WODC (2)
Mr. Dunn

AvVDunn:lct

02-14-1962: memorandum to district engineer from assistant regional director regarding partial billing for services rendered

Bandelier

Region Three
Santa Fe, New Mexico

L54
BAND

FEB 14 1962

Memorandum

To: Mr. Wilbur Heckler, District Engineer, Surface Water Branch, U. S. Geological Survey, P. O. Box 277, Santa Fe, New Mexico

From: Assistant Regional Director, Region Three, National Park Service, P. O. Box 1728, Santa Fe, New Mexico

Subject: Partial Billing for Services Rendered, Measurements of Upper Rito de los Frijoles, Bandelier National Monument

In our agreement with your office of June 1961 we started underwriting the cost of taking the measurements at the flume in the upper Rito de los Frijoles above Bandelier National Monument.

We would like for you to submit Standard Form 1081 for the period July 1 through December 31, 1961. This will amount to $500.00 as per our agreement.

We then would like for you to submit to us another bill in April 1962 for the period of January 1 - March 31, 1962 for $250. The remaining $250 can then be billed early in July for the period April 1 - June 30, 1962.

SIGNED

George W. Miller
Assistant Regional Director

Copy to: Director (2)
Supt., Bandelier

12-27-1960: memorandum to regional director from chief regarding preliminary map

December 27, 1960

L54-OBL

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Preliminary Map, Bandelier Water Systems and Rights, Bandelier National Monument

Mr. Miller's memorandum of December 7 has arrived in duplicate, with a print of sheet 1, Drawing NM-BAN-7107 attached to the original, and sheet 2 attached to the carbon. The original and carbon reached my desk separately, and on different days. There does not appear to be a duplicate set of the two sheets of the drawing.

It is not clear whether the subject correspondence and prints were prepared before or after my memorandum of November 30 concerning the survey of the Frijoles Ditch System, License 802, Docket 1. That memorandum should be considered with this one.

The drawing should show the state, county and township and range of New Mexico Principle Meridian. By title, the drawing is to show both ditch and pipeline water systems. Therefore, the existing portion of the Frijoles Ditch System should have the same weight as the pipeline. I should also give the application, permit and license numbers at points of diversion, and the names of pipeline and ditch from the applications or license, Dockets 1 and 2.

Sheet 2 of 7107 shows 0.4 acres irrigated to the south of Mrs. Frey's old garden, but no irrigation at the lodge area. I should show all development to support change in water use between the abandoned and existing Frijoles ditch units. Any proposed additional irrigation should also be shown. Then, some thought should be given to nullifying Mrs. Frey's declaration of partial abandonment, which was filed with the State Engineer.

SIGNED

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Bandelier
Chief, WODC (2)

11-30-1960: memorandum to regional director from chief regarding survey of los frijoles ditch systems, license 802

L54-OBL

November 30, 1960

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Survey of Los Frijoles Ditch Systems, License 802, Docket 1, Bandelier

It was gratifying to learn from Mr. Fields' memorandum of November 25 that he is giving his office staff some related field experience.

It does not seem necessary to me to relocate all of Ditches 1 and 2. The traverses on the Abbott map with the engineer's statement of October 14, 1913, which is in Docket 1, can be accepted with minor adjustments and ties to section corners or Monument boundary corners from the approximate locations of the headgates. The traverse of Ditch 3 on Drawing 6978 in Docket 2 was so projected and is adequate.

The main thing, for historical purposes, would be to recover the outlines of the rest of the original irrigated areas before they become further overgrown, or eroded, then extend the records on Drawing 6978 to show all present and proposed areas of irrigation, and determine how closely they approach the original Abbott areas. The rights should then be amended, as proper, to change points of diversion and identity of ditches or pipes through which the water is now applied to the present irrigated areas.

It may be that Mrs. Frey was correct in her declaration to the State Engineer, of some years ago, that part of the rights have lapsed or been abandoned, but the United States, as the land owner, should make the determination. I should also limit the Federal definition, and any recording with the State, to the extent of continuing use, even if somewhat intermittent, with no commitment on what has happened to the rest of the rights until your development plans are complete, and you are ready to survey off the residual as a property value.

A. van V. Dunn
Chief, Water Resources Section

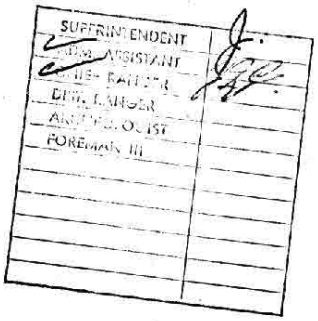
Copy to: Superintendent, Bandelier
Chief, WCDC (2)

02-29-1960: memorandum to superintendent from regional chief of operations regarding water rights at band

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Region Three
Santa Fe, New Mexico

L-54 Fall

FEB 29 1960



Memorandum

To: Superintendent, Bandelier

From: Regional Chief of Operations

Subject: Water Rights at Bandelier National Monument

Your memorandum of February 18, 1960, concerning the above subject, was received in our office on February 19, 1960.

The protection of all water rights in this region is of utmost importance; and later on this spring, weather permitting, Mr. Fields, of this office, will make a study of existing conditions, surveys, maps, etc., and based on this will list the necessary steps needed to protect and perfect all of your water rights.

Jerome C. Miller
Regional Chief of Operations

November 7, 1958

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: New Contract with Mrs. Evelyn C. Frey, and her Interests in the Rito de los Frijoles Ditch System, License 802, Docket 1, Bandelier

Mr. Price has sent you the new contract for Mrs. Frey with the statement that I would supply the form of an assignment by which she would convey her interests in the subject ditch system (three ditches), which was initiated by A. J. Abbott, by Application 802 of December 1913, and granted License 802 with priority of January 27, 1915.

I believe that Mr. Barton is better qualified to prepare the assignment, based on the records in the subject docket which include Mrs. Frey's claim of November 5, 1943, to sole ownership. The correspondence also shows that she filed a declaration of partial abandonment about 1952 or 1953, which we probably should not recognize.

The main thing is to establish sole Federal title, and I think the right actually is appurtenant to the Federal land. We shall want copies for the four dockets.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Bandelier

06-20-1957: letter to rio grande underground water basin from chief regarding band is included in the rio grande underground wate

June 20, 1957

Rio Grande Underground Water Basin

Bandelier National Monument is included in the Rio Grande Underground Water Basin which was declared by the State Engineer on November 29, 1956. Said declaration states that the underground waters are inter-related with the flow of the Rio Grande stream system, and that waters of the Rio Grande stream system are fully appropriated.

/s/ A. VAN V. DUNN

A. van V. Dunn
Chief, Water Resources Section

STATE OF NEW MEXICO
OFFICE OF STATE ENGINEER

ORDER DECLARING THE
RIO GRANDE UNDERGROUND WATER BASIN

WHEREAS, the waters of underground streams, channels, artesian basins, reservoirs, or lakes, having reasonably ascertainable boundaries, are public waters and are subject to appropriation for beneficial use, and

WHEREAS, all natural waters flowing in streams and watercourses, whether such be perennial or torrential, within the State of New Mexico, belong to the public and are subject to appropriation for beneficial use, and

WHEREAS, the State Engineer has determined from scientific investigation that an underground basin exists in the Rio Grande Valley, the area and boundaries of which basin are reasonably ascertainable, and

WHEREAS, the waters of said basin are interrelated with the flow of the Rio Grande Stream System, so that such underground waters are a substantial source of the flow of said stream system, and

WHEREAS, the waters of the Rio Grande Stream System are fully appropriated, and

NOW, THEREFORE, IT IS HEREBY DECLARED that the lands described hereinafter comprise an underground water basin, to be known as the RIO GRANDE UNDERGROUND WATER BASIN, subject to the New Mexico statutes, and the rules and regulations of the State Engineer:

Beginning at a point where the New Mexico–Colorado State Line intersects Longitude 105° 30' West; thence south along Longitude 105° 30' West to its intersection with Latitude 36° 54' North; thence west along Latitude 36° 54' North to its intersection with Longitude 105° 33' West; thence south along Longitude 105° 33' West to its intersection with the Carson National Forest Boundary; thence south along the Carson National Forest Boundary to the southeast corner of Section 33, Township 30 North, Range 13 East; thence west along section line to the southeast corner of Section 32, Township 30 North, Range 13 East; thence south along section lines to the southeast corner of Section 29, Township 29 North, Range 13 East; thence southwest along the Carson National Forest Boundary to the northeast corner of Section 6, Township 28 North, Range 13 East; thence south along section lines to the southeast corner of Section 30, Township 28 North, Range 13 East; thence west along section line to the southwest corner of Section 25, Township 28 North, Range 13 East; thence south along range line to its intersection with the north boundary of the Arroyo Hondo Grant; thence northeast along the north boundary of the

Arroyo Hondo Grant to the northeast corner of said Grant; thence south along the east boundary of the Arroyo Hondo Grant to its intersection with the Carson National Forest Boundary; thence south and east along the Carson National Forest Boundary to its intersection with Longitude 105° 30' West; thence south along Longitude 105° 30' West to its intersection with Latitude 36° 20' North; thence west along Latitude 36° 20' North to its intersection with the west boundary of the Cristobal De La Serna Grant; thence southwest along the west boundary of the Cristobal De La Serna Grant to its intersection with the north section line of Section 32, Township 24 North, Range 12 East; thence west along section lines to the southeast corner of Section 27, Township 24 North, Range 11 East; thence south along section line to the southeast corner of Section 34, Township 24 North, Range 11 East; thence west along township line to the southeast corner of Section 32, Township 24 North, Range 11 East; thence south along section line to the southeast corner of Section 5, Township 23 North, Range 11 East; thence west along section line to the southeast corner of Section 6, Township 23 North, Range 11 East; thence south along section line to the southeast corner of Section 7, Township 23 North, Range 11 East; thence west along section line to the southeast corner of Section 12, Township 23 North, Range 10 East; thence south along range line to its intersection with the north boundary of the Sebastian Martin Grant; thence west along the north boundary of the Sebastian Martin Grant to its intersection with Longitude 105° 56' West; thence south along Longitude 105° 56' West to its intersection with the north boundary of Township 21 North, Range 9 East; thence east along township line to the northeast corner of Section 1, Township 21 North, Range 9 East; thence south along range line to the northeast corner of Section 25, Township 21 North, Range 9 East; thence east along section lines to the intersection with the west boundary of the Nuestra Senora Del Rosario San Fernando Santiago Grant; thence south along the west boundary of the Nuestra Senora Del Rosario San Fernando Santiago Grant to the northeast corner of Section 4, Township 20 North, Range 10 East; thence south along section lines to the intersection with the north boundary of the Santo Domingo De Cundiyo Grant; thence northeast along the boundary of the Santo Domingo De Cundiyo Grant to the northeast corner of said Grant; thence south along the boundary of the Santo Domingo De Cundiyo Grant to the southeast corner of said Grant; thence northwest along the boundary of the Santo Domingo De Cundiyo Grant to its intersection with the east section line of Section 23, Township 20 North, Range 10 East; thence south along section lines to the southeast corner of Section 33, Township 19 North, Range 10 East; thence west along section line to the northeast corner of Section 5, Township 18 North, Range 10 East; thence south along section lines to the intersection with the north boundary of the Juan De Gabaldon Grant; thence south to a point being the intersection of the east section line of Section 5, Township 17 North, Range 10 East and the south boundary of the Juan De Gabaldon Grant; thence south along section lines to the northeast corner of the City of Santa Fe Grant; thence south along the east boundary of the City of Santa Fe Grant to the southeast corner of said Grant; thence west along the south boundary of the City of Santa Fe Grant to its intersection with the west boundary of Sebastian De Vargas Grant; thence south along the west boundary of the Sebastian De Vargas Grant to its intersection with the south boundary of Township 16 North, Range 9 East; thence west along township line to the southeast corner of Section 32, Township 16 North, Range 9 East; thence south along section lines to the southeast corner of Section 32, Township 15 North, Range 9 East; thence west along township line to the northeast corner of Section 4, Township 14 North, Range 9 East; thence south along section lines to the southeast corner of Section 16, Township 14 North, Range 6 East; thence west along section lines to the southwest corner of

on 18, Township 14 North, R[illegible] East; thence south along range line to the southeast corner of Section 12, Township 13 North, Range 5 East; thence west along section line to its intersection with the north boundary of the Town of Tejon Grant; thence west along the north boundary of the Town of Tejon Grant to the northwest corner of said Grant; thence south along the west boundary of the Town of Tejon Grant to its intersection with the north boundary of the San Antonio De Las Huertas Grant; thence west along the north boundary of the San Antonio De Las Huertas Grant to the northwest corner of said Grant; thence south along the west boundary of the San Antonio De Las Huertas Grant to its intersection with the south boundary of Township 13 North, Range 5 East; thence west along township line to the northeast corner of Section 1, Township 12 North, Range 4 East; thence south along range line to the southeast corner of Section 36, Township 12 North, Range 4 East; thence west along township line to the northeast corner of Section 2, Township 11 North, Range 4 East; thence south along section lines to the intersection with the north boundary of the Elena Gallegos Grant; thence east along the north boundary of the Elena Gallegos Grant to the northeast corner of said Grant; thence south along the east boundary of the Elena Gallegos Grant to the southeast corner of said Grant; thence west along the south boundary of the Elena Gallegos Grant to its intersection with the east boundary of Township 11 North, Range 4 East; thence south along range line to its intersection with the boundary of Valencia and Torrance Counties; thence south along the boundary between Valencia and Torrance Counties to its intersection with the south boundary of the Lo De Padilla Grant; thence west along the south boundary of the Lo De Padilla Grant to the northeast corner of Section 29, Township 7 North, Range 4 East; thence south along section lines to the intersection with the northern boundary of the Tome Claim; thence west along the northern boundary of the Tome Claim to its intersection with Longitude 106° 35' West; thence south along Longitude 106° 35' West to its intersection with the south boundary of the Tome Claim; thence west along the south boundary of the Tome Claim to its intersection with Longitude 106° 37' West; thence south along Longitude 106° 37' West to its intersection with Latitude 34° 20' North; thence west along Latitude 34° 20' North to its intersection with Longitude 106° 45' West; thence south along Longitude 106° 45' West to its intersection with the south boundary of Township 1 South, Range 2 East; thence west along township line to the northeast corner of Section 1, Township 2 South, Range 1 East; thence south along range line to its intersection with the north boundary of the Bosque Del Apache Migratory Waterfowl Refuge; thence east along the north boundary of the Bosque Del Apache Migratory Waterfowl Refuge to the northeast corner of said Refuge; thence southwest along the east and south boundary of the Bosque Del Apache Migratory Waterfowl Refuge to the intersection with the east boundary of the Pedro Armendariz Grant No. 33; thence southeast along the east boundary of the Pedro Armendariz Grant No. 33 to its intersection with Latitude 33° 40' North; thence west along Latitude 33° 40' North to its intersection with Longitude 106° 56' West; thence south along Longitude 106° 56' West to its intersection with Latitude 33° 35' North; thence west along Latitude 33° 35' North to its intersection with Longitude 107° 00' West; thence south along Longitude 107° 00' West to its intersection with the boundary of Socorro and Sierra Counties; thence west along the boundary between Socorro and Sierra Counties to the west bank of the Rio Grande; thence south along the west bank of the Rio Grande to its intersection with the east section line of Section 34, Township 13 South, Range 4 West; thence north along section lines to the southeast corner of Section 22, Township 13 South, Range 4 West; thence west along section lines to the southwest corner of Section 19, Township 13 South, Range 4 West; thence north along range line to the northwest corner of Section 6, Township 11 South, Range 4 West; thence east along township

...in. to the southwest corner of Section 34, Township 10 South, Range 4 West; thence north along section lines to the northwest corner of Section 3, Township 9 South, Range 4 West; thence east along township line to the southwest corner of Section 31, Township 8 South, Range 3 West; thence north along range line to the northwest corner of Section 19, Township 8 South, Range 3 West; thence east along section lines to the northwest corner of Section 22, Township 8 South, Range 3 West; thence north along section lines to the northwest corner of Section 3, Township 8 South, Range 3 West; thence east along township line to the southwest corner of Section 36, Township 7 South, Range 3 West; thence north along section lines to the intersection with Latitude 33° 45' North; thence east along Latitude 33° 45' North to its intersection with Longitude 107° 00' West; thence north along Longitude 107° 00' West to its intersection with the north boundary of the Pedro Armendariz Grant No. 34; thence east along the north boundary of the Pedro Armendariz Grant No. 34 to its intersection with the west boundary of Township 5 South, Range 1 West; thence north along range line to its intetsection with the south boundary of the Sevilleta Grant; thence west along the south boundary of the Sevilleta Grant to its intersection with Longitude 107° 00' West; thence north along Longitude 107° 00' West to the north boundary of the Sevilleta Grant; thence east along the north boundary of the Sevilleta Grant to the west boundary of Township 2 North, Range 1 West; thence north along range line to the southeast corner of Section 26, Township 6 North, Range 2 West; thence west along township line to the southwest corner of Section 34, Township 6 North, Range 2 West; thence north along section lines to the southwest corner of Section 34, Township 7 North, Range 2 West; thence west along township line to the southwest corner of Section 35, Township 7 North, Range 3 West; thence north along section line to its intersection with the boundary of the Antonio Sedillo Grant; thence north along the west boundary of the Antonio Sedillo Grant to the northwest corner of said Grant; thence east along the north boundary of the Antonio Sedillo Grant to its intersection with the west boundary of Township 9 North, Range 1 West; thence north along range line to its intersection with the south boundary of the Bernabe M. Montano Grant; thence east along the south boundary of the Bernabe M. Montano Grant to the southeast corner of said Grant; thence north along the east boundary of the Bernabe M. Montano Grant to its intersection with the north boundary of Township 11 North, Range 1 West; thence east along township line to the southwest corner of Section 31, Township 12 North, Range 1 East; thence north along range line to the northeast corner of Section 6, Township 12 North, Range 1 East; thence west along township line to its intersection with the west boundary of the Town of Alameda Grant; thence north along the west boundary of the Town of Alameda Grant to the northwest corner of said Grant; thence east along the north boundary of the Town of Alameda Grant to its intersection with the west boundary of Township 13 North, Range 2 East; thence north along range line to the northwest corner of Section 6, Township 13 North, Range 2 East; thence east along township line to the southwest corner of Section 31, Township 14 North, Range 3 East; thence north along range line to the northwest corner of Section 6, Township 14 North, Range 3 East; thence east along township line to the southwest corner of Section 31, Township 15 North, Range 5 East; thence north along range line to the northwest corner of Section 18, Township 16 North, Range 5 East; thence east along section lines to the intersection with the west boundary of the Pueblo Cochiti Grant; thence north along the west boundary of the Pueblo Cochiti Grant to the northwest corner of said Grant; thence east along the north boundary of the Pueblo Cochiti Grant to its intersection with the west boundary of Township 17 North, Range 6 East; thence north to the southwest corner of the Bandelier National Monument; thence north along the Santa Fe National

04-24-1943: memorandum to hydraulic engineer from acting director regarding purchase of mrs. frey's water interests

660- 21 Bandelier

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

April 24, 1943.

MEMORANDUM for Hydraulic Engineer Dunn,
Water Rights Section,
San Francisco, California.

This refers to your letter of March 23 concerning the purchase of Mrs. Frey's water interests at Bandelier National Monument.

Our justification to the Bureau of the Budget for the continuance of water rights activities commits the Service to a program of purchasing water rights only in exceptionally meritorious cases and when purchases may be made below actual values due to existing conditions.

We have no doubt your appraisal of $1,000 represents a fair valuation of Mrs. Frey's interests. However, there is no showing that her interests could not be acquired at a similar or lower figure at some future date, and any justification for purchasing at this time appears to be offset by the fact that there is no immediate need for additional water at the monument — a condition which may reasonably be expected to obtain for some years -- and the additional fact that an application for appropriation of additional water is now pending.

In view of the matters noted, we believe it advisable that negotiations for the purchase of Mrs. Frey's water interests be deferred.

(SGD) Hillory A. Tolson

Acting Director.

cc: Regional Director, Region Three.
Supt., Southwestern Monuments.
Custodian, Bandelier N.M.,
through Supt., Southwestern Monuments.



03-31-1943: letter to frijoles lodge from superintendent regarding application for permit to appropriate waters

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
~~Santa Fe, New Mexico~~ COOLIDGE, ARIZONA

APR 4 ... BANDELIER NAT'L. MON.

March 31, 1943.

Mrs. Evelyn Frey,
Frijoles Lodge,
Bandelier National Monument,
Santa Fe, New Mexico.

Through Custodian Thomas, Bandelier National Monument.

Dear Mrs. Frey:

We are enclosing a copy of our application for permit to appropriate waters of Frijoles Creek at Bandelier National Monument, together with a print of the map NM-BAN-6978 which accompanies the application.

This application and map are copies of the originals that you studied in my office early this month during our discussion with Mr. A. van V. Dunn. The original application and map will be filed with State Engineer McClure at an early date.

Sincerely yours,

Charles A. Richey,
Superintendent.

Encl. 2878498.

cc: Custodian Thomas, Bandelier N. M.

Forest Boundary to its intersection with the west boundary of Township 19 North, Range 6 East; thence north along range line to its intersection with the Santa Fe National Forest Boundary; thence northeast along the Santa Fe National Forest Boundary to its intersection with Longitude 106° 15' West; thence north along Longitude 106° 15' West to its intersection with Latitude 36° 10' North; thence west along Latitude 36° 10' North to its intersection with the west boundary of the Juan Jose Lobato Grant; thence north along the west boundary of the Juan Jose Lobato Grant to its intersection with Latitude 36° 15' North; thence east along Latitude 36° 15' North to its intersection with Longitude 106° 15' West; thence north along Longitude 106° 15' West to its intersection with the north boundary of the Juan Jose Lobato Grant; thence east along the north boundary of the Juan Jose Lobato Grant to the northeast corner of said Grant; thence south along the east boundary of the Juan Jose Lobato Grant to its intersection with the north boundary of Township 24 North, Range 7 East; thence east along township line to its intersection with the east bank of the Rio Grande; thence north along the east bank of the Rio Grande to its intersection with the New Mexico-Colorado State Line; thence east along the New Mexico-Colorado State Line to its intersection with Longitude 105° 30' West being the point of beginning.

WITNESS my hand and the official seal of my office this 23th day of November, A. D., 1936.

S. E. Reynolds
State Engineer

05-31-1945: memorandum to regional director from chief regarding copies of an order granting an extension of time in which to ap

for Dam. file
J.N.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 4, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

May 31, 1945.

MEMORANDUM for the Regional Director, Region Three.

The two attached copies of an order granting an extension of time in which to apply the full quantity of water to beneficial use under Water Right Permit No. 2470 should be attached to Bandelier National Monument Deed No. 5 in your office and at the Monument.

We are also advised by the State Engineer that any one extension of time is limited to two years. As there is a $10 fee for each extension, it will be desirable to increase use as rapidly as possible. Since domestic consumption will be relatively small for some time, the quickest increases can be made by increasing the irrigated areas if the planting program permits.

Mr. Richey advises that although the past demand does not justify beneficial use of the full quantity covered by permit, the Lodge has used all water which could be obtained from the system. There are either some uses which have not been included in our calculations, or the intake and conduit are not carrying the maximum quantity which should be available with the pipe size and grade. This should be investigated during the next two years, and meters should be installed on the line when funds can be obtained.

(SGD.) A. VAN N. [illegible]
Chief, Water Rights Division.

Enclosure 246.
In duplicate.



05-12-1945: memorandum to director from assistant regional director regarding data to determine if full beneficial use of water has

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

May 12, 1945.

MEMORANDUM for the Director.

There is attached a copy of Custodian Thomas' memorandum of April 27, which is in response to Mr. Dunn's memorandum of April 7 requesting data to determine if full beneficial use of water has been established at Bandelier National Monument under water right Application and Permit No. 2470.

CHARLES A. RICHEY

Charles A. Richey,
Assistant Regional Director.

Enclosure 2077508.
cc: Custodian, Bandelier.

660-05.7

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 54, ILL.

FOR VICTORY BUY UNITED STATES WAR BONDS AND STAMPS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

May 24, 1945.

MEMORANDUM for the Regional Director, Region Three.

On the basis of the data supplied by Mr. Thomas and forwarded with Mr. Richey's memorandum of May 12, we are filing a formal request for extension of time in which to complete the use of water at Bandelier National Monument under water right permit No. 2470. A copy of the letter of transmittal is enclosed and the copies of the application and authorization for extension of time will be forwarded when returned by the State Engineer.

(SGD.) A. VAN V. DUNN
Chief, Water Rights Division.

Enclosure 243.
In duplicate.

04-27-1945: memorandum to regional director from custodian regarding proof of full beneficial use of .03 second feet of water und

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
BANDELIER NATIONAL MONUMENT
SANTA FE, NEW MEXICO

April 27, 1945

MEMORANDUM for the Regional Director, Region Three.

Reference is made to Mr. Richey's memorandum of April 20 and to the enclosed copy of Mr. A Van V. Dunn's memorandum for the Regional Director of April 7th relative to proving full beneficial use of .03 second feet of water under water right Application and Permit 2470 for Bandelier National Monument.

I am not sure that full beneficial use has been made of the water since filing of the application but am submitting such data as I have for your use in determination of the question. Heavy use was made of the water while the Army was using the Lodge during the summer of 1943. Following is data for one day, July 4, 1943.

1. Number of permanent residents (federal and Concessioner's.)
38

2. Number of overnight guests at hotel.
90

3. Number of overnight guests in campground.
55

4. Actual registration of day visitors.
192

5. Best estimate of actual area of vegetation irrigated by hose on this date .2 Acres.

I believe that on this date, the fullest use of the water since filing of the application was made.

Chester A. Thomas,
Custodian.

04-20-1945: memorandum to custodian from assistant regional director regarding proof of full beneficial use of water under your a

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

April 20, 1945.

MEMORANDUM for the Custodian,
Bandelier National Monument.

There is attached a copy of Mr. Dunn's self-explanatory memorandum of April 7 regarding the proof of full beneficial use of water under your Application and Permit 2470 for Bandelier.

It seems quite possible that during the Army or contractor's use of the Lodge, possibly on a heavily travelled Sunday, full use may have been established.

We will appreciate information from you so that full beneficial use can be established, or the application extended.

Charles A. Richey,
Assistant Regional Director.

Enclosure 2977346.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

April 7, 1945.

MEMORANDUM for the Regional Director, Region Three.

Proof of full beneficial use of 0.03 second-foot (19,389 gpd) of water under water right Application and Permit 2470 for Bandelier National Monument is due on June 16 unless we request an extension of time. Please supply us with the best estimate of maximum demand and its date in order that we may prepare the necessary notice or request. The data should include the following for one day, or the average for one week:

1. Number of permanent residents (federal and concessioner's.)
2. Number of overnight guests at hotel.
3. Number of overnight guests in campground.
4. Population of CCC camp or Army unit, if any, served by the system.
5. Best estimate of day visitors.
6. Best estimate of actual area of vegetation irrigated by hose.

These figures should be fairly close if it is possible to prove full beneficial use. On the other hand a less exact approximation will suffice if we are to request extension of time and quote use merely to show bona fide intent.

(SGD.) A. VAN V. DUM.
Chief, Water Rights Division.

In duplicate.



09-07-1944: memorandum to custodian from assistant regional director regarding print of map nm=ban-4939

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

September 7, 1944.

MEMORANDUM for the Custodian,
Bandelier National Monument.

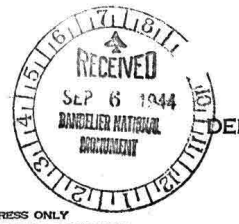
Enclosed is a copy of a memorandum of September 4 from Hydraulic Engineer A. van V. Dunn together with copies of two letters mentioned therein.

We are also enclosing a print of map NM-BAN-4939, folded and punched to fit the deed folder No. 4 which was sent you sometime ago. It is believed that this material will enable you to complete Deeds 4 and 5 for Bandelier National Monument.

Charles A. Richey,
Assistant Regional Engineer.

Enclosure 2874970
cc: Director





Custodian

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 54, ILL.



ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

September 4, 1944.

MEMORANDUM for the Regional Director, Region Three.

We enclose corrected copies of the certificate of construction which should be attached to the assemblies of Bandelier National Monument Deed 5 in your files and those of the Monument. The previous copy of the certificate which was sent with a memorandum of August 9 should be destroyed.

Copies of the State Engineer's letters of August 14 and August 30 are also enclosed for your letter file. The enclosed certificate is the third which has been issued and the first two, with errors, have both been returned to the State Engineer since he requested that the first one be disposed of in that manner.

(SGD.) A. VAN V. DUNN
A. van V. Dunn,
Hydraulic Engineer.



Enclosure 812589.
In duplicate.

09-04-1944: memorandum to regional director from hydraulic engineer regarding assembly of band deeds 4 and 5

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 54, ILL.



ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

September 4, 1944.

MEMORANDUM for the Regional Director, Region Three.

Reference is made to Mr. Scoyen's memorandum of August 15 with regard to the assembly of Bandelier National Monument Deeds 4 and 5.

Map NM-BAN-4939, and not 4933, should be the first instrument in Deed 4. This is the map of the Abbott claims. The number is not clear on our print.

We enclose two copies of each of the two letters requested to complete your deed assemblies.

(SGD.) A. VAN V. DUNN
Hydraulic Engineer.



Enclosure 812590.

00-00-0000: memorandum to director from regional chief of lands regarding declaration of rio grande underground water basin

L54

Region Three
Santa Fe, New Mexico

SUPT.	
ADM. AID	
CHIEF RANGER	
PARK RANGER	
MAINT. MAN	
FILE	

Memorandum

To: Director

From: Regional Chief of Lands

Subject: Declaration of Rio Grande Underground Water Basin, Bandelier National Monument

Attached for Mr. Dunn's information is a copy of the Order Declaring the Rio Grande Underground Water Basin and one copy of a small letter-size map showing the general location of the basin. Also attached is a newspaper clipping from the Albuquerque Journal of Saturday, December 1, covering the establishment of the basin.

The small-scale map shows only generally the boundaries of the basin. The unprecedented demand for copies left the State Engineer with such a short supply that only two copies of the Order and map were obtained and, at a later date, after the material has been reprinted, additional copies can be furnished for Mr. Dunn's use, if desirable.

At the present time, there is no large-scale map defining the basin by recognizable townships or sections; however, a representative of the State Engineer assured me that this large-scale map was "in work" and would be available for distribution at some later date. For Mr. Dunn's information, the west boundary of the underground basin follows the west boundary of Bandelier National Monument.

As soon as possible, at least as soon as the Wheeler Peak Report is finished, I plan to take annual leave, go to Chicago, and will probably not be in the office except intermittently until January 12.

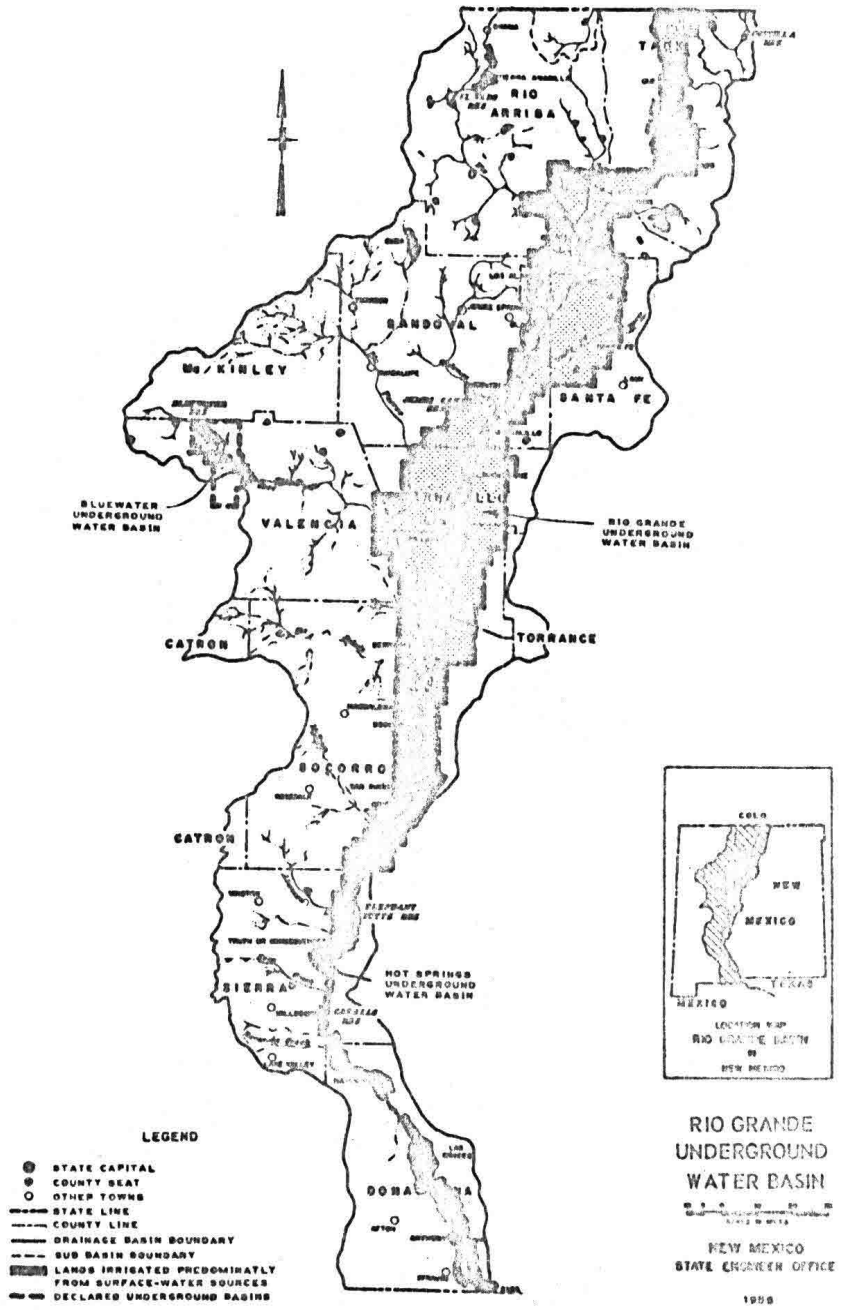
John E. Kell
Regional Chief of Lands

In duplicate

Attachments

Copy to: Supt., Bandelier. Without attachments

00-00-0000: map of rio grande water basin



08-15-1944: memorandum to director from acting regional director regarding assembly of water right deeds 4 and 5

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

August 15, 1944.

MEMORANDUM for the Director.

Reference is made to Hydraulic Engineer A. van V. Dunn's memorandum of May 10, relating in part to the assembly of Water Right Deeds 4 and 5 for Bandelier National Monument, and to his memorandum of August 9 enclosing a Certificate of Construction to be added to Deed 5. Some difficulty has been experienced in assembling the instruments for these deeds.

For Deed 4, instruments Nos. 2 to 5, inclusive, of Mr. Dunn's memorandum of May 10 have been found. As to No. 1, our Map NM-BAN-4933 is a copy of the monument proclamation, dated February 25, 1932. Map BAN-4939, "Duplicate Map of the Rito de Los Frijoles Ditch System of A. J. Abbott" would seem more appropriate as a part of the deed. Please advise whether or not the proclamation is to be used as the first instrument.

For Deed 5, instruments 1, 2, 3 and 6 are at hand. For instrument 4, we have Mr. Dunn's memorandum of September 13, 1943, to this office in the second paragraph of which the error of calling 0.03 sec. ft. 0.03 acre feet is mentioned. No copy of a letter of the same date to the State Engineer can be found, nor do we find copy of instrument 5, "Letter from Chief Clerk Teague" etc. It will be appreciated if you will have made 2 copies of each of these communications and sent to this office. We will then send one copy to the monument office for its files.

In reference to the memorandum of August 9, Mr. Richey states that the State Engineer has retained the signed original of the Certificate of Construction.

(SGD) E. T. SCOYEN

E. T. Scoyen,
Acting Regional Director.

cc: Cust., Bandelier

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO



August 4, 1944.

MEMORANDUM for the Director.

There is enclosed the signed copy of Certificate of Construction of Certificate No. 2470, covering the water right at Bandelier National Monument which was approved by the State Engineer on July 19, 1944.

CHARLES A. RICHEY

Charles A. Richey,
Assistant Regional Director.

Enclosure 2874934
cc: Cust., Bandelier

05-10-1944: memorandum to regional director from nps regarding proof of completion of works

UNITED STATES

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

WATER RIGHTS SECTION

SAN FRANCISCO, CALIF.
601 Sheldon Building



May 10, 1944.

MEMORANDUM for the Regional Director, Region Three.

We enclose the "Proof of Completion of Works" in connection with Water Right Permit 2470, Bandelier Deed 5, in six copies, together with a voucher for $5.00 for Certificate of Construction. The Proof must be submitted in duplicate and the other copies are to be distributed to the Director, Region Three, Bandelier and this office for the various copies of Deed 5 after execution.

It may be that one copy of the Proof submitted to the State Engineer will be returned later. If so, it should be forwarded to the Director for his file after you make an adjustments on your own copies to bring them up to date. We can adjust the copy for this Section after we reach Chicago.

The Proof is made out for execution by Mr. Richey. It really matters little who signs except that he still seems to be handling the Southwest Monuments. It is also suggested that Mr. Lassiter or Mr. Hamilton arrange to be appointed by the State Engineer to sign the engineer's certificate in order that there will be no engineers fee which we do not have authority to pay.

We are also enclosing the folders for Bandelier Deeds 4 and 5 for the Monument and your office and suggest that the deeds be assembled as follows, from your correspondence, listed from the bottom up.

Deed 4. (Abbott Right)

1. Map NM-BAN-4933.
2. Copy of Certificate of Construction under Permit 802.
3. Copy of License No. 802.
4. Letter to you, dated Feb. 20, 1942, from Chief Clerk in State Engineer's office, stating that there were no later filings for water from same source, and that transfers of this right were not recorded with State Engineer.
5. Change of Ownership executed by Mrs. Frey on Nov. 5, 1943 (should be 1942).

Deed 5. (NPS Application 2470)

1. Map NM-BAN-6978 (Print with State Engineer's stamp showing receipt April 3, 1943, in lower left corner).
2. Application-Permit No. 2470.
3. Affidavit of Publication, etc. (as sent to Director with Mr. Maxwell's memorandum of July 31, 1943. I am not sure whether I found this while in Chicago or not, but no copies have been made for distribution. For the time skip it and make a note to have me supply them after I reach Chicago, and so will I).
4. My letter to State Engineer of September 13, 1943, advising in second paragraph that approval of State Engineer refers to 0.03 acre ft. per second instead of 0.03 cubic foot per second.
5. Letter from Chief Clerk Teague of September 16 advising of correction and authorizing us to change other copies. (Have you done so?)
6. Proof of Completion of Works (after its execution).

I believe you have the original and one copy of the application No. 2470, and the Director, Bandelier and this office also have copies. If you will send the original with Mr. McClure's signature to the Director and call back his copy or not, as you see fit, all necessary transfers for Bandelier will have been made.

It is requested that a copy of this memorandum be forwarded to the Director, either now or with the Proof of Completion of Works, so that all may check for possible missing instruments.

(SGD.) A. VAN V. DUNN

A. van V. Dunn,
Hydraulic Engineer.

Enclosure 441.

05-23-1943: memorandum to regional director from hydraulic engineer regarding band water right problem

Cust. M, Bandelier N.M.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WATER RIGHTS SECTION
SAN FRANCISCO, CALIF.



March 23, 1943.

MEMORANDUM for the Regional Director, Region Three.

I am just sending the attached letter to the Director with regard to the Bandelier water right problem, and hope that it may offer a solution. It looks to me as though there were a perfectly satisfactory method of buying out Mrs. Frey's interests without introducing any real controversy over the true title to the water right itself. I am sure, from our discussion in Santa Fe, that no real harmony can exist at the monument as long as the operator claims some of the property. I also feel, with the interstate and international water claims on the Greater Rio Grande River, that we should establish our title to license No. 802 before it is further mismanaged or lost through lapse of use or other conditions.

I also enclose a copy of the application which you are now filing with the State Engineer for the independent diversion by the pipe line. This application was promised by Mr. Richey to Mrs. Frey along with a copy of the map, and I assume that a print of the map was run off before filing it with the State Engineer.

[illegible] W. DUNN

A. van V. Dunn,
Hydraulic Engineer.

Enclosure 2136681.

cc: Director.
Supt., S.W.Monuments.
Custodian, Bandelier N.M.,
through Supt., S.W.Mons.

UNITED STATES

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
WATER RIGHTS SECTION
SAN FRANCISCO, CALIF.

March 23, 1943.

MEMORANDUM for the Director.

Reference is made to the water right problem at Bandelier National Monument.

In the light of information obtained on my recent trip to Santa Fe I should like to request reconsideration of the possibility of purchasing Mrs. Frey's interests and a request for release of sufficient of our impounded funds to permit such purchase now. This request is supported by Mr. Richey.

I offer both positive and negative justification but feel that the weighted sum favors such action.

As a result of my trip the United States is supposed to have filed an application for 0.03 sec. ft. of water from Frijoles Creek, to be diverted by the Park Service pipe line, during the past week.

Mrs. Frey claims the old Abbott right under license No. 802 and on November 11, 1942, filed a sworn statement with the State Engineer to the effect that she was sole owner. This statement also indicated that part of the right had lapsed — as it has — and that she now irrigates 5 acres of land. This defines her right as 0.0715 sec. ft. with an annual limit of 15.0 acre feet.

License No. 802 has a priority of January 27, 1915, and the Park Service claim will have a priority of March or April 1943, depending on when it is actually filed.

Under the license, Mrs. Frey can now divert at 0.0715 sec. ft. for just 105 days per year without exceeding the 15.0 acre foot total. I believe the growing season is nearly 200 days in the area so that she is only entitled to irrigate on an average of alternate days.

Actually, the orchard which Mrs. Frey irrigates has an area of only 1.14 acres. In other words, she only needs about 23% of the water covered by license. We could prove lapse of the rest if we wished, but for the moment we can say that she should not irrigate at 0.0715 sec. ft. but one day in 8, or a total of 25 days per year. She might prefer to irrigate about 3 hours per day during the whole season. There could be other schedules between these two, but in any case the creek is all available to supply the NPS claim most of the time.

Even if both diversions are made at once, the total demand is only 0.1015 sec. ft., which is far less than minimum stream flow. It is possible, however, that with minimum flow little or no water would reach actual headgates.

Mrs. Frey advised that she has actually felt a shortage due to NPS diversions. I am quite certain that she diverts at a rate of over 0.5 sec. ft. most of the time so that this claim is ungrounded.

Mrs. Frey's sworn statement as to title is not necessarily true. "All water appropriated for irrigation purposes, except as otherwise provided by written contract between the owner of the land and the owner of.... the ditch...., is appurtenant to the land upon which it is used and shall so continue as long as it can be beneficially used on or until it is lawfully severed from the land." (From State Water Manual.)

The United States is, and always has been, owner of the land, but I do not know what contracts may have existed under Forest Service jurisdiction in 1914-1915. The Park Service seems to have recognized that she has some title:

1. It provided the new lodge, etc., in exchange for her old developments.

2. It permits her to irrigate and cultivate the orchard.

The land was first occupied and developed with the intent to patent. It seems possible that Mrs. Frey has acquired some vested right under the Public Land laws.

The Park Service claim has not been filed since sent to the Regional Director in November because Mrs. Frey protested, feeling that we were claiming part of her right under license No. 802. In our conference on March 8 I seemed to convince her that the two claims were independent and she consented to the filing. The fact that the Park Service has deferred action in deference to her whims, suggests further recognition of her title to license No. 802, morally or otherwise.

It has been pointed out that the Park Service and Mrs. Frey both claim rights which can be fully satisfied by Frijoles Creek, and so far as I have been able to determine the two rights are all on that creek. So far as the one stream is concerned, the United States does not need the Frey right. However, Frijoles Creek is part of the Rio Grande drainage — an interstate and international stream. It is also above the Middle Rio Grande Conservancy District which probably claims all tributary waters. On this basis the Park Service should prefer a priority of 1915 to one of 1943.

During a call on the State Engineer on March 9, I found that he would accept an application to sever the Frey right from the land and transfer it to any other point in the Rio Grande drainage, subject to protest by other water users and the owner of the land to which it is now appurtenant. Hence, right under license No. 602 is worth more than is implied by its present location.

In our conference Mrs. Frey pointed out that she was not amortizing her investment as planned under the FPC contract and that she was negotiating to sell her concession and water right to a man from Oklahoma. I am not sure that she can sell the concession without FPC approval, and I always feel that Oklahomans overestimate the value of their purchases near parks and monuments. Be that as it may, she has a potential market.

The State Engineer also advised that there is a market for water rights in the aforesaid Conservancy District near Cochiti Canyon, about 40 miles north of Albuquerque. He advised that the crops there were general, alfalfa, grain, fruits, beans, and vegetables, and that irrigated land was probably worth about $40 per acre.

Mr. Richey advised that much land between Santa Fe and the monument is being subdivided and sold as home sites at from $150 to $200 per acre.

Three possible values of the water right result:

5 irrigated acres @ $40	$200.00		
5 irrigated acres @ $150		$750.00	
5 irrigated acres @ $200			$1,000.00
Less 5 arid acres @ $2.50	12.50	12.50	12.50
0.0715 sec. ft. of right at Bandelier	$187.50	$737.50	$ 987.50
Less: State fees for transfer	$25.00		
Cost of file map	100.00		
Abstract, etc.	25.00		
	150.00	150.00	150.00
Market value at Cochiti Canyon	$37.50	$587.50	$837.50
Value per second foot	525.00	8,200.00	11,700.00

Mean value per second foot.....$6,112.50

Mean value for 0.0715 second foot..... $437.50

Mrs. Frey also has the following investments:

900 ft.	of orchard fence	$ 75.00
50	fruit trees, now at least	500.00
15	yards concrete distribution ditch	225.00
1.14	acres grading and clearing	50.00
1400 ft.	of diversion ditch	100.00
	Total	$950.00

It seems to me that there is a total value of about $1,387.50 of which $950 is definitely investment by Mrs. Frey and her predecessors, and $437.50 is disputed by the United States and Mrs. Frey. Mrs. Frey does not need to know how much we are paying for water rights and how much for improvements. If she is willing to sell at not to exceed $1000 we would have a simple solution to a complicated problem.

We would buy her interest in improvements and water rights under license No. 802, showing that we paid practically nothing for the right itself. We would have undisputed title to an older right in the Rio Grande drainage.

A. van V. DUNN

A. van V. Dunn,
Hydraulic Engineer.

cc: Region Three.
Supt., S.W.Monuments.
Custodian, Bandelier N.M.,
through Supt., S.W.Mons.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

March 10, 1943.

MEMORANDUM for the Water Rights Section,
601 Sheldon Building, San Francisco, California.

Reference is made to your memorandum of February 18 enclosing a copy of Acting Director Moskey's memorandum of November 25, relative to the application to appropriate waters of Frijoles Creek in Bandelier National Monument.

Since Engineer Dunn of your office planned to be in Santa Fe March 8 and 9, no action was taken in response to your memorandum pending the arrival of Mr. Dunn.

The above-referred to application was discussed in detail with Mrs. Frey, Mr. Dunn, Regional Engineer Lassiter and Assistant Superintendent Maxwell, on March 8. Details pertaining to the water rights at Bandelier, which had not previously been understood by Mrs. Frey, were clarified at this time. She has no further objection to our filing an application to appropriate waters of Frijoles Creek since she clearly understands that our application will not conflict with her present claims. It was decided to file the application just as soon as Regional Engineer Lassiter returns from Denver, Colorado, where he is accompanying Mr. Dunn.

While we regret that the filing of this application has been delayed, we do feel that it has been beneficial to have the opportunity to review this matter with Mr. Dunn and to have Mrs. Frey clearly understand our intent and to know that we are not trying to take the original Abbott right or any claims that she might have. Mr. Dunn has complete information concerning our attitude in this matter, and I feel sure that he will pass it on to you and clarify any misunderstanding which may have been caused by Regional Director Tillotson's memorandum of February 11.

CHARLES A. RICHEY

Charles A. Richey,
Acting Regional Director.

cc: The Director.
Supt., SW National Monuments.
Custodian, Bandelier N. M.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
COOLIDGE, ARIZONA
Santa Fe, New Mexico

March 4, 1943.

Mrs. Evelyn C. Frey,
Encino,
New Mexico.

Dear Mrs. Frey:

I saw Custodian Thomas of Bandelier National Monument several days ago and he told me that you were away from Bandelier visiting your father in Encino. I presume that this is the reason I have not received replies from you in response to my recent letters regarding your operation contract and the water rights matter.

Information has just come to me that Engineer van Dunn of the Water Rights Section of this Service will be in Santa Fe several days during the coming week. It seems to me that this would be an opportune time to review the Bandelier water rights matter and to clarify any misunderstandings which may have developed in the past. It is my understanding that Mr. van Dunn is fully acquainted with this problem, having studied the matter at Bandelier several years ago, and I would like to have the opportunity to discuss the current status of this matter with you and him.

I wonder if it would be convenient for you to come to my office on Tuesday afternoon, March 8, at about two p. m. Should this be impossible, I believe that we can arrange for a meeting at Bandelier the same afternoon, if this will be more convenient for you. Under either condition, I will appreciate information from you concerning this date. I am sending a copy of this letter to you at Bandelier, and a copy to Mr. Thomas, so that we may be able to contact you in case you are not at Encino.

Sincerely,

Charles A. Richey,
Superintendent.

cc: Mrs. Frey, Frijoles Canyon Lodge,
Bandelier N. M., Santa Fe, N. M.
Custodian, Bandelier N. M.

Art: I will be pleased to have you present at the meeting referred to above. Should Mrs. Frey be at Bandelier, you might check the matter with her. If she is at Encino, we will try to get word to you if she confirms the above-suggested appointment date. CAR.

02-18-1943: memorandum to regional director from nps regarding application to appropriate waters of frijoles creek

UNITED STATES

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
WATER RIGHTS SECTION
601 Sheldon Building SAN FRANCISCO, CALIF.

February 18, 1943.

MEMORANDUM for the Regional Director, Region Three.

Reference is made to your memorandum of February 11 addressed to the Regional Director, Region Four, relative to our application to appropriate waters of Frijoles Creek in Bandelier National Monument.

You state that this application has not been filed with the State Engineer because of certain differences of opinion in your office and in the office of the Southwestern National Monuments as to the relative merits of proceeding under the water rights application as compared with the purchase of Mrs. Frey's water rights. You also advise that when these differences have been settled and it is decided to apply for the appropriation of water you will advise us.

We were under the impression that the matter of filing water right applications was usually in the discretion of this office. However, we have agreed with your office in the past as to the advisability from a matter of policy of purchasing whatever rights Mrs. Frey might have, even though those rights are very inchoate and ephemeral. In order to protect our rights we had determined that it was necessary to make an application to appropriate water in behalf of the National Park Service at Bandelier; but on November 14, 1942, I wrote the Director asking for authority to negotiate on the basis of $1000 for the purchase of the private rights at Bandelier. You received a copy of my memorandum. The reply thereto was made by Chief Counsel Moskey as Acting Director under date of November 25, 1942, of which I note you did not receive a copy. I am enclosing a copy of the Acting Director's reply herewith. You will note therein that he expects us to go on with the perfection of the pending water right application, and then the matter of undertaking purchase negotiations might be considered.

It would therefore seem to us that the water right application should be filed immediately and then we can decide on your and our recommendation to appeal for an allotment of $1000 with which to negotiate for the purchase of the alleged rights of Mrs. Frey.

Albert L. Johnson,
Attorney.

Enclosure 2136667.

cc: Director.
Supt., S.W.Mons.)with copy of Mr. Moskey's
Custodian, Bandelier)memorandum of 11/25/42.

02-11-1943: memorandum to regional director from regional director regarding application to appropriate waters

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO



February 11, 1943.

MEMORANDUM for the Regional Director, Region Four.

Reference is made to Hydraulic Engineer Dunn's memorandum of February 8, relative to the application to appropriate waters of Frijoles Creek in Bandelier National Monument.

This application has not been filed with the State Engineer. There still remain certain differences of opinion in this office and in the office of the Southwestern National Monuments as to the relative merits of proceeding under Mr. Dunn's application, as compared with the purchase of Mrs. Frey's water rights.

When these differences have been settled and it is decided to apply for the appropriation of water, we will advise you.

M. R. TILLOTSON

M. R. Tillotson,
Regional Director.

cc: Supt., Southwestern
National Monuments.
Custodian, Bandelier
National Monument.

01-20-1943: letter to frijoles canyon lodge from nps regarding water right on the rio grande

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
COOLIDGE, ARIZONA

Santa Fe, New Mexico

January 20, 1943.

Mrs. Evelyn C. Frey,
Manager,
Frijoles Canyon Lodge,
Bandelier National Monument,
Santa Fe, New Mexico.

Through Custodian, Bandelier National Monument.

Dear Mrs. Frey:

Reference is made to our recent conversation during your last trip to my office in Santa Fe, concerning your water right on the Rio de Los Frijoles, Bandelier National Monument. Upon your departure, I discussed this matter in some detail with Regional Engineer Lassiter and Auditor Vanden Heuvel.

I feel that there has been some misunderstanding concerning this water right as Mr. Lassiter informs me the Government has never made application for a water right at Bandelier. I was of the opinion, from discussing this matter with Custodian Thomas, that application had been made for sufficient water to operate the lodge and the residential development. It is presumed that Mr. Thomas received this information from you without checking it with the State Engineer's office.

As discussed with you, I would like very much to go into this matter in detail with you and several members of my staff. I think it would also be opportune if both of us went to the State Engineer's office to clarify the misunderstanding that this Service has filed a water right application at Bandelier.

I now intend to be in this office for the next several weeks and will be glad to discuss this matter at your convenience. Some advance notice will be appreciated so that I can arrange for the attendance of Regional Engineer Lassiter and Custodian Thomas.

Sincerely yours,

Charles A. Richey,
Superintendent.

cc: Custodian Thomas,
Bandelier N. M.

11-25-1942: memorandum to attorney johnson from acting director regarding acquisition of water rights at band

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO

November 25, 1942.

MEMORANDUM for Attorney Johnson, Region Four.

This refers to your memorandum of November 14, concerning the acquisition of water rights at Bandelier National Monument, and requesting authority to negotiate for the purchase of certain private water rights on the basis of a consideration of $1,000.

I note Mr. Dunn's statement in his memorandum of November 13 that there is no immediate need for the additional water; also his statement, in which I concur, concerning the wisdom of undertaking purchase negotiations pending the ultimate perfection of the pending water right application. In these circumstances, and in the absence of other information, the proposal does not appear sufficiently urgent or otherwise meritorious to justify a recommendation to the Bureau of the Budget for approval and release of purchase funds. The matter should continue to receive field consideration and be resubmitted for our consideration if and when all of the circumstances will conclusively justify the expenditure of funds under the restrictions imposed by the war program.



/s/ G. A. Moskey
Acting Director.

11-25-1942: memorandum to attorney from acting director regarding acquisition of water rights

Bandelier

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National Park Service
Region III

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO

November 25, 1942.

MEMORANDUM for Attorney Johnson, Region Four.

This refers to your memorandum of November 14, concerning the acquisition of water rights at Bandelier National Monument, and requesting authority to negotiate for the purchase of certain private water rights on the basis of a consideration of $1,000.

I note Mr. Dunn's statement in his memorandum of November 13 that there is no immediate need for the additional water; also his statement, in which I concur, concerning the wisdom of undertaking purchase negotiations pending the ultimate perfection of the pending water right application. In these circumstances, and in the absence of other information, the proposal does not appear sufficiently urgent or otherwise meritorious to justify a recommendation to the Bureau of the Budget for approval and release of purchase funds. The matter should continue to receive field consideration and be resubmitted for our consideration if and when all of the circumstances will conclusively justify the expenditure of funds under the restrictions imposed by the war program.

cc: Regional Director, Region Three.
Supt., Southwestern Natl. Monuments.
Custodian, Bandelier National Monument.

(SGD) C. A. Mosksy
Acting Director.

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Custodian, Bandelier N.M.

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National Park Service
Region III

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WATER RIGHTS SECTION
SAN FRANCISCO, CALIF.

February 8, 1943.

MEMORANDUM for the Regional Director, Region Three.

Our records show that we sent you an application to appropriate the waters of Frijoles Creek in Bandelier on November 3, 1942, and that a letter from you answering our earlier questions of August was written on November 10 and probably crossed our correspondence in the mail.

We should like to know whether the application has been filed with the State Engineer, and if so whether a permit has been granted. When such permit is received by the Superintendent, we should like to borrow it to complete other Park Service copies.

(SGD) A. WSW. DUNN

Hydraulic Engineer.



cc: Supt., S.W.Mons.
Custodian, Bandelier N.M.

11-14-1942: memorandum to regional director from attorney regarding water rights

UNITED STATES

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
WATER RIGHTS SECTION
SAN FRANCISCO, CALIF.
601 Sheldon Building

November 14, 1942.

MEMORANDUM for the Regional Director, Region Three.

Reference is made to your memorandum of November 10 concerning water rights at Bandelier National Monument. Your memorandum evidently was written prior to the receipt of Mr. Dunn's memorandum of November 3 transmitting an application to appropriate the waters of Frijoles Creek for the federal pipe line.

I do not think there is anything further I can add to your and Mr. Dunn's last memoranda except what is contained in my memorandum of even date to the Director, a copy of which is enclosed. I would emphasize, however, Mr. Dunn's suggestion that the filing whould be made without alterations and without delay. In the meantime we will learn from the Director as to whether we can negotiate on the basis of $1,000 with Mrs. Frey and her attorney.

(SGD.) ALBERT L. JOHNSON
Attorney.

Enclosure 2122068.

cc: Director.
Supt., S.W.Mons.
Custodian, Bandelier N.M.,
through Supt., S.W.Mons.

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Supt. ... Monuments.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WATER RIGHTS SECTION
SAN FRANCISCO, CALIF.

November 14, 1942.

MEMORANDUM for the Director.

In enclosing a copy of Mr. Dunn's memorandum of November 13 to me with reference to water rights at Bandelier National Monument, I do so for the purpose of answering the question in the antepenultimate paragraph of Mr. Dunn's memorandum, which is the same question propounded by Regional Director Tillotson in his memorandum of November 10 to us.

While I understand that $2,000 was tentatively set aside or allotted for the purchase of water rights at Bandelier, nevertheless I understand that all purchase funds are reserved. If we could negotiate on the basis of $1,000 for the purchase of the long-standing private rights at Bandelier, I feel with Mr. Dunn that it would be an excellent compromise. In fact, I think the Regional officials at Santa Fe would consider the elimination of private rights at Bandelier as warranting a much larger expenditure than that. The only thing is that we have analyzed those water rights so long to such a fine point that we do not think an appraisal would go much higher than $1,000.

May we negotiate on that basis after the filing of the National Park water claim at Bandelier National Monument?

(SGD.) ALBERT L. JOHNSON
Attorney.

Enclosure 2122067.

cc: Region Three)with copy
Supt., S.W.Monuments)of Mr. Dunn's
Custodian, Bandelier N.M.)memorandum of
through Supt., S.W.Mons.)Nov. 13, 1942.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

601 Sheldon Building

November 13, 1942.

MEMORANDUM for Attorney Albert L. Johnson.

Reference is made to Mr. Tillotson's memorandum of November 10, 1942, with regard to water rights at Bandelier National Monument.

This apparently crossed my memorandum of November 3 transmitting an application to appropriate the waters of Frijoles Creek for the federal pipe line, the latter having been delayed a few days because of blue printing schedules. A review of the matter, however, indicates that Mr. Tillotson's memorandum adds nothing to Mr. Richey's comments of September 18, 1942, with regard to the particular system to alter the application as drawn. It is suggested that the filing should be made without alterations, preferably before further questioning of Mrs. Frey with regard to her claims.

From Mr. Tillotson's memorandum and mine of August 18 it is clear that Mrs. Frey has only irrigated 1.14 acres in recent years and not over 2.58 acres since 1932 or 1933. Since the license granted 45 acre-feet per annum for 15 acres at 3 acre-feet per acre, all rights to more than 7.75 acre-feet per annum have lapsed by 10 years of non-use. (On the middle of page 18 of the State manual published in April 1941 such forfeiture results after 4 consecutive years of non-use.)

The license No. 802 also defines the season of use as 153 days from April 1 to August 31 of each year. This gives an average application of 0.05065359477 acre-feet per day as a liberal use, which converts to 0.1005 second feet. The license granted a maximum rate of diversion of 0.42 second feet which I believe would still apply so long as irrigation was only made during 38 days of the total season.

On page 5 of my memorandum I showed that we paid $10,000 per second foot for the Rattlesnake Springs right for Carlsbad, and suggested that the right of Mrs. Frey might be worth only $5,000. I am inclined to give her the benefit of the doubt and say her right and good will are worth $1000 to the National Park Service.

As of July 1, 1942, see my tabular report of Status of Water Rights as submitted to the Regional Directors and Park Superintendents on August 19, 1942, we had $2,000 allotted to the purchase of Mrs. Frey's rights out of our total fund of about $69,000. The amount was impounded, however.

It does not seem wise to negotiate for the purchase until the NPS water right application becomes a permit, and nominally we cannot do so until after the war, but it may be that Mrs. Frey will protest our filing until she knows the fate of her right. For that reason, I think we should learn from the Director whether we can obtain a release of $1,000 of impounded funds for possible purchase during the latter part of this fiscal year.

Mrs. Frey would still probably have to perfect her abstract of title, but so far as I can see our main interest is obtaining her interest regardless of its status. Mr. Tillotson states he does not plan to irrigate the monument so the value of an irrigation right to the United States is only as a reserve for future conversion to other uses. We would continue to irrigate the orchard until a larger pipe is installed for domestic purposes, when the right would be converted and transferred to it.

(SGD.) A. VAN V. BUREN
Hydraulic Engineer.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

November 10, 1942.

MEMORANDUM for the Water Rights Section, Region Four.

Reference is made to Regional Attorney Johnson's memorandum of August 21, transmitting Hydraulic Engineer Dunn's memorandum of August 18, relative to water rights in Bandelier National Monument.

The statement in the second paragraph of Mr. Johnson's memorandum "that the orchard is the only area now under irrigation" is correct. This area has been continuously irrigated, but it is doubtful if any other sections in the Canyon have been irrigated since 1932 or 1933.

We have not heard anything from either Mrs. Frey or her attorney, Judge Seth, as to the results of the latter's attempt to protect her title to her water rights. As soon as we learn of any action or progress in the matter, we will advise you.

With reference to Mr. Dunn's memorandum, we submit the following answers to the points requiring clarification:

1. The use of Mr. Dunn's calculated bearing and distance for the tie to the point of diversion will not affect anything in this Office.

2. Refer to enclosed print of BAN-6977 for indicated changes.

3. CCC Camp moved out of Bandelier National Monument to the adjoining Santa Fe National Forest.

4. Practically all of Ditches Nos. 1 and 2 would have to be reconstructed, together with diversions, to put them in use. Ditch No. 3 is usable only as far as the orchard.

5. The Park Service will not irrigate any area by ditch. Only irrigation will be patio and small plots around Lodge and Headquarters, which will be done by hose from domestic supply.

6. The areas formerly irrigated are about as shown on map. They have not been irrigated --except the orchard--since 1932 or 1933.

7. See map. Yes.

8. We may, at some future date, want to install a larger pipe line, if this is necessary to protect our water right.

We will endeavor to find out in the near future as to what Mrs. Frey has done in the matter of perfecting her rights, and if she will dispose of them at a reasonable figure.

Will you please advise us if you made an encumbrance against your last year's funds which can still be used for this project?

Regional Director.

Enclosure 2878006.
cc: Supt., SWNMS.
Cust., Bandelier NM.

11-03-1942: memorandum to regional director from nps regarding application for permit to appropriate waters

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WATER RIGHTS SECTION
SAN FRANCISCO, CALIF.
601 Sheldon Building

November 3, 1942.

MEMORANDUM for the Regional Director, Region Three.

We enclose an application for permit to appropriate waters of Frijoles Creek at Bandelier National Monument, in duplicate, together with tracing of NM-BAN-6978 to accompany it. Both should be signed before a notary and submitted to the State Engineer with a voucher for $10.00. One copy of the application will be returned to the Superintendent of Southwestern Monuments on acceptance, and should be returned to us for completion of copies for others. Also, after the map is duly accepted by the State Engineer we shall want a negative for which his charge is $2.00.

We are eliminating the Notice of Intention to file application because we do not need the intervening time. This seems to eliminate a $10.00 charge as well, but the State Engineer may not agree. When all fees are adjusted, the cost may be billed to this office by you.

The application form has been changed since our last filing, and we have also been advised of a very limited definition of domestic use in New Mexico. We have filled out both of items 9 and 10 to try to obtain the superior right of domestic and irrigation usage while the claim falls more largely under a form of industrial use under definition. If the State Engineer wishes alterations we shall be glad to make them so long as we obtain the best type of preferred right we can.

Mr. Richey's memorandum of September 18, 1942, did not answer or approve of all of the points of question in my memorandum of August 18, 1942, but I gather that where no answer was made my ideas were accepted except with regard to the ditches. Hence, the present application is limited to use by the pipe line and covers the full capacity of it. We can thus perfect our rights for the pipe line and let the ditch problem ride a little longer.

We should watch the action of Mrs. Frey, however. Her rights have really very largely lapsed. Further, referring to the top of page 3 of my memorandum to Mr. Johnson of August 18, 1942, it will be noted that her title to all the original Abbott right is questionable

and her right to transfer it from the federal land is very doubtful. I feel, personally, that part of the right became federal property when the Park Service moved Mrs. Frey's hotel and she did not provide for transfer of the right in the agreement to move her other interests. Now, therefore, we should not let her alter her rights at all without having the changes first carefully reviewed by this office and the Chief Counsel.

(SGD.) A. VAN W. DUNN

Hydraulic Engineer.

Enclosure 2122043.

cc: Director.
Supt., S.W.Mons.
Custodian, Bandelier Nat. Mon.
(through Supt., S.W.Mons.)

660-057

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA
601 Sheldon Building

August 21, 1942.

MEMORANDUM for the Regional Director, Region Three.

Enclosed herewith is Mr. Dunn's latest analysis of the water rights situation at Bandelier National Monument together with a map of the Bandelier Water Systems and Rights.

At the top of page 2 of Mr. Dunn's memorandum he mentions his personal visit to Bandelier last year where he saw only traces of Ditches Nos. 1 and 2, and his failure to see any irrigation under Ditch No. 3 except in a small orchard area. He states that the orchard area is only 1.14 acres. From my visit to Bandelier at about the same time I do not think the area irrigated was in excess of that amount, but I am doubtful from what was told me there whether irrigation had been used continuously since 1937. The Custodian might be able to inform us on this point.

With reference to the contents of page 3 of Mr. Dunn's memorandum, we expected before this time to have some report from the Regional Office as to Mrs. Frey's attempt through her attorney to secure a water right chain of title. If we have this report from Mrs. Frey's attorney we will be better able to judge the minimum of Mrs. Frey's water rights if any. The search of records by Mrs. Frey's attorney may clarify some of the matters discussed by Mr. Dunn on pages 3 and 4 of this memorandum.

You may not agree with our comparison of the value of the ditch right with the right purchased at Carlsbad in 1936, but if you do not we hope you will feel free to comment upon the valuation contained in Mr. Dunn's memorandum of August 18 and that in his memorandum of May 18, 1942. We will await your latest views on this subject and your report with reference to Mrs. Frey's attorney searching the records for a definite title.

ALBERT L. JOHNSON
ALBERT L. JOHNSON

Attorney.

Enclosure 2121998.

cc: Director, with enclosures.
Supt., S.W.Mons., with enclosures.
Custodian, Bandelier Nat. Mon.,
(through Supt., S.W.Mons.) with enclosures.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA
601 Sheldon Building

August 18, 1942.

MEMORANDUM for Attorney Albert L. Johnson.

Reference is made to the various correspondence relating to water rights at Bandelier National Monument. The attached map of Bandelier Water Systems and Rights, NM-BAN-6977, has been prepared to clarify several points under discussion. From the data it is hoped that a policy can be defined regarding NPS procedure when funds are again available. It is also intended to justify my present plan to file a new claim to 0.03 sec. ft. for the NPS pipe line and I hope it will result in your approval of that plan.

Mrs. Frey's Water Rights

Mrs. Frey claims title to all rights initiated by Judge Abbott and perfected under License No. 802 for 0.42 sec. ft. and an annual limit of 135 acre feet to irrigate 45 acres of land. On the drawing I have plotted the Rito de los Frijoles Ditch System in relation to other monument developments.

There were three ditches and I find, by planimeter, that they irrigated only 26.15 acres as follows:

Under Ditch No. 1.....	2.58 acres
Under Ditch No. 2.....	6.31 acres
Under Ditch No. 3.....	17.26 acres
Total	26.15 acres

On this basis the original license was based on some misrepresentation, and any portion to irrigate more than 26.15 acres is either void or has lapsed by not having been used at all since the date of filing claim. In other words Mrs. Frey has a right to only 26.15/45 of 0.42 sec. ft. and 135 acre feet per annum, or a right to only 0.245 sec. ft. and 78.45 acre feet per annum. In terms of quantity Mrs. Frey's right is thus worth only 58.5% of the face value of the license.

On my visit to Bandelier last year I only saw traces of Ditches Nos. 1 and 2. I also failed to see any irrigation under Ditch No. 3 except in the small orchard area. I was advised at the monument that the orchard area was about 2 acres, but I find it to be only 1.14 acres. If, as I believe, this is all that has been irrigated since about 1937, it is possible that all the right has lapsed except that to irrigate this area. This would limit the right to 0.011 sec. ft. and 3.42 acre feet per annum.

I find that the Park Service pipe line has a grade of 9 feet per 1000 feet for some distance below the diversion which limits the 2" pipe capacity to 19,600 gpd or 0.030 sec. ft. This is all the water that has been used by the Park Service, CCC, and Mrs. Frey since about 1937. At least 6000 gpd of this has been used by the Park Service and CCC. I think these units used much more but this gives a liberal allowance to the lodge of 13,600 gpd or 0.021 sec. ft. This seems to be the maximum water Mrs. Frey has used for non-irrigation purposes either at the present lodge or her former hotel. As a matter of fact, she probably used less and the Park Service probably used more.

My conclusion is that at the time the Park Service took over Mrs. Frey may have been using 0.245 sec. ft. for irrigation and not over 0.021 sec. ft. for other purposes, a total of 0.266 sec. ft. At the present time her total use does not exceed 0.032 sec. ft. of which only 0.011 sec. ft. is by her right through the Rito de los Frijoles Ditch System.

The map shows that the Ditch No. 3 may have irrigated the old CCC camp site, checking station area and lodge parking area at one time, but it probably just missed the present lodge area because of the high elevations and steep slope of that land. In other words, Mrs. Frey now occupies a lodge on land never served by her own water system and rights. She now derives her lodge water from the NPS pipe line with a diversion more than half a mile above any diversion she has ever made under her own rights or by her own system.

So far as can be determined Frijoles Creek has a flow of more than 1 sec. ft. at all times and Mrs. Frey and the Park Service are the sole claimants between the NPS pipe diversion and its mouth. In other words, NPS pipe diversions have no physical connection with Mrs. Frey's rights, and also offer no conflict.

The New Mexico water right manual of April 1941, at page 15, states:

> "No irrigation right which is appurtenant to the land shall be assigned or transferred apart from the land except in the manner specially provided by law. Neither may title to land be transferred apart from any water right which is appurtenant thereto unless such right has been previously alienated from the land in the manner provided by law."

On the preceding page the manual specifies that a right is severed from the land by change in point of diversion, place, or method of use. This has not been done by Mrs. Frey or her predecessors. On the same page it specifies that the map to accompany application for such change shall show the ownership of the land, suggesting that a person may assign water to land other than his own and yet have the water become appurtenant to the land.

Mrs. Frey and her predecessors have never owned the land at Bandelier. They occupied it under lease from the Forest Service prior to the creation of the monument, and they were squatters (perhaps intending to patent) prior to that. On this basis, there seems to be a strong argument for claiming that all of the Frey or Abbott water right applying to land which is not now occupied by Mrs. Frey has become the property of the United States because it is appurtenant to the federal land. In other words, of the apparent right to 0.245 sec. ft. in 1937, the United States might have title to 0.234 sec. ft. at this time except for such portions as may have lapsed.

Park Service Water Claims

The water right manual, page 15, states that:

> "Any filing, permit or license to appropriate water may be assigned, but no such assignment shall be binding except on the parties thereto unless filed for record in the office of the State Engineer. Such filings shall be made out in duplicate on the proper Change of Ownership forms or it may be a certified copy of the actual assignment. A fee of $1.00 must accompany the filing."

The United States has already been advised, in the case of the Rattlesnake Springs at Carlsbad, that it was using water illegally because it failed to record ownership of Right No. 0432. This error was corrected in 1936, only three years after the land and right were acquired by the United States and the same three years after the vendor last used it.

In the case of Bandelier it seems to have been at least five years since part of the right was exercised by Mrs. Frey, and no change of title has been recorded. Thus, it is possible to claim that the right has lapsed except for the portion needed for Mrs. Frey's orchard and for any other areas which may have been irrigated during the past four years. On one print of the map we should like to have you indicate any areas which may have been irrigated since midsummer 1938.

Lapse, of course, is supposed to be a matter of fact and need not be declared. However, there is some question as to whether we need recognize the lapse unless we wish to. The chief reason for claiming the lapse would be to prevent the use of the right in the NPS pipe line by Mrs. Frey to the disadvantage of the Park Service. Mrs. Frey, on the other hand, might claim the lapse to prevent the right from falling into federal hands if she did not feel she was properly recompensed for it. Hence there is a delicate administrative problem to settle rather than one of need (there is plenty of water without this right).

The Park Service pipe line is covered by no right. It has a capacity of only about 0.03 sec. ft., based on an initial control grade of 9 feet per 1000 feet and diameter of 2 inches. I have suggested that Mrs. Frey may have used anything up to 70% of this amount. However, she uses it on federal land and in federal buildings which she occupies under lease. Hence her use, as well as that of the Park Service, should be under a federal water right.

It is possible for the Park Service to claim that the construction of the pipe line was the first step toward changing the point of diversion, place of use, and possibly the method of use under the Abbott right. It is also possible for Mrs. Frey to claim that her move from the old hotel to the NPS lodge, and use of the pipe line, constituted the first step toward making the same changes. The title to the right would depend on which made the claim first and obtained a permit, provided the other did not protest. However, the pipe capacity can be exhausted by filing a new claim so that neither party can transfer existing rights.

If the NPS title to part of the ditch right is good, the best procedure is to apply for the changes. But this claim of title will cause ill feeling because Mrs. Frey believes she has full title through ignorance of the law. She also feels there has been no lapse because her attorney is attempting to clarify title at this time. Therefore, it seems wise for the Park Service to file a new claim at least until the conflicting claims to the old right can be adjusted. Then it will be possible to cancel that filing and apply for transfer of that old right.

Value of the Abbott Right

If we fill the pipe by filing a new claim it will probably be better diplomacy to recognize that the Abbott right has not lapsed to the total of 0.245 sec. ft. for irrigation and 0.021 sec. ft. for other purposes, a total of 0.266 sec. ft. The reason for such recognition would be that failure to use the full amount during more than four years has been due to failure to come to proper decision as to title and as to the operator's land title.

The Park Service purchased 79.87 acres of land and 0.5 sec. ft. of declared water right from Mrs. Harrison at Rattlesnake Springs for Carlsbad Caverns for $7540. Exactly 35 acres of the land were under irrigation. The following constitutes a possible breakdown of the price:

35 acres of irrigated land at $25.....	$875.00
44.87 acres of range land at $5.....	224.34
Ranch buildings (guess).....	1,500.00
Fees for abstracting, etc.....	25.00
0.5 sec. ft. of Declared Water Right 0432.	4,915.66
Total	$7,540.00

On this basis, the declared water right was worth about $10,000 per second foot. The flow of the spring is limited and the declared right is the senior one with several filed claims from the same source also existing. It seems probable that the Abbott right is only worth half as much in New Mexico because it is the sole right on the stream to date and there is plenty of water to satisfy the further demand of the Park Service. This fixes its price at $5000 per second foot.

The total potential value of the Abbott right would then be 0.266 x $5000 or $1330. Actually at least 10 acres of the irrigible land are in scrub timber and ruins which do not seem to have been cultivated at all. Thus, an inspection by the State Engineer at the time of change in point of diversion, place and method of use might result in reducing the total right from 0.266 sec. ft. to 0.173 sec. ft., which would reduce the value to $865. The one remaining ditch is little more than a plow furrow. There is no headgate but there is a concrete distribution head at the orchard which may have cost between $100 and $200.

By memorandum to Attorney Johnson of May 18, 1942, I suggested that Mrs. Frey's right and interest might be worth from $500 to $1000. I still feel that $1000 is the maximum. If, however, we were to allow recompense for only her present use it would be for 0.032 sec. ft. and the conduit — a total of $360.

Title does not seem to be an important factor. If Mrs. Frey bought title from Abbott through intermediaries she still has title to only that portion of the right actively used on occupied land. She only occupies 1.14 acres of the original tract. The value is therefore in good will rather than physical property.

(SGD.) A. VAN V. DYNE

Hydraulic Engineer.

Attachment.

07-17-1942: memorandum to custodian from superintendent regarding possible purchase of mrs. frey's water rights

600,05,7

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
COOLIDGE, ARIZONA

ADDRESS REPLY TO
THE SUPERINTENDENT

July 17, 1942.

MEMORANDUM for the Custodian,
Bandelier National Monument.

Thank you for your very complete report of July 6 concerning negotiations carried on by you and Acting Regional Director McColm with Judge Seth on May 9, relative to the possible purchase of Mrs. Frey's water rights at Bandelier.

Mr. McColm never furnished this office a report on the meeting. I do not believe that he ever wrote one.

I quite agree with you about the inadvisability of attempting to purchase Mrs. Frey's right, and believe that we would be better off to perfect one of our own. As I understand the entire negotiation carried on by the Region Three Headquarters and the Water Rights Division, they were simply attempting to remunerate Mrs. Frey for any right that she might have. It is evident that their good intent has been misunderstood by Mrs. Frey. I would like very much to know how she got her present impression. I do not believe that we can change her mind.

Thomas C. Richey
Superintendent.

060

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
BANDELIER NATIONAL MONUMENT
SANTA FE, NEW MEXICO

July 6, 1942.

MEMORANDUM for Acting Superintendent Richey,
Southwestern National Monuments.

Reference is made to your memorandum of June 26, 1942, regarding water rights for Bandelier.

In accordance with Acting Regional Director McColm's request over the phone I met with him and Judge Seth on June 9, 1942. As Mr. McColm stated that he would write a full report of the conference to Attorney Johnson with copy to you, I did not feel it my place to inform you of what took place at the meeting.

As a matter of fact not a great deal was accomplished. It developed that Mrs. Frey is suspicious of the Park Service. She had stated to Attorney Seth that the Park Service seemed to be investigating her water rights and so forth in a rather underhanded way and she was convinced that they meant to obtain the water right for the express purpose of forcing her out of the use of the garden and perhaps making her pay for water for the hotel. Both Mr. McColm and I tried to assure Judge Seth that we had no such intentions and were simply investigating it to be sure that some one in the Canyon had a bona fide water right.

The final consensus of opinion was that we would not gain very much by buying Mrs. Frey's water right and that as she was very much opposed to considering the sale of it that perhaps the best thing to do would be to drop the matter of attempting to purchase her right and request Attorney Johnson's office to file or begin filings for a water right for the monument independent of any prior existing rights. I have not seen a copy of Acting Regional Director McColm's memorandum if wrote one so am passing this information on to you so that you may be informed of the status of the project.

Mrs. Frey came to my office several days after our conference with Attorney Seth and reiterated her belief that the Park Service was trying to pull something as she expressed it and expressed her determination never to part with her water rights. As I perhaps told you and expressed

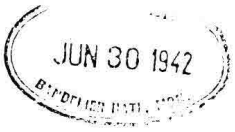
in a memorandum for the Regional Director while at Coolidge, I never have been in favor of attempting to purchase Mrs. Frey's right. I believe that we would be far better off to attempt to perfect a right of our own. I believe the Regional Director suggested that we purchase her right as a gesture of good will but she does not seem to understand it that way and rather takes the opposite attitude. What Attorney Johnson's reaction to the proposal to drop the deal with Mrs. Frey will be I, of course, cannot tell.

Chester A. Thomas,
Custodian.

CAT:hl

06-26-1942: memorandum to custodian from nps regarding unnecessary expense connected with court action

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
COOLIDGE, ARIZONA



ADDRESS REPLY TO
THE SUPERINTENDENT

June 26, 1942.

MEMORANDUM for the Custodian,
Bandelier National Monument.

Reference is made to your copy of Attorney Johnson's memorandum of June 2 for the Regional Director concurring in the general recommendations stated in Acting Regional Director McColm's memorandum of May 22, and suggesting that the Region Three Headquarters negotiate with Attorney Seth, as the representative of Mrs. Frey, to stop any unnecessary expense connected with Court action contemplated by Attorney Seth in establishing Mrs. Frey's water rights.

Acting Regional Director McColm called me during the early part of June regarding this matter, and it was suggested that he arrange a meeting with you and Mr. Seth in an attempt to establish a possible purchase price for any rights that Mrs. Frey might have.

Since it is anticipated that the Water Rights Division intends to make this purchase with current fiscal year funds, we are considerably concerned over these negotiations.

I do not wish to appear to be pushing the Region Three Headquarters in this matter, since they have been carrying on negotiations direct with the Water Rights Division; however, I would like to have you keep me advised on this subject. It is presumed that Mr. McColm is keeping in close contact with you relative to negotiations being carried on with Mrs. Frey or her attorney J. O. Seth.

Charles A. Richey
Acting Superintendent.

Acting Custodian, Bandelier Nat. Mon.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA

660-05.7

June 2, 1942.

MEMORANDUM for the Regional Director, Region Three:

Reference is made to your memorandum of May 22 received on May 28 relative to the water rights in Bandelier National Monument.

We agree with the general recommendations made therein as stated heretofore. Your history of the negotiations with Mrs. Frey corroborates what Mrs. Frey told the writer in April 1940. I think the Service has always recognized that Mrs. Frey has certain water rights there which were properly derived from the original holder, Judge Abbott. We are perfectly satisfied that you should go ahead with the appraisal of the water rights and any negotiations for the purchase thereof immediately.

We understand the engineering data which we have requested will be forwarded in a short time.

As to the court action contemplated by Attorney J. C. Seth in behalf of Mrs. Frey, you may stop any unnecessary expenses therein by openly negotiating with Attorney Seth as the representative of Mrs. Frey.

Attorney.

cc: Director.
Acting Supt., S.W.Nat. Monts.
Acting Custodian, Bandelier
Nat. Mon.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

May 22, 1942.

MEMORANDUM for the Water Rights Section,
Region Four Headquarters:

Reference is made to your memorandum of May 19 relative to the water rights in Bandelier National Monument.

In our memorandum of May 14, we suggested that negotiations be entered into with Mrs. Evelyn C. Frey for the purchase of whatever rights she may have to the water in El Rito del Frijoles.

Our basis for making such a suggestion goes back to 1938, when the present contract with Mrs. Frey was negotiated. For some seven years prior to that time, Mrs. Frey had owned and operated the Frijoles Ranch some one half mile up the Canyon from the present Lodge. Our Service felt that Mrs. Frey's operation interfered with the proper presentation of the archeological story of the Monument, and in lieu thereof, induced her to give up her original business and take over the operation of the existing facilities which were provided by the Government. Among the terms of agreement was the demolition of her old structures, with no compensation to her, other than the taking over of the new building, and the setting up of the value of the demolished building as assets of her operation. Such value was to be amortized over a period of 20 years, if there was sufficient profit from the business.

In negotiating the contract with Mrs. Frey, recognition was apparently given to her water rights by Paragraph (g), page 4, of the contract, which is as follows:

> "(g) That, in view of the water rights now exercised by the Operator within the monument and the free use of water accorded the Government by the Operator, no charge will be made by the Government to the Operator for the delivery of water or the disposal of sewage."

In view of these provisions, negotiations and apparent recognition of rights, we believe that the Service is morally bound to deal openly with Mrs. Frey on this water, and we again suggest that

the best solution would be to negotiate with her for the purchase of whatever rights she may have. After such purchase, we should then go to the courts, if necessary, to perfect title to the water.

The Engineers will make a survey of the existing water conditions in the next two or three days and submit the information to your Office, as requested in Mr. Dunn's memorandum of May 5.

Relative to paragraph 4 in Mr. Johnson's memorandum of May 19, as to the court action, or actions, which Attorney J. O. Seth intends to file for Mrs. Frey to establish her water rights, it is our understanding that Judge Seth has been employed to take all action which may be necessary to perfect her right in the courts, as well as in the Office of the State Engineer of New Mexico, and to take such other action, if any, which may be necessary.

MILTON J. McCOLM
Acting Regional Director.

cc: Director.
Actg.Supt.,S.W.Natl.Mnts.
Actg.Custodian, Bandelier
National Monument.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA
601 Sheldon Building

May 18, 1942.

MEMORANDUM for Attorney Albert L. Johnson:

Reference is made to Mr. Tillotson's memorandum of May 14, 1942, regarding Mrs. Frey's water rights at Bandelier National Monument.

I feel that some slip must have been made to stir up her present action to establish full title at this time, and we should watch such actions carefully. The question of purchase by the United States should be secondary at this time, or else definitely protestant. Mr. Tillotson seems to favor the former, but I am not sure whether I agree or not.

First, I feel that her right is now limited to the portion of the original one serving her garden by the original ditches. It does not include rights for use at the hotel because the conduit is not hers and the water is from a point about half a mile above those covered by her right.

I think we should make it clear to Mrs. Frey and Mr. Seth — if necessary — that the Park Service does not recognize any water use by its pipe lines under her rights, so far as those rights are owned by her; and that the United States will protest any attempt by her to change her point of diversion to make such use of the National Park Service pipe line possible as a means of conveyance.

Second, I feel that we should file our own claim to water through the Park Service pipe line before any court action is taken by Mrs. Frey, because:

1. It will fill the pipe so she cannot make the transfer.

2. Until we make such a filing we have no right and may be considered as taking water illegally as was claimed in the case of Rattlesnake Springs at Carlsbad in 1936.

Unfortunately we cannot file the claim until we have the ties and other data requested in my memo of May 5, 1942. This should be rushed to us at once. We have funds if the Region does not, so a rush order survey might be possible with men possibly about to be released, billing the charges back to us.

Third, I am inclined to claim that all Mrs. Frey's rights except those used on her garden and those used at her old lodge have lapsed. This would be a small portion to the original right. We are in the position to force the lapse of past use at the lodge — or, for that matter, even to force the lapse of the right of use on the garden. I also feel that our new filing, or any other we make for some years, will be just as good as hers and far cheaper to acquire.

I also agree with Mr. Tillotson that we should probably buy out Mrs. Frey's interests as a matter of maintaining good public relations. But I fail to see that we acquire much more after she "perfects" title than before. We have to pay about as much to transfer it to federal title as to file a new claim, and priority is not now important. Hence, I would be inclined to try to prevent the proposed court action in the interest of economy to both parties.

As to the relation between federal purchase and the close of the fiscal year, we should note that we have funds now (technically impounded) and may not have after June 30. In fact, we are not sure we will not lose unexpended sums at that date. Hence I think the whole matter merits special consideration by the Director.

I feel that Mrs. Frey has as much title to the portions of the right I have described as Judge Abbott or any intervening owners because title passed with the land title and even the original land title was by lease or permit from the Forest Service. I also feel that there is a severance or damage value to buy because the Park Service has more or less forced her to allow the lapse or potential lapse of rights to use at the lodge by moving that lodge without granting further pipe line right of way, granting use of NPS water in lieu thereof.

Of the original 0.42 sec. ft. covered by water right, not over 0.25 sec. ft. is now active. With the United States the only other user on the stream which is adequate for all claims of both, the value is low. I would suggest that an offer of between $500 and $1000 is all we could offer, depending on the unimportant quality of title.

(SGD.) A. WM V. DUNN

Hydraulic Engineer.

m. & to Bandelier.

Mchary Custodian

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

660-05.7

May 14, 1942.

MEMORANDUM for the Water Rights Section,
Region Four Headquarters.

This refers to Mr. Johnson's memorandum of May 4 transmitting copy of Mr. Dunn's memorandum of March 10 concerning water rights at Bandelier National Monument.

In our previous correspondence we have submitted to you in detail our findings as a result of the search and examination of the records of Sandoval County, New Mexico, including those of the Office of the State Engineer in regard to the water right claim by Mrs. Evelyn C. Frey. She may be the owner of all such rights claimed by her, but we are unable to find record evidence of such an allegation. Her attorney, J. O. Seth, of Santa Fe, New Mexico, has been unable to find one of the deeds by which Mrs. Frey purports to establish her title. Judge Seth has informally advised us that he may institute court proceedings within a few days to determine heirship and quiet title in this case.

If you feel that such action would be consistent in view of the fact that title at the present time is not absolutely clear, we recommend that the Government now purchase Mrs. Frey's water rights and we re-affirm the views and recommendations expressed in our memorandum of April 6 to you, in which we stated:

> "It seems likely that the Government could obtain sufficient water right by an independent filing because of (1) the unused waters that are or appear to be subject to filing, and (2) the probable weakness of Mrs. Frey's rights, both recorded and otherwise. However, from a public relations standpoint, we believe and recommend that the Government should purchase such rights, if any, which Mrs. Frey actually owns of the waters and water rights within the monument, provided they can be purchased at a reasonable price, allowing for the probable expense to the Government in perfecting such rights."

As it appears that Mrs. Frey may expend considerable sums on court costs and attorney fees in perfecting her title to the above waters and water rights, it is suggested that the Government may be able to acquire

these interests at this time at a much smaller figure than if we wait until Mrs. Frey completes her court proceedings, which, her attorney advises, will require at least 60, and possibly 90 to 120 days. In the meantime, we will have reached the close of our fiscal year and no present funds of the Government will have been encumbered to make such purchase.

As we are nearing the close of the 1942 fiscal year, we suggest that proper steps be instituted at once in accordance with the above suggestions to acquire the waters and water rights of El Rito de las Frijoles.

M. R. TILLOTSON
Regional Director.

cc: Acting Supt., SWNMS.
Cust., Bandelier NM, through SWNMS.
The Director.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

660-05.7

May 7, 1942.

MEMORANDUM for the Water Rights Section,
Region Four Headquarters.

Reference is made to Mr. Dunn's memorandum of May 4 in regard to the water rights of Mrs. Evelyn C. Frey, Bandelier National Monument.

Mr. Dunn indicates that before Mrs. Frey takes any court action we should determine whether the United States has any claim to such water right. I have again checked with Mr. J. O. Seth, Attorney, Santa Fe, New Mexico, who represents Mrs. Frey in this matter, and there is no evidence of any right having been conveyed specifically or by inference to the United States. My search of the records of the State Engineer and those of Sandoval County showed a very poor record of any right whatsoever.

In one of my previous memoranda to you or Mr. Johnson, I transmitted copies of the last records on this water right which showed ownership in Mr. A. J. Abbott. Mr. Seth told me this morning there is one deed which Mrs. Frey cannot locate. The grantor in such instrument is now deceased. Mr. Seth has not driven to Bernalillo, New Mexico to examine the records of Sandoval County as he was trying to conserve rubber. He states that he will attempt to obtain deeds from the various heirs of the grantor whose deed is now missing, and determine heirship in the District Court, which will take about three months.

RAYMOND SROAF
Regional Attorney.

cc: The Director.
Acting Supt., SWNMS.
Acting Custodian, Bandelier NM,
through SWNMS.

05-04-1942: memorandum to regional director from hydraulic engineer regarding water rights

hrough Supt., S.W.Monum[illegible].

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA

660-05,7

May 4, 1942.

MEMORANDUM for the Regional Director, Region Three:

Reference is made to your memorandum of April 28 with regard to Mrs. Frey's water rights at Bandelier National Monument.

Before Mrs. Frey's attorney takes any court action we should determine whether we have any claim to part of the right. Will you please advise whether any part of the Frey interest in land, improvements or other property was ever deeded to the United States. If so, we should like to have a copy of that portion of the deed which relates to either water rights or appurtenances. The point is that water rights pass with the land in New Mexico unless they are specifically reserved according to a definite legal procedure.

A copy of this memorandum is also being sent to the Director in order that he may supply them information as soon as possible in case it is not available in the Region.

Hydraulic Engineer.

cc: Director) with copy of
Supt., S.W.Monuments) Mr. McColm's
Reg. Atty. Taylor) memorandum of
Custodian Thomas) April 28, 1942.

through [illegible]

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA

660-05.7

May 4, 1942.

MEMORANDUM for the Regional Director, Region Three:

Reference is made to memorandum from Associate Regional Director McColm of April 28 concerning water rights at Bandelier National Monument.

I note your statement that Mrs. Frey has recently employed a Santa Fe attorney to perfect her title to water rights at Bandelier. I am not so certain that they need perfecting. It may be only the restoration of burned records at the courthouse at Bernalillo which is needed. It seems to have been the assumption of Regional Attorney Taylor in 1936 that Mrs. Frey had a good water title derived from Judge Abbott.

Now that the matter has been brought to a focus by her employment of an attorney and the search made by your Regional Attorney, I am transmitting herewith a memorandum from Mr. Dunn of March 10 which reviews this problem in some detail. Inasmuch as early action will have to be taken if we are going to file for a water right at Bandelier this summer, I would like to have the comments of reviewing officials as soon as possible. Will Mr. Sroaf, your Regional Attorney, review the problem as submitted by Mr. Dunn in the enclosed memorandum?

Attorney.

Attachment.

cc: Director, with attachment.
Supt., S.W.Monuments, with attachment.
Reg. Atty. Taylor, with attachment.
Custodian Thomas, with attachment (through Supt., S.W.Monuments.)

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

April 28, 1942.

MEMORANDUM for Water Rights Section,
Region Four Headquarters.

Reference is made to Mr. Johnson's memorandum of April 24, enclosing a copy of Mr. Dunn's memorandum of April 14 in connection with water rights of Mrs. Evelyn C. Frey at Bandelier National Monument

Mrs. Frey has recently employed Attorney J. O. Seth, of Santa Fe, New Mexico, to represent her in perfecting her title to the water rights at Bandelier. Mr. Seth has informally advised us that he has the originals of all deeds and instruments except one, and that he plans to go to Bernalillo, New Mexico, within a few days to check the records of Sandoval County. Mr. Seth said the courthouse at Bernalillo burned about 10 years ago, and it may be difficult to obtain a complete chain of title without court action, or some proceedings in the Office of the State Engineer.

To date, we have not obtained further information from Mr. Seth. As soon as further information is obtained regarding this matter, we will correspond with you immediately.

/s/ Milton J. McColm
Associate Regional Director.

(throu Supt., S. Mon.)

UNITED STATES
DEPARTMENT OF THE INTERIOR 660-05.7
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA
601 Sheldon Building

April 24, 1942.

MEMORANDUM for the Regional Director, Region Three:

I am enclosing herewith a copy of Mr. Dunn's memorandum of April 14 to me concerning the water rights at Bandelier National Monument. We would be pleased to have your comments thereon, especially if you have found further evidence as to Mrs. Frey's title to water right and whether or not any of the past deeds to her have segregated the water right from the land.

We have always assumed since the inception of the Water Rights Section in 1936 that Mrs. Frey had a good water right title derived from Judge Abbott. I believe Mr. Taylor's first report on this subject made in 1935 prior to the creation of the Water Rights Section bore out that contention. How much of a water right Mrs. Frey had has always been doubtful, however.

We are prepared to file for an appropriative water right as Mr. Dunn says, but I think Mrs. Frey's rights would ultimately have to be bought. I know that she convinced me on my only visit to Bandelier in 1940 that she had a complete chain of title to such a water right. The mere fact that there might have been some instruments in the chain of title lost would not invalidate her title.

I would like to have expression further from you and the Regional Attorney as to these private water rights at Bandelier.

Attorney.

Enclosure 2121961.

cc: Director) with copy of
Supt., S.W.Mon.) Mr. Dunn's memo
Act. Cust., Bandelier Nat.Mon.) of April 14, 1942.
(through Supt.,S.W.Mon.))

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA
601 Sheldon Building

April 14, 1942.

MEMORANDUM for Attorney Albert L. Johnson:

Reference is made to Mr. McColm's memorandum of April 6, 1942, regarding the water rights at Bandelier National Monument.

Under "D - Change of Ownership - Assignment," page 15 of the Manual of Rules and Regulations for water rights in New Mexico, we have:

> "No irrigation right which is appurtenant to the land shall be assigned or transferred apart from the land except in the manner specially provided by law. Neither may title to land be transferred apart from any water right which is appurtenant thereto unless such right has been previously alienated from the land in the manner provided by law."

The water right was initiated by Judge Abbott. It was perfected by Mr. Boyd. It is a right to irrigate certain specific lands occupied under lease from the Forest Service and Mr. Frey now occupies part of that land from the Park Service. Through the Boyd occupancy, the right was certainly appurtenant to the leased federal land. Without the deed from Davenport to Frey we do not know whether the water right was severed from the land at that time or not, but if it was not severed in accordance with the law at that time Mrs. Frey had just as much title to the right when the area became part of the Monument as either Abbott or Boyd ever did.

Hence I wonder if the Regional Director is not assuming an undue burden in trying to claim Mrs. Frey does not have title. His real problem is to try to prove that she did not have title.

We also lack copies of either Forest Service or Park Service leases to Mrs. Frey, but the correspondence seems to indicate that the Park Service did recognize her interest in some rights. Apparently, however, she and Mr. Frey never severed any of the rights from the land. Hence why would she not still have good title to that portion of the right irrigating portions of her present lease area under the original ditches?

The next question is whether part of the balance of the right may not be federal property now if actual irrigation is still made from the original ditches on areas not now leased to Mrs. Frey. If the United States does not have such title, then perhaps those portions of the right have lapsed.

Finally, nothing in the right grants diversion at the intake to the National Park Service pipe line, but any owners of portions of the right could transfer their shares to that point to the extent of their use from the pipe line. By referring the question of title to Mrs. Frey's attorney, Mr. Seth, the Regional personnel have indirectly called his attention to this further possibility. It is now a question of who files first.

Hence, I propose to file on the full capacity ofthe National Park Service pipe line in the name of the United States for use both at the Monument areas and the lodge. I think I should do it in the next few weeks, and that no further suggestions should be given to Mr. Seth until the filing is accepted by the State Engineer. Please indicate wherein you may not agree, or advise Mr. Tillotson of our plan.

I agree with Mr. McColm's penultimate paragraph that we should buy out such rights as Mrs. Frey may have. Before this is done we should properly define and evaluate her rights. Their value does not seem to be high, but their definition will depend on the proposed further investigation.

[illegible]
Hydraulic Engineer.

cc: Director.
Region Three.
Supt., S.W.Mon.
Act. Cust.,Bandelier Nat. Mon. (through Supt.,S.W.Mon.)

UNITED STATES
DEPARTMENT OF THE INTERIOR 660-05,7
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

April 6, 1942.

MEMORANDUM for the Water Rights Section, Region Four.

Reference is made to Mr. Johnson's memorandum of October 21, 1941, transmitting Mr. Dunn's report of October 14, 1941, on water claims at Bandelier National Monument in Santa Fe and Sandoval Counties, New Mexico.

From a review of Mr. Dunn's report and a personal examination of the official records of Santa Fe and Sandoval Counties, including the records of the State Engineer, there appears to be little, if any, evidence that Mrs. Evelyn C. Frey owns any rights in the waters of El Rito de Las Frijoles in Sandoval County, or any other water within such Monument. It seems likely that the Government could obtain sufficient water right by an independent filing because of (1) the unused waters that are or appear to be subject to filing, and (2) the probable weakness of Mrs. Frey's rights, both recorded and otherwise.

However, from a public relations standpoint, we believe and recommend that the Government should purchase such rights, if any, which Mrs. Frey actually owns of the waters and water rights within the Monument, provided they can be purchased at a reasonable price, allowing for the probable expense to the Government in perfecting such rights.

A copy of Attorney J. O. Seth's letter of April 3 is attached, which sets forth the status of Mrs. Frey's record title to such waters, and which is self-explanatory.

MILTON J. McCOLM
Acting Regional Director.

Encl. 1874557.

cc: The Director w/c encl.
Actg. Supt., S.W. Natl. Mon., w/c encl.
Actg. Cust., Bandelier Natl. Mon., w/c encl.

SETH AND MONTGOMERY
ATTORNEYS AND COUNSELORS AT LAW
111 San Francisco St.,
Santa Fe, New Mexico

April 3, 1942.

Raymond Sroaf, Esq.
Regional Attorney,
National Park Service,
Santa Fe, New Mexico.

Dear Mr. Sroaf:

Mrs. Frey has handed me your letter to her of March 4th, relative to her water right at Frijoles (Bandelier).

This water right was applied for by the late A. J. Abbott in 1913 and is No. 802 in the office of the State Engineer. It was transferred by Judge Abbott to R. J. Reed. It was transferred by Reed to John Davenport and George X. Frey. John Davenport transferred his interest in it to George X. Frey, and it was awarded to Mrs. Frey in her divorce proceedings.

She has been endeavoring to locate the various transfers, but has not been able as yet to find the transfer from Abbott to Reed. I have not had an opportunity to examine the records in the office of the County Clerk at Bernalillo but will do so in the near future. In view of the fact that the Court House at Bernalillo burned some eight or ten years ago, it is doubtful whether those records will be available. In the meantime we are asking Reed and Davenport to endeavor to locate the original Abbott conveyance if possible.

Very truly yours,

/s/ J. O. Seth

JOS:JN

cc: Mrs. Evelyn C. Frey
Box 1321
Santa Fe, New Mexico

COPY

S. W. Monuments.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA
601 Sheldon Building

March 10, 1942.

MEMORANDUM for Attorney Albert L. Johnson:

Reference is made to Mr. Richey's memorandum to the Regional Director of February 26, 1942, suggesting that we file a new claim for National Park Service water use at Bandelier National Monument and that we do not attempt to acquire the rights now claimed by Mrs. Frey. It should also be noted that the copy of the license No. 802 sent by Mr. Sroaf by memorandum of March 4, 1942, is all that is required to complete our record of existing water rights and that the ditches shown on drawing NM-BAN-6975 in my report of October 14, 1941, are from the map on which that license was issued.

The following is quoted from page 15 of the New Mexico water right manual:

"D - Change of Ownership - Assignment.

"Any filing, permit or license to appropriate water may be assigned, but no such assignment shall be binding except on the parties thereto unless filed for record in the office of the State Engineer. Such filing shall be made out in duplicate on the proper Change of Ownership forms or it may be a certified copy of the actual assignment. A fee of $1.00 must accompany the filing.

"No irrigation right which is appurtenant to the land shall be assigned or transferred apart from the land excepting in the manner specially provided by law. Neither may title to land be transferred apart from any water right which is appurtenant thereto unless such right has been previously alienated from the land in the manner provided by law."

In transmitting the copy of the permit and license to the Regional Director, the State Engineer is quite emphatic in stating that he has no records of assignment or severance but:

"I have been informally advised that various deeds have been executed and transfers made purporting to convey the above water rights. If same were made, no records thereof appear in this office."

The case is similar to that at Carlsbad when the State Engineer advised the Park Service it was using Rattlesnake Springs illegally in 1936 because conveyance had not been recorded with the State Engineer. We have been assuming that the right was severed from the land, but I do not know where we got the idea. Mr. Taylor may be able to answer that. Otherwise, we should get a copy of the Deed and Abstract to cover the conveyance of the land to the United States from the Director. We should also have a copy of the permit issued to Mr. or Mrs. Frey, at least the part relating to water use. It would also help to borrow Mr. Miller's files of exhibits submitted by Mr. Attwell by letter of November 24, 1933.

The point is that Mr. Richey may be right in believing that Mrs. Frey does not have the title to the water right as she claims. If not, the water right manual seems to suggest that title may have passed to the United States. If the latter is true, we will want to file the certified copy of the deed and abstract with the State Engineer as Mr. Taylor did in the Carlsbad Case. Then we will be free to file amendments as we see fit.

On the other hand, if Mrs. Frey does have title to a severed right it is still in three ditches and not in the National Park Service pipe line which serves the hotel. Suppose we file a new claim to appropriate water for the pipe line. Have we sufficient authority to prevent Mrs. Frey from transferring part of her right, too, if she wishes to complete recordings and amendments which she should make if we do not? She would then have the senior right in the pipe line and could claim that she provided all water at the hotel under her right.

The license No. 802 is for 0.42 sec. ft. to irrigate 45 acres with an annual limit of 135 acre feet. The orchard has only 2.7 acres of area, and with her other gardening about the hotel I doubt if there is a total demand of more than 9 acre feet per annum on 3 acres. It is quite certain that not more than 10 acre feet per year have ever been used consumptively at the hotel and that assumes 40 people staying in the hotel and a demand of 225 gallons per day for each to cover those guests and the related transient demand. The Park Service may be able to justify demand for another 2.5 or 3 acre feet per year to serve its shops and employees' residences.

I am sure that with these allowances we can ignore campground use. The total water demand in the monument then, with about 15,000 visitors as in 1938, is only 22 acre feet per year. This indicates that 113 acre feet of the licensed right No. 802 has lapsed by non-use if we wish to prove it to the State Engineer.

To run irrigation water in her ditch to the orchard it will be impractical for Mrs. Frey or the United States to divert much less than the licensed 0.42 sec. ft. It might be reduced to 0.35 sec. ft., but at 0.25 sec. ft. there could be no diversions during the year for more than 20 days to cover the 9 acre feet of right.

Mr. Richey advises that the operator now exercises her water rights in the monument for the Park Service and herself and enjoys free power in exchange for water. Actually, no one is exercising a water right by diversions through the National Park Service pipe at this time. The nearest legal point of diversion is about a half mile downstream.

Since the Park Service owns the hotel buildings as well as the land, it can file a claim to divert by its pipe line to serve the hotel. If Mrs. Frey has title, but cannot transfer rights under license No. 802 to the same system, a right to 10 acre feet per year will have lapsed by non-use. Also, if the Park Service perfects its own right to another 3 acre feet for the employees' residence and utility areas, then it will no longer derive any direct water right benefits from Mrs. Frey.

Any new water right is dependent on actual beneficial use. The Park Service can prove up on only a couple of thousand gallons per day for its own use. Any further right is really by the operator. Furthermore, right No. 802 is at least five times the total monument demand and probably three or four times any future demand. The stream flow seems to be greater than the right, too.

The indication is that the Park Service can perfect ample rights by new filing, but such rights will result in lapse of part of rights under license No. 802. Finally, by using its own rights, whether part of license No. 802 or other, the Park Service will no longer derive benefit to justify granting free power to Mrs. Frey. If it already owns the licensed right the free power is already granted on a false premise.

(SGD.) A. VAN V. DU..N
Hydraulic Engineer.

cc: Director.
Reg. Director, Reg. Three.
Supt.,S.W. Monuments.
Reg. Atty. Taylor.
Custodian Thomas, through Supt.,
S.W. Monuments.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

March 4, 1942.

Mrs. Evelyn C. Frey,
c/o Mr. Cecil,
Encino, New Mexico.

Dear Mrs. Frey:

We are making a study of the water rights situation at Bandelier National Monument. This necessarily involves water rights claimed by you. It would, therefore, be appreciated if you would advise us of the date, book, page and county in which the deeds are recorded by which you claim title to such water rights. If such rights were conveyed as a part and in connection with a conveyance of certain lands, it would be appreciated if you would give us the information involving such deeds.

If you have the abstract and would be willing to permit us to make use of it for a short time, it would be appreciated if you would forward same to us at your earliest convenience. I have just called Mr. Edom at the Monument and he has stated that you will be at your father's place, in or near Encino, for about ten days yet.

Sincerely yours,

RAYMOND SROAF

Raymond Sroaf,
Regional Attorney.

cc: Mrs. Frey, Box 1721,
Santa Fe, N. M.

cc: Acting Custodian,
Bandelier Natl. Monument.

660-05.7

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

March 4, 1942.

MEMORANDUM for the Water Rights Section, Region Four.

Reference is made to Mr. Dunn's report of October 14, 1941, concerning the water rights of Mrs. Evelyn C. Frey in connection with Bandelier National Monument.

Superintendent Miller while serving as Acting Regional Director reviewed Mr. Dunn's report and requested the undersigned, by his memorandum, to check the county and state records to determine the nature and extent of Mrs. Frey's water rights. On page two of such report, Mr. Dunn makes some reference to the title by which Evelyn C. Frey is alleged to have dereigned her title. However, Mr. Dunn fails to include the date, book, page and county in which such deeds by which Mrs. Frey is supposed to have obtained her title are recorded. Accordingly, it has been very difficult to obtain any record of her interest.

With the cooperation of the Chief Clerk of the State Engineer's office, we have found a certificate of construction dated October 15, 1921, and a license to appropriate water of the same date by the State Engineer in connection with Certificate No. 802. A copy of each of the above is enclosed for your study. You will note that the prior date in such license is given as January 27, 1915, and was granted to A. J. Abbott of 45 acre feet of water. There is also enclosed a copy of a letter dated February 20, 1942, to the effect that there have been no subsequent applications, licenses, or permits filed in the office of the State Engineer involving the above water rights granted to A. J. Abbott with a prior date of January 27, 1915.

With the assistance of the County Clerk's office we were unable to find any record in Santa Fe County of a deed to any of the grantors or grantees mentioned by Mr. Dunn in his report. On March 3 a search was made of the official records of Sandoval County, Bernalillo, New Mexico, and nothing could be found in the County Clerk's office, but in the office of the County Assessor we found Evelyn C. Frey to be assessed $900 on improvements on Government land and $100 on tangible personal property. There was nothing to indicate as to what the improvements on Government land consisted of. The records of 1939, 1940 and 1941 made no specific reference to lands or water rights in the

name of Evelyn C. Frey or George K. Frey, her former husband.

We are unable to make a proper determination of the status of the water rights of Evelyn C. Frey without further data. If you have data in your office of the date, book, page and county of the recording of such prior deeds, it would be appreciated if you would forward them to us at your earliest convenience. It is noted that Acting Superintendent Richey, in his memorandum of February 26, suggested a thorough study of the rights of Mrs. Frey, but without complete knowledge as to the extent of such rights the Acting Superintendent made certain recommendations in the last paragraph of his memorandum. It is not believed that we have sufficient data before us for an administrative determination of the procedure which the Service should follow. When we have completed our search of the official records, all data available will be submitted to the administrative officials of this headquarters for their review and recommendations.

RAYMOND SROAF

Regional Attorney.

Enclosure 2808573.

cc: Acting Superintendent Richey.
Acting Custodian, Wandelier Natl. Monument.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
COOLIDGE, ARIZONA

February 26, 1942.

MEMORANDUM for the Regional Director, Region Three.

Under date of February 13, 1942, Hydraulic Engineer Dunn wrote your office in regard to his report, "Water Claims, Bandelier National Monument." Mr. Dunn in his memorandum raises the question as to whether the National Park Service should file claims for a water supply for Bandelier National Monument, or whether it would be advisable to acquire by exchange the rights which may now be held by Mrs. Evelyn C. Frey, operator of Frijoles Canyon Lodge.

Mr. Dunn seems to favor acquiring and amending Mrs. Frey's right. This solution would involve a determination of the present status of her rights. The following points should be considered in proceeding to obtain water rights from this source:

1. It would seem to be necessary to demonstrate whether Mrs. Frey actually has a perfected legal title to any water rights, or whether she merely has elements upon which a legally recognized right might be obtained.

2. Evelyn C. Frey is divorced from George Frey who is living. If Mr. Frey had a legal appropriation, was it transferred to Evelyn C. Frey in the divorce settlement?

3. There is now no privately owned property in the Frijoles Canyon. Question arises as to whether the conversion of the private property to federal property in the Canyon applied also to the conversion of the water right.

4. Suggestion is made that Mrs. Frey, if found to have a valid right, might not transfer the right or privileges to the National Park Service in consideration of the Park Service furnishing her free electric current for the operation of the Lodge. Contract No. I-lp-15068 between the Department of the Interior and Evelyn C. Frey states in

article 3, section g, "That, in view of the water rights now exercised by the operator within the monument and free use of water accorded the Government by the operator, no charge will be made by the Government to the operator for delivery of water or the disposal of sewage." The clause quoted would seem to imply that Mrs. Frey has already bargained away such rights as she might have to the Government in exchange for the services of delivery of water and disposal of sewage. At the time she signed the contract, it would seem that she considered this a fair exchange. Unless the rights which she held have become more valuable, it might now seem imprudent for the Government to offer to furnish her free electricity in addition to services already given.

Because of the uncertainties mentioned, this office highly favors the National Park Service perfecting an appropriation of waters for a four-inch pipeline at Bandelier. This could be done on the basis of the present two-inch line, a four-inch line to be extended from time to time until this line is completed. We do not favor the transfer of any water rights to the Government which might have been perfected or are subject to withdrawal by Mrs. Frey if other rights can be perfected. It is believed that every effort should be made toward perfecting a water right of our own. We would appreciate it if your office might take the necessary steps toward filing and perfection of a title independent of that held by Mrs. Frey.

CHARLES A. RICHEY
Acting Superintendent.

cc: Supt. Miller.
Hydraulic Engr. Dunn.
Custodian Thomas.

02-13-1942: memorandum to regional director from nps regarding water claims

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA

660-05.7

February 13, 1942.

MEMORANDUM for the Regional Director, Region Three:

Reference is made to my report on "Water Claims, Bandelier National Monument," dated October 14, 1941.

This is to remind you that before this water right problem can be adjusted by proper appropriative filings it is necessary to determine the administrative procedure to be followed in connection with Mrs. Frey and her interests in the source of supply and older water rights. In other words, is it going to be possible to acquire her water rights in exchange for the service which she receives from the Park Service water system under the water rights which we shall perfect by transfer?

If we are going to attempt to acquire her water rights and transfer them, the progress will probably be somewhat slow, and this will make very little difference, but if for any reason we are going to file on a new water right it will probably be desirable to do so at the first opportunity.

Therefore, the immediate problem is a determination of what procedure to follow, rather than the final adjustment of such procedure.

Hydraulic Engineer.

cc: Director.
Supt., Southwestern Monuments.
Custodian Thomas, through Supt.,
Southwestern Monuments.

FEB 16 1942

10-21-1941: memorandum to regional director from attorney regarding report on water claims

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION FOUR
SAN FRANCISCO, CALIFORNIA

660-09.1

October 21, 1941.

MEMORANDUM for the Regional Director, Region III:

I am transmitting herewith a report on Water Claims, Bandelier National Monument, prepared by Hydraulic Engineer Dunn, for your review and comments. My first visit to Bandelier was in April of this year just prior to Mr. Dunn's visit. I was impressed by the splendid example of craftsmanship shown by the CCC work there on museum, lodge, and buildings. I was also agreeably surprised by the affability of the operator in open discussion of her water rights there. It was contrary to former impressions gained by inspection of files and reports.

I have no doubt that, after a review of this report by your technicians, it will be in order to attempt an amicable arrangement with the operator before taking any independent action.

(SGD.) ALBERT E. J...

Enclosure 2136792. Attorney.

cc: Director, with copy of report.
Supt. Miller, with copy of report.
Custodian Thomas, with copy of report (through Supt. Miller).

OCT 23 1941
SOUTHWESTERN NAT'L MON.

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DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

---------- NATIONAL PARK

FILE NO. L54

WATER CLAIMS

BANDELIER NATIONAL MONUMENT

By

A. van V. Dunn
Hydraulic Engineer



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Director.

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Water Rights Section,
Office of the Chief Counsel,
601 Sheldon Building,
San Francisco, Calif.,
October 14, 1941.

NATIONAL PARK SERVICE

WATER RIGHTS SECTION, OFFICE OF CHIEF COUNSEL

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Introduction

This report is the result of the writer's visit to Bandelier National Monument on April 30, 1941, in the company of Sanitary Engineer H. B. Hommon of the Public Health Service and Associate Engineer H. A. Montgomery of Region III. The writer made the trip to make a visual appraisal of the water right situation previously reported by various Park Service officials and technicians, while the other two called to consider moving the National Park Service water system diversion upstream and to select a site for the new septic tank. Any change in point of diversion which the Park Service may have made since the visit will be important in the final perfection of Park Service water rights, but does not affect the procedure to be followed. Hence this report does not consider any changes which may have taken place during the summer.

Conclusions

The following discussion indicates that the Park Service lacks water rights at this time and should perfect them at once. On the other hand Mrs. Frey, the operator, has adequate rights for her own needs and probably sufficient which can be salvaged to cover all monument needs, but she is likely to lose most by lapse if they are not properly amended. These features have been pointed out since at least June 1937, when Attorney Albert L. Johnson reported by memorandum on his trip to the Southwest.

Procedure, however, involves both legal and administrative problems. Before making any filings for federal water rights the following questions should be settled:

1. Is a federal water right priority of 1941 or 1942 ample in the Rio Grande drainage, or will it pay in money or services for a 28 year old priority?

2. Does the Park Service wish to be consistent with regard to lapse of rights under the statute of limitations at Bandelier and at Carlsbad Caverns?

3. Does the Park Service care to cancel the operator's permit and issue a new one to eliminate those features relating to irrigation and garden plots?

4. Can, or would, the Park Service provide electric light service for a limited time in exchange for Mrs. Frey's water right?

The writer sees no danger in initiating a new right at this time, but favors the alternate of acquiring and amending Mrs. Frey's right. Such acquisition, however, should be conditional on successful amendment, and the writer wishes a complete outline of procedure before taking any further routine action.

Land Title

By letter of November 24, 1933, Associate Engineer Walter Attwell reported to Superintendent Pinkley that Judge A. J. Abbott occupied most of the developed area of the monument prior to survey of the land by the General Land Office in 1906, but that he did not subsequently apply for a patent. The same letter reports that Judge Abbott held occupancy under lease from the Forest Service as early as 1907 when the 29th annual report of the Bureau of American Ethnology mentions it.

Judge Abbott is reported to have deeded his interests, including about 101 acres, to John Boyd on September 5, 1919. Mr. Boyd deeded 45 acres to Davenport and Reed on February 26, 1923. Mr. Reed deeded his interest to George K. Frey on May 22, 1925, but Mr. Attwell could find no record of deed from Mr. Davenport to Mr. Frey.

Bandelier National Monument was established during 1932, and on October 1, 1933, the Park Service granted a permit to Mr. Frey for a hotel or camp site. This permit is reported to have recognized Mr. Frey's title to certain water rights, but to have excluded any reference to the right to continue irrigation of any land under



BAN-41-D-3 – Looking easterly along Frijoles Creek, April 30, 1941. Arrow indicates intake of Ditch No. 3.



BAN-41-D-4 – NPS diversion works on Frijoles Creek, consisting of:

1. Diversion dam (sand bags to raise water level to increase percolation at intake pipe).
2. Ditch with buried intake pipe to collect water seeping from creek.
3. Control gates and main pipe inlet.

that right until Mr. Frey added it himself when signing the lease. It is assumed herein that the irrigated area is an accepted part of the present lease.

Vested Water Rights

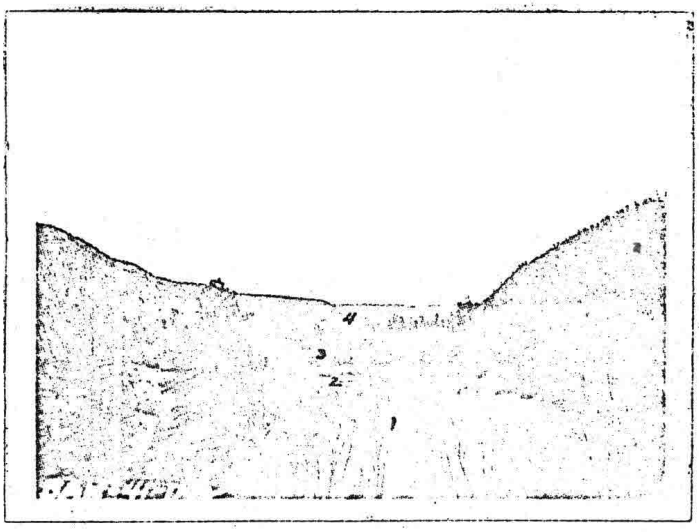
Mr. Attwell's letter further advises that Judge Abbott filed a Notice of Intention to file an application to appropriate waters of Frijoles Creek with the State Engineer on July 3, 1913, establishing that date of priority. The application was filed December 4, 1913, and the statement on the map accompanying that application states that work was commenced by survey on October 14, 1913, and that there were to be three ditches to irrigate about 30 acres, of which the two lower, Nos. 2 and 3, were completed many years before. The claim was for 0.5 sec. ft. for rotational use in the three ditches. A license was granted May 5, 1915.

Mr. Attwell advises that the filing was by Judge Abbott as the map indicates, but that the right was perfected by Mr. Boyd. Note, however, that the land was not deeded to Mr. Boyd until 4 years after the water right license was granted.

Mr. Frey's widow now claims 0.5 sec. ft. of water under that right. The writer has not obtained a copy of the license nor investigated the status of conveyances to determine that Mrs. Frey now has the right properly assigned to her, but it can be assumed for this report that she did acquire title in accordance with the water code.

Drawing NM-BAN-6975

Accompanying drawing NM-BAN-6975, Water Diversions and Claims, Bandelier National Monument, has been compiled from the water right map filed by Judge Abbott and Park Service drawings Nos. BAN-4932 and 4991. The ditches from the filed map are projected on BAN-4932 by superimposing the ruin between the present garden and administration area and orienting according to the north point. The present Park Service development from BAN-4991 is projected according to the writer's best recollection of distances along the stream and may be as much as 1000 feet off. The NPS pipe line diversion is as shown on BAN-4932 as there spotted roughly by the Superintendent of the Southwestern Monuments in 1935 to illustrate the report on existing water systems in the monument. Drawing BAN-6975 is thus only a sketch, but believed to be sufficiently accurate for the present purpose.



BAN-41-D-5 – Looking easterly across Mrs. Frey's orchard.

1. Orchard.
2. Community House ruin.
3. Lodge — Administration Area.
4. Monument approach road.

History of Water Use

Since Mr. Boyd is reported to have deeded only 45 acres to Davenport and Reed in 1923, there is some question as to whether all of the original 30 acres of irrigated area have been used at any time in the past 18 years. At all events, the only irrigated area shown to the writer in April was a small orchard and garden across the creek from the original lodge, comprising about 2.7 acres. Apparently the agricultural area was reduced from 30 to 2.7 acres about the time of the issuance of the NPS lease to Mr. Frey in 1933, and part of the reduction in area may have been made as early as 1923. Since the statute of limitations covering water rights in New Mexico is four years, either date offers reasonable proof of abandonment of all irrigation rights under ditches Nos. 1 and 2, and a reduction in the quantity of water proportionate to the portion of the original 30 acres under these ditches.

Mrs. Frey, however, was entitled to domestic use at the original lodge or ranch under this right. Her source of domestic and industrial use is reported to have been a cistern which seems to have been served by a lateral from Ditch No. 2. Since a farm tract of half an acre with house and limited stock usually demands about 0.025 sec. ft., this would seem to be the limit of rights to serve the old lodge unless a change in place and method of use of part of the irrigation quantity was made. There is nothing in the correspondence to show such a transfer.

The map shows the Park Service development to be under the lower end of Ditch No. 3. This includes the new lodge built for Mrs. Frey since 1933, and Mrs. Frey is very active in maintaining flower gardens about this lodge. The Park Service is also doing a little planting about its buildings. Mrs. Frey also maintains her orchard and garden on the 2.7 acres across from the original lodge. All water used for present irrigation is therefore in accordance with Mrs. Frey's water right so far as the place and method of use apply. However, Ditch No. 3 seems to have been abandoned below the orchard and ruin of the Community House, and irrigation in the lodge and administration area is now from the National Park Service pipe system. Thus no irrigation other than on the 2.7 acre orchard tract complies with the Frey right as to point of diversion.

Mrs. Frey's domestic use, not including industrial or hotel operation, is also in accordance with her right. The place of such personal domestic use has been changed, but is still on the area covered by licence and therefore entirely legal.

All water use by Mrs. Frey, including industrial at the lodge, could have been made to comply with her water right by following the normal procedure for changing point of diversion, place and method of use. This does not seem to have been done. The changes can still be made if the right has not been recognized as lapsing. Since the physical changes have been made and use has been continuous, Mrs. Frey has strong arguments for proving all of her use to be continuous under her right with a mere delay in amendment. If the Park Service owned the right, it would probably amend it now under that claim and would probably be successful.

Park Service Water Use

Federal water use started at the old ranger station north of the old lodge, perhaps prior to the creation of the monument, when the area was under Forest Service supervision. This use has expanded until the Park Service now owns the whole monument water system except the portion of Ditch No. 3 serving Mrs. Frey's orchard. The contention has been that the Park Service is not operating under Mrs. Frey's right, and that it must perfect a water right which it now lacks. This is potentially true only to the extent that Mrs. Frey's right does not apply, or cannot be made to apply. Water for the museum, public comfort stations, campground, federal employees' residences, utility area and CCC Camp, does not now come under her right because there is no conveyance of right and no contract by her to serve the federal interests. However, there is no reason why all such use could not be covered by Mrs. Frey's right if she can prove that her right has not lapsed as suggested. The Park Service would then be obtaining water from her free, and without contract just as it now obtains water from the Utah Parks Company for use at Cedar Breaks and Bryce Canyon.

Supply and Demand

New Mexico recognizes a duty of water of 1 second foot to 70 acres and an annual limit of 3 acre feet per acre for irrigation. Industrial use is variable. The following constitutes a fairly close estimate of water demand in 1940 if all ultimate facilities had existed, broken down according to private and federal interest.

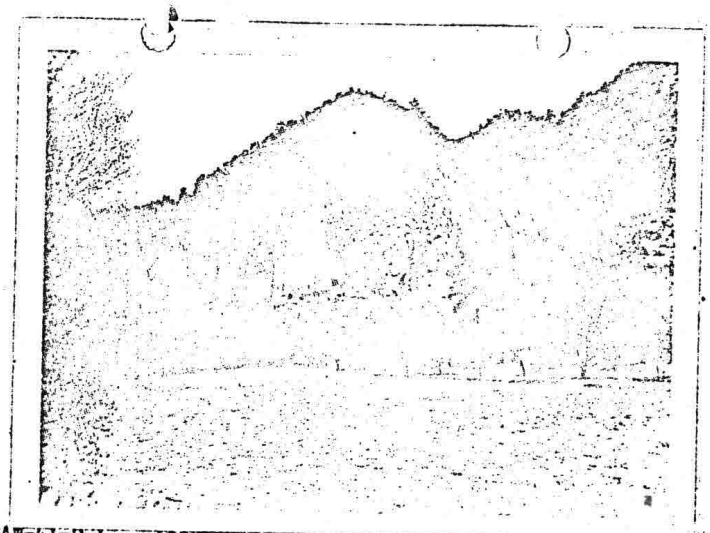
Item	NPS or Public Use	Mrs. Frey's Private Use
Irrigation:		
Mrs. Frey's orchard 2.7 acres		0.039 s.f.
Probable NPS at various areas, 15 acres	0.215 s.f.	
Domestic use (Mrs. Frey's home)		0.010 s.f.
CCC Camp at 11,000 gpd	0.017 s.f.	
NPS Utility Area @ 1,000 gpd	0.002 s.f.	
4 NPS families, 14 people @ 110 gpc	0.002 s.f.	
Ranger dormitory:		
Estimate, 12 people at 85 gpc.	0.002 s.f.	
Hotel, 65 people @ 175 gpc	0.017 s.f.	
Campground, 190 people @ 25 gpc	0.008 s.f.	
Total	0.263 s.f.	0.049 s.f.

Monument attendance has been as follows:

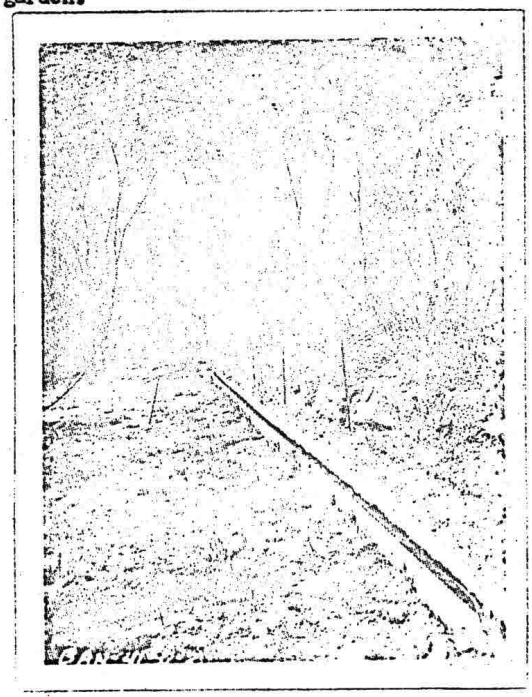
Year	Attendance
1932	4164
1933	3906
1934	9457
1935	12381
1936	12944
1937	14380
1938	14619
1939	10998
1940	13689

With better approach roads the attendance can be expected to increase materially, but due to the close proximity of Santa Fe and slightly more remote Albuquerque, it is doubtful if the water demand will more than double. The so-called private use is certainly only temporary. In other words, Mrs. Frey's water right is probably ample for the monument use for a long time to come.

The minimum stream flow is reported to be about 2 second feet, although the flood of the past April, shown in the accompanying picture, is much more. The monument employees were reasonably certain that there were no other rights or claims to Frijoles Creek, but Frijoles Creek is tributary to the Rio Grande at the mouth of the canyon a few miles



BAN-41-D-1 — Looking northerly across Mrs. Frey's orchard and garden — orchard to right, fallow land to left normally in garden.



BAN-41-D-2 — Looking southerly along concrete lateral of Ditch No. 3 at north end of Mrs. Frey's orchard.

below. The Rio Grande is both an inter-state and international river administered under compact. Hence, although the creek is more than ample for the claims of both Mrs. Frey and the Park Service, there would be some value in having the Park Service rights established with Mrs. Frey's priority of 23 years standing.

The Ditch No. 3 was conveying approximately 1 sec. ft. on April 30, 1941, divided equally between two laterals. One lateral, shown in the picture, is a concrete header at the upper end of the orchard; and the other parallels the north side of the orchard conveying part of the water on toward the Community House ruin. Thus Mrs. Frey is definitely diverting all the water to which she is entitled, regardless of the limit of beneficial use. She further advised the writer that she planned to make "full beneficial use" at the orchard and garden this summer.

The NPS pipe line is roughly 7000 feet long with a fall of 199 feet between diversion and lodge, and the lodge reservoir is 100 feet higher. The diameter is 2 inches. Its capacity to the said reservoir is about 0.04 sec. ft., and to the area without passing through the reservoir is about 0.057 sec. ft. There will be little change in capacity if the diversion is moved to the point selected during the visit of April 30. In other words, the Park Service is in no position to prove up on more than 20% of even its present potential demand without enlarging the whole system if it is to file a new application at this time. The capacity is just about equal to the NPS demand exclusive of any irrigation, however.

A new application by the Park Service is thus bound to be a conditional claim with frequent requests for extension of time, while to cover the use with the existing Frey right would result in immediate perfection of the full amount. In the latter case, however, there would be a complementary problem to keep any of the perfected right from lapsing. The writer favors the second procedure because there will be little question of full use as long as excessive conflicting local appropriations are not made.

Availability of Frey Right to the Park Service

Mrs. Frey and her husband have both defended their right with vigor in the past. It is an asset. Mrs. Frey is also an ardent gardener. There is some question whether her protection of the right is chiefly as an investment or as a means to satisfy her hobby.

Be that as it may, she expressed regret to the writer that she had not exchanged the water right for NPS electric light service. She evidently realizes that the right is subject to loss at any time the lease is renewed. It is only necessary to cancel all permit to lands for a garden, provided the Park Service first establishes its rights to the full pipe capacity and does not allow re-establishment of the ditch right of way from the orchard to the lodge and administrative area. The writer feels that the Park Service can obtain the rights relatively easily if proper terms are offered.

As a final word of caution, the United States is now amending its right to Rattlesnake Springs for use at that area and Carlsbad Caverns to prevent a lapse which has become almost as real as that of Mrs. Frey. To acquire and salvage the Frey right is consistent with the rest of the Park Service activities. On the other hand, to force Mrs. Frey to lose her right would mean federal admission of points which would jeopardize its rights to Rattlesnake Springs. Hence, any action at Bandelier should either agree with that at Carlsbad, or be delayed until the latter is settled, a few months hence.

660-01.1

Bandelier

Box 1328, Santa Fe, New Mexico.

November 27, 1933.

Comments by M. O. Evenstad, Acting Custodian:

The matter should be brought to the attention of the Attorney General of the United States, or some other U. S. Attorney, for a decision as to our rights. Pending this, further use of water should only be granted on a temporary basis, such as is contained in the annual permit. If necessary a court decision should be had.

The record of lease is incomplete. Present record shows as a new lease to Frey, not a transfer of lease.

No assignment of Abbott's water rights is of record.

It would seem that the Government should not be subject to State laws on water originating on and running through Government land.

Has The land in question always been U. S. Govt. land?

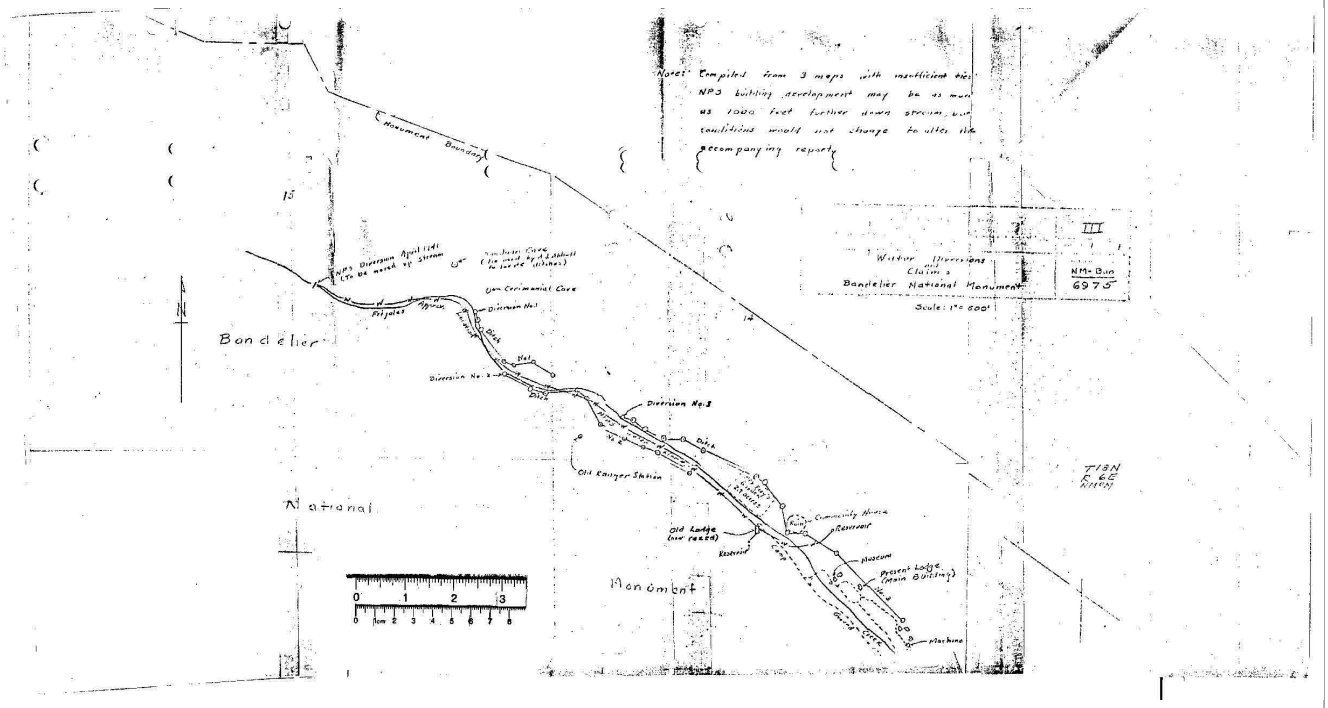
If Frey's right to water is absolute, clause in permit granting water for the current year is unnecessary.

Should Frey prove continuous use of water , back to approval of Abbott's application , May 11, 1915?

Note "N"; the Government should not assume the role of a petitioner for a water right, unless and until it is definitely proven that the Government has no water right, at this time.

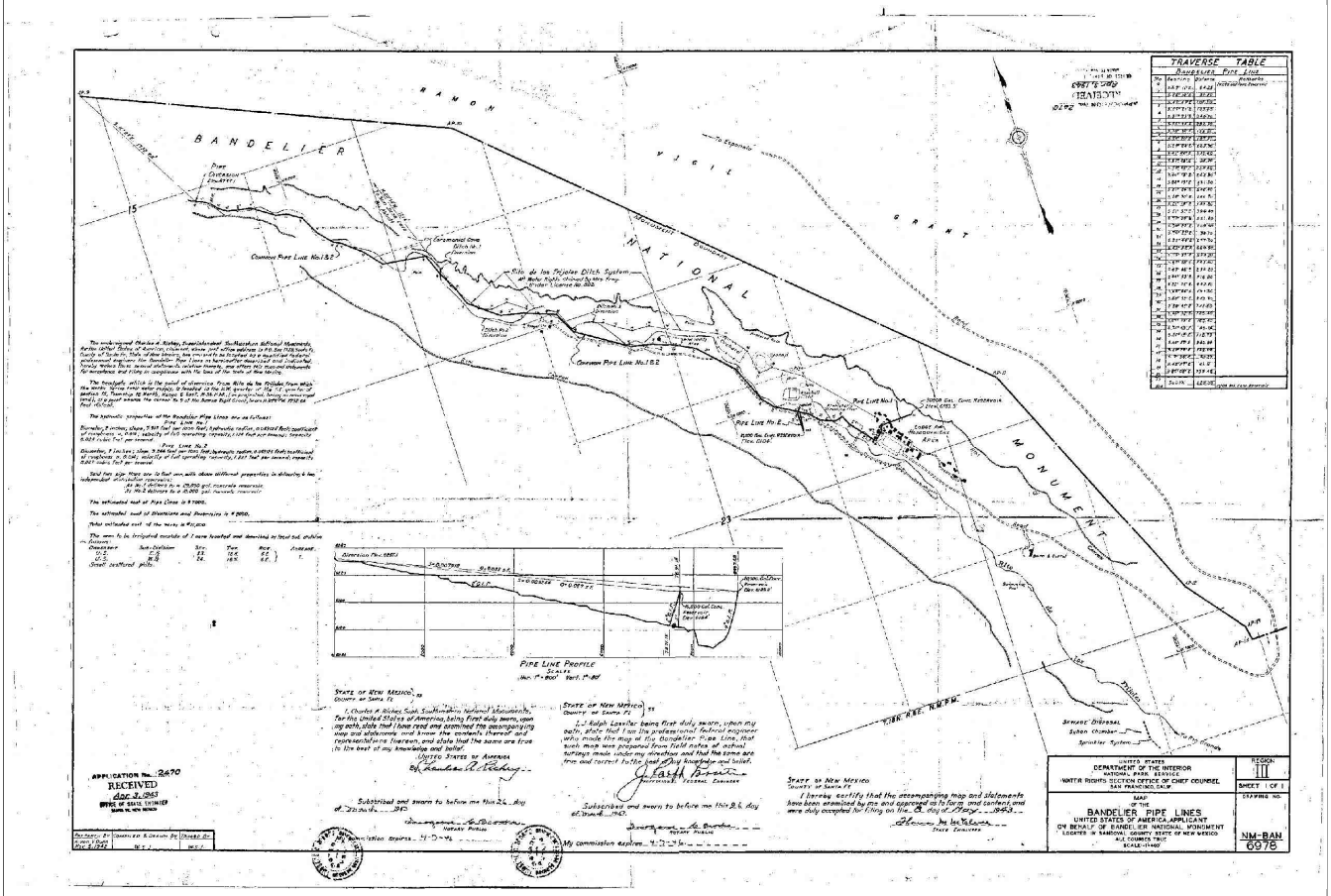
Signed_____
Acting Custodian.

00-00-0000: hand drawn topographical map of bandelier national monument - water diversions and claims



Maps and Miscellaneous Information

00-00-0000: map of bandelier pipe lines



Docket Information

Number of Documents in Docket 153

Documents Dated from 11/27/1933 to 5/28/1965

Docket Compiled: 1/31/2011