



WATER-RIGHT DOCKET

Bent's Old Fort National Historic Site

Docket No: 5

LIVESTOCK WELL.

State Water Rights Documentation

06-14-1994: fax--well abandonment affidavit; june 14, 1994

06/14/1994 08:09 7193842515	BENTS OLD FT NHS	PAGE 04
GW-9-76	DIVISION OF WATER RESOURCES 1313 SHEPHERD STREET, RM. 818 DENVER, COLORADO 80203	Livestock Well Southside page 1 of 6
WELL ABANDONMENT AFFIDAVIT*		
STATE OF COLORADO	}	ss.
COUNTY OF <u>Otero</u>	}	
I (we) <u>Michael G. McNeerney</u> , being		
first duly sworn upon oath, depose and say:		
That an old well, located in the <u>SE 1/4</u> of the <u>N.E 1/4</u> , Section <u>23</u> , Township <u>23</u> S., Range <u>54</u> W., <u>6</u> P.M., was replaced for the following reason(s): <u>Old well casing collapsed preventing</u> <u>pumping of water for livestock.</u>		
That the old well, which was replaced by a new well drilled under permit number <u>156062-A</u> , was plugged and abandoned according to the rules and regulations of the State Board of Examiners of Water Well and Pump Installation Contractors by <u>Wayne Parrish Drilling, Burlington, Co.</u> (person(s) or company) on <u>Dec. 13</u> , 19 <u>89</u> .		
That the old well was plugged with the following materials placed at the indicated intervals:		
<u>gravel to static water level</u>	from <u>30</u>	feet to <u>20</u> feet
<u>concrete grout</u>	from <u>20</u>	feet to <u>0</u> feet
Signature of affiant(s) <u>Michael G. McNeerney</u>		
Subscribed and sworn to before me this <u>4th</u> day		
of <u>January</u> , 19 <u>90</u> .		
My Commission expires: <u>March 16, 1993</u>		
<u>Notary Public</u> 35027 E. Hwy 194, La Junta, CO 81050		
*It is the owner's responsibility pursuant to the conditions of approval to see that the affidavit is returned.		
(See reverse side for Abandonment Regulations)		

06/14/1994 08:09 7193842615

BENTS OLD FT NHS

PAGE 05

CPL-25-75

TYPE OR
PRINT IN BLACK INK
COPY OF ACCEPTED
STATEMENT MAILED
ON REQUEST.

COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St.

Denver, Colorado 80203

STATE OF COLORADO

COUNTY OF Otero

SS.

12-06-89 AFFIDAVIT

LTRGEX 70021

TTL 60.00

LAW 0.00

ITM 1

CL-1 047655

LOCATION OF WELL

STATEMENT OF BENEFICIAL USE OF GROUND WATER

AMENDMENT OF EXISTING RECORD

LATE REGISTRATION

PERMIT NUMBER 156962THE AFFIANT(S) U.S. Dept of Interior, National Park Servwhose mailing address is PO Box 25587SE 1/4 of the NE 1/4 Section 23City Denver Co 80225-0287 23 S 1/4 54 W 6 P.M.

being duly sworn upon oath, deposes and says that he (they) is (are) the owner(s) of the well described hereon; the well is located as described above, at distances of 1825 feet from the North section line and 75 feet from the East section line; water from this well was first applied to a beneficial use for the purpose(s) described herein on the

day of April, 1960; the maximum sustained pumping rate of the well is 15 gallons per minute, the pumping rate claimed hereby is 15 gallons per minute; the total depth of the well is 30 feet; the average annual amount

of water to be diverted is 1 acre-feet; for which claim is hereby made for livestock purpose(s); the legal description of the land on which the water from this well is used is NE 1/4 of Sect 23, Twp 23S, Rg 54W, 6PM of which

acres are irrigated and which is illustrated on the map on the reverse side of this form; that this well was completed in compliance with the permit approved therefor; this statement of beneficial use of ground water is filed in compliance with law; he () has (have) read the statements made hereon; knows the content thereof; and that the same are true of his (their) knowledge.

(COMPLETE REVERSE SIDE OF THIS FORM)

Signature(s) Donald S. CurrieSubscribed and sworn to before me on this 27th day of November, 1989My Commission expires: November 20, 1990

William Parrish
NOTARY PUBLIC

ACCEPTED FOR FILING BY THE STATE ENGINEER OF COLORADO
PURSUANT TO THE FOLLOWING CONDITIONS:

ISSUANCE OF THIS PERMIT DOES NOT CONFER A DECREED WATER RIGHT

1) IN ACCORDANCE WITH CRS 37-92-602(5) FOR HISTORIC USE AS INDICATED BELOW AND DESCRIBED IN CRS 37-92-602(1)(b).

2) A WELL PRODUCING 15 GALLONS PER MINUTE AND USED FOR THE WATERING OF LIVESTOCK ON A FARM OR RANCH.

77-77-12-13-89

DEC 13 1989

John A. Danielson
STATE ENGINEER

M.A. Malley
STATE ENGINEER

RECEIVED

DEC 06 '89

WATER RESOURCES
STATE ENGINEER
COLORADO

307655A

FOR OFFICE USE ONLY

OWNER'S COPY

Court Case No. _____

Prior. _____ Mo. _____ Day _____ Yr. _____

Div. 2 City 45

Sec. _____ 1/4 _____ 1/4 _____ 1/4 _____

Well Use _____

Dist. 17 Basin _____ Man. Dis. _____

06/14/1994 08:09 7193842615

BENTS OLD FT NHS

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WRJ-5-Rev. 76

DEC 28 1989
COLORADO DIVISION OF WATER RESOURCES
 818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203

PERMIT APPLICATION FORM

Application must be complete where applicable. Type or print in **BLACK INK**. No overstrikes or erasures unless initialed.

- () A PERMIT TO USE GROUND WATER
 () A PERMIT TO CONSTRUCT A WELL
 FOR: () A PERMIT TO INSTALL A PUMP

() REPLACEMENT FOR NO. Enclosed
 () OTHER _____

WATER COURT CASE NO. _____

WATER RESOURCES
 STATE ENGINEER
 COLORADO

(1) APPLICANT - mailing address

U.S. Dept of Interior
 NAME National Park Service
 STREET PO Box 2587
 CITY Denver CO 80225-0287
 TELEPHONE NO. 303-719-384-2596

(2) LOCATION OF PROPOSED WELL

County Otero
SE 1/4 of the N/E 1/4, Section 23
 Twp. 23 S, Rng. 34 W, 6 P.M.
 (N, S) (E, W)

(3) WATER USE AND WELL DATA

Proposed maximum pumping rate (gpm) 15
 Average annual amount of ground water to be appropriated (acre-feet): 1
 Number of acres to be irrigated: 0
 Proposed total depth (feet): 30
 Aquifer ground water is to be obtained from:
Valley fill Deposits
 Owner's well designation _____

GROUND WATER TO BE USED FOR:

- () HOUSEHOLD USE ONLY - no irrigation (0)
 () DOMESTIC (1) () INDUSTRIAL (5)
 () LIVESTOCK (2) () IRRIGATION (6)
 () COMMERCIAL (4) () MUNICIPAL (8)
 () OTHER (9) _____

DETAIL THE USE ON BACK IN (11)

(4) DRILLER

Name Wayne Parrish
 Street 45455 Rk Y
 City Buckington CO 80807
 Telephone No. 303-3440 Lic. No. 623

FOR OFFICE USE ONLY: DO NOT WRITE IN THIS COLUMNReceipt No. 307655B

Basin _____ Dist. _____

CONDITIONS OF APPROVAL

This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.

ISSUANCE OF THIS PERMIT DOES NOT CONFER A DECREED WATER RIGHT

1) APPROVED PURSUANT TO CRS 37-92-602(3)(c) FOR THE RELOCATION OF EXISTING WELL PERMIT NO. 156062. THE EXISTING WELL MUST BE PLUGGED AND ABANDONED ACCORDING TO THE WATER WELL CONSTRUCTION AND PUMP INSTALLATION RULES WITHIN NINETY (90) DAYS OF COMPLETION OF THE NEW WELL. THE ENCLOSED WELL ABANDONMENT REPORT FORM MUST BE COMPLETED AFFIRMING THAT THE OLD WELL WAS PLUGGED AND ABANDONED.

2) APPROVED FOR THE WATERING OF LIVESTOCK ON A FARM OR RANCH.
77.77.12-13-89

OWNER'S COPY**APPLICATION APPROVED**PERMIT NUMBER 156062-ADATE ISSUED DEC 13 1989EXPIRATION DATE DEC 13 1991

[Signature]
 (STATE ENGINEER)

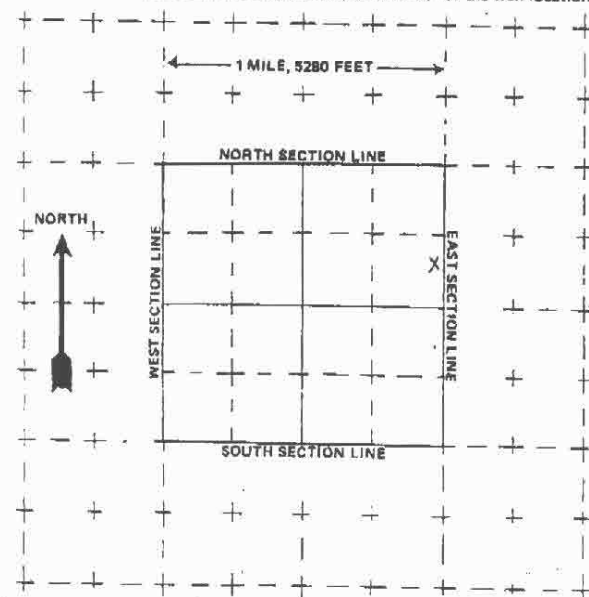
BY [Signature]I.D. 2-17 COUNTY 45

05/14/1994 08:09 7193842615

BENTS OLD FT NHS

PAGE 07

(5) THE LOCATION OF THE PROPOSED WELL and the area on which the water will be used must be indicated on the diagram below. Use the CENTER SECTION (1 section, 640 acres) for the well location.



The scale of the diagram is 2 inches = 1 mile
Each small square represents 40 acres.

WATER EQUIVALENTS TABLE (Rounded Figures)

An acre-foot covers 1 acre of land 1 foot deep
1 cubic foot per second (cfs) ... 448 gallons per minute (gpm)
A family of 5 will require approximately 1 acre-foot of water per year.
1 acre-foot ... 43,560 cubic feet ... 325,900 gallons.
1,000 gpm pumped continuously for one day produces 4.42 acre-feet.

(6) THE WELL MUST BE LOCATED BELOW by distances from section lines.

1925 ft. from North sec. line
(north or south)
75' ft. from East sec. line
(east or west)

LOT _____ BLOCK _____ FILING # _____

SUBDIVISION _____

(7) TRACT ON WHICH WELL WILL BE LOCATED

Owner: Dept of Interior
No. of acres 457 Will this be

the only well on this tract? no

(8) PROPOSED CASING PROGRAM

Plain Casing

5 in. from 0 ft. to 20 ft.

_____ in. from _____ ft. to _____ ft.

Perforated casing

5 in. from 20 ft. to 30 ft.

_____ in. from _____ ft. to _____ ft.

(9) FOR REPLACEMENT WELLS give distance and direction from old well and plans for plugging it:

close as possible
according to Rules
+ Reg 5

(10) LAND ON WHICH GROUND WATER WILL BE USED:

Owner(s): U.S. Dept of Interior

No. of acres: 457

Legal description: Enclosed

(11) DETAILED DESCRIPTION of the use of ground water: Household use and domestic wells must indicate type of disposal system to be used. Livestock

(12) OTHER WATER RIGHTS used on this land, including wells. Give Registration and Water Court Case Numbers.

Type or right	Used for (purpose)	Description of land on which used
<u>Tring Well</u>	<u>Tring #15929</u>	<u>W1237</u>

(13) THE APPLICANT(S) STATE(S) THAT THE INFORMATION SET FORTH HEREON IS TRUE TO THE BEST OF HIS KNOWLEDGE.

Edward S. Currie
SIGNATURE OF APPLICANT(S)

06/14/1994 08:09

7193842515

BENTS OLD FT NHS

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WRJ-5 Rev. 76

COLORADO DIVISION OF WATER RESOURCES
 818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203

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☒ REPLACEMENT FOR NO. Enclosed
☐ OTHER _____

WATER COURT CASE NO. _____

WATER-COURT CASES
 STATE ENGINEER
 12-13-89

(1) APPLICANT - mailing address

NAME U.S. Dept of Interior
National Park Service
 STREET PC Box 2587
 CITY Denver CO 80225-0287
 TELEPHONE NO. 303 719-384-2596

FOR OFFICE USE ONLY: DO NOT WRITE IN THIS COLUMN

Receipt No. 307655B

Basin _____ Dist. _____

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County Ctarm
SE 1/4 of the N/E 1/4, Section 23
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 (N.S) (E.W)

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☐ COMMERCIAL (4) ☐ MUNICIPAL (8)

☐ OTHER (9) _____

DETAIL THE USE ON BACK IN (11)

(4) DRILLER

Name Wayne Parrish
 Street 4555 RLY
 City Burlington CO 80307
 Telephone No. 303-340 Lic. No. 623

**PUMP INSTALLER'S
 COPY**

APPLICATION APPROVED

PERMIT NUMBER 156062-A

DATE ISSUED DEC 13 1989

EXPIRATION DATE DEC 13 1991

W. A. Darrin
 (STATE ENGINEER)

BY M. A. Mallory

I.D. 2-17 COUNTY 45

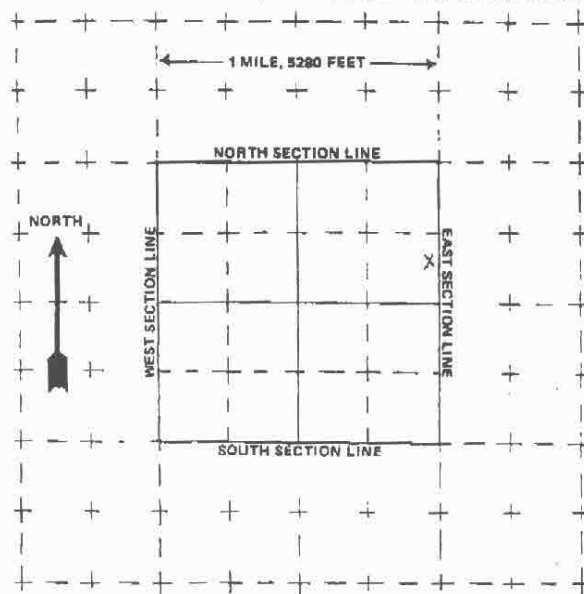
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BENTS OLD FT NHS

PAGE 09

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LOT _____ BLOCK _____ FILING # _____

SUBDIVISION _____

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+ Regs

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Legal description: Enclosed

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(13) **THE APPLICANT(S) STATE(S) THAT THE INFORMATION SET FORTH HEREON IS TRUE TO THE BEST OF HIS KNOWLEDGE.**

Donald S. Currie
SIGNATURE OF APPLICANT(S)

Use additional sheets of paper if more space is required.

Other Supporting Information

[11] From: Don Hill at NP-BEOL 10/24/95 3:24PM (2238 bytes: 5 ln, 1 fl)
To: Dan McGlothlin at NP-WASO-WR, Don Hill
Subject: Augmentation Services Follow-up

----- Message Contents -----

Text item 1:

See attached file Water. This is a follow-up on the phone conversation we last had.

Don Hill
Superintendent, BEOL

Rec'd 10/25/95
Opr

A7021

October 23, 1995

Steve Arveschoug, General Manager
Southeastern Colorado Water Conservation Dist.
P.O. Box 440
Pueblo, Colorado 81002

Dear Sir,

Your letter of September 25th, in regard to the Southeastern Colorado Water Activity Enterprise 1.) to provide Well Augmentation Services and Augmentation Plan and 2.) allocate Fryingpan-Arkansas Project return water is of interest to Bent's Old Fort National Historic Site. This federal facility has three wells actively used (fire protection, agricultural irrigation and domestic). We have one other well which is inactive at this time but will be used in the future to rehabilitate vegetation in our short grass prairie restoration program. As you can see, we have an interest in the program you have articulated.

We obviously desire to be in compliance and would be interested in any information or actions to be taken. Because our fire protection water service is tied to well use, we have a concern. We might also mention that the Fort Lyon Canal Company has a waste water ditch across the front of the Historic Site paralleling the southside of Colorado Highway 194. This ditch returns waste water from agricultural lands to the Arkansas River; however, not too effectively since the wetlands have been growing over the past nine years.

Please, keep us posted on changes and requirements. We will be updating the Water Resources Division of the National Park Service in Fort Collins on this issue so that they might advise us.

Sincerely,

Donald C. Hill
Superintendent



IN REPLY
REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Bent's Old Fort National Historic Site
35110 Hwy 194 East
La Junta, Colorado 81050-9523



L54

Memorandum

To: Dan McGlothlin, Water Resources Division
From: Fran Pannebaker, biotechnician
Subject: Southeastern Colorado Water Conservancy District water
Augmentation Plan. Should BEOL participate?

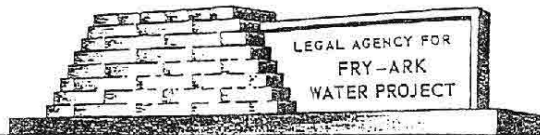
Enclosed is the letter and questionnaire from Southeastern Colorado Water Conservancy District which I faxed Monday, July 17. Don Hill and I both don't believe Bent's Old Fort needs to be included in this plan. In fact, in the future, we will have to find ways to use our water to maintain our rights to it. However, if you think we need to participate, please let me know. I think we should have BEOL added to their information mailing list.

We won't send this questionnaire in until we have your comments. Please contact Fran Pannebaker at (719) 384-2596.

Fran Pannebaker

Attachments

SOUTHEASTERN COLORADO
Water Conservancy District



PHONE 719/544-2040 • P.O. BOX 440 • 905 HWY 50 WEST • PUEBLO, COLORADO 81002

July 10, 1995

Dear Well Owner:

Mr. Hal Simpson, State Engineer, has announced that he intends to file a set of new Rules regarding groundwater pumping. This comes in part as a result of the U.S. Supreme Court decision in the Kansas vs. Colorado Lawsuit. These new Rules will potentially impact all irrigation, municipal, industrial and commercial well owners tributary to the Arkansas River, and change the current 3/7 rule, which now allows unaugmented pumping for three days each week.

Because the proposed Rule would require full augmentation of groundwater pumping, and potentially have a significant impact on the economy of Southeast Colorado, the Southeastern Colorado Water Conservancy District is studying the possibility of sponsoring an Augmentation Plan for well owners in the District. The S.E. Board of Directors need your input to assist in determining the level of interest for a District sponsored Plan.

The Plan would serve well owners within the boundaries of the S.E. District. Your cost to participate would include an administrative fee assessment and a separate augmentation water fee assessment. The cost of the replacement water to augment your pumping would be based on the depletion rates established in the Final Rules adopted by the State Engineer, and your individual operation. Under the current draft rules we estimate our plan could provide replacement water for pumping of groundwater as a supplemental irrigation supply at \$3.00 per acre-foot pumped, for pumping of groundwater as a sole source irrigation supply at \$5.00 per acre-foot pumped, for pumping for groundwater for use in a sprinkler irrigation system at \$7.50 per acre-foot pumped.

In addition to your augmentation water costs, participants would be charged an administrative fee which would be based on the costs to administer the Plan and the number of wells participating in the Plan. Your response to our questionnaire will help to finalize our analysis of the administrative costs.

We understand that there are many details and questions yet to be addressed, however, it would be helpful if you would take a few minutes to fill out the enclosed response form and return it to the District. Your assistance is needed to identify concerns and provide guidance to the District's Augmentation Plan Study Committee.

Please call if you have questions. We thank you for your effort, and look forward to your response.

Sincerely,

Steve Arveschoug
General Manager

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

721 State Centennial Building
1313 Sherman Street
Denver, Colorado 80203
Phone (303) 866-3441
FAX (303) 866-4474

RECEIVED

JUL 19 1995

DIRECTOR, COLORADO
PUEBLO, COLORADO

MEMORANDUM

Dan McGlothlin

FYI per your request

TO: Members, ARCC

FROM: Hal Simpson

Steve Miller for

SJM

DATE: July 18, 1995

SUBJECT: Proposed Amended Well Regulations, revised draft

Enclosed please find a July 14, 1995 revised draft of the proposed Amended Rules and Regulations for wells in the Arkansas River Basin. There have been no changes to the introductory material in pages 1-18, so this revision begins with page 19. These revisions are a result of discussions at the June 26 meeting.

I anticipate substantial discussion of the well regulations at our next ARCC meeting (August 7, 1995 in Pueblo) and hope you will have the time to carefully review the revised draft and formulate questions and comments.

A notice and agenda for the August 7 meeting and the draft summary of the June 26, 1995 meeting will be sent to you sometime next week.

SRM/vt

Member06.mem (ARKR)



Roy Romer
Governor

James S. Lochhead
Executive Director, DNR

Daries C. Lile, P.E.
Director, CWCB

Revised Draft July 14, 1995

factors, an owner of a right to divert ground water may file an application for approval of a plan for augmentation with the Water Judge in the event the owner believes the presumptive stream depletions set forth in these Rules are not applicable to the individual facts or the determination of the state and division engineers on the time and place of depletions is incorrect; however, in that event, persons having water rights with senior priorities will have notice and an opportunity to be heard on the amount and timing of depletions and the terms and conditions necessary to prevent injury to such senior priorities.

ORDER OF THE STATE ENGINEER

IT IS ORDERED that the Rules and Regulations governing the use, control, and protection of surface and ground water rights located in the Arkansas River and its tributaries, which rules and regulations became effective on February 19, 1973, shall be amended and replaced by the following rules and regulations which are adopted and approved by the state engineer:

AMENDED RULES AND REGULATIONS

Rule 1. Scope. These rules apply to all rights which divert tributary ground water in the Arkansas River Basin in Colorado except decreed or permitted wells as described in Section 37-92-602; wells located within a designated ground water basin and which withdraw designated ground water as defined in Section 37-90-103(6)(a); and decreed and/or permitted nontributary wells which withdraw

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- (a) from the Valley Fill Aquifer as shown on plates 1-4 of Basic Data Release 21; or
- (b) from surficial aquifers on benches or terraces of the Arkansas River as shown on _____ (map to be prepared),

shall be totally discontinued unless the ~~owner of such rights~~ ~~appropriator~~ replaces depletions to usable Stateline flows ~~caused by such diversions~~ in accordance with a plan approved by the state and division engineers in accordance with these Rules.

Rule 3.2. Pre-Compact Ground Water Diversions and Pumping Allowance.

Effective April 15, 1996, all diversions of ground water by appropriators having ~~decreed~~ water rights senior to December 14, 1948,

- (a) from the Valley Fill Aquifer as shown on plates 1-4 of Basic Data Release 21; or
- (b) from surficial aquifers on benches or terraces of the Arkansas River as shown on _____ (map to be prepared),

shall be limited to an aggregate total of 15,000 acre-feet per year (January 1 through December 31) unless the ~~owners of such rights~~ ~~appropriator~~ replaces depletions to usable Stateline flows caused by ~~pumping~~ ~~diversions of~~ amounts greater than 15,000 acre-feet per year in accordance with a plan approved by the

Revised Draft July 14, 1995

listed above, and who agree that collectively they will not ~~pump-divert~~ more than 20 acre-feet per well ~~their combined annual pre-compact pumping allowances in any one per year~~ unless they replace depletions to usable Stateline flows caused by such additional ~~pumping diversions~~. Notwithstanding this annual pre-compact pumping allowance, appropriators having decreed rights to divert ground water senior to December 14, 1948, from the aquifers listed above shall be subject to all other rules and regulations applicable to diversions of ground water in the Arkansas River Basin, including Rule 3.3.

Rule 3.3. Ground Water Diversions from the Valley Fill Aquifer and Other Specified Aquifers. Effective April 15, 1996, all diversions of ground water ~~by appropriators having water rights junior to April 15, 1884,~~

- (a) from the Valley Fill Aquifer as shown on plates 1-4 of Basic Data Release 21;
- (b) from surficial aquifers on benches or terraces of the Arkansas River, including the Bessemer Terrace, as shown on _____ (map to be prepared);
- (c) from alluvial deposits along the Arkansas River from Pueblo to the headwaters of the Arkansas River as shown on _____;
- (d) from the alluvium of Fountain Creek and its tributaries as shown on _____; and

Revised Draft July 14, 1995

pumped. The state and division engineers may increase the assumed stream depletions to more than thirty percent, but not more than the assumed stream depletions for sole source irrigation wells in Rule 3.4.b, in the case of water right owners appropriators who have sold a portion of their surface rights pump ground water as a supplemental irrigation supply for flood irrigation but do not have a reasonable surface irrigation supply for the acreage irrigated (for example, appropriators who have sold a portion of their surface rights or do not own sufficient shares in a mutual ditch company to irrigate the acreage irrigated compared to other shareholders in the company) or who own pump ground water to supplement surface rights which are junior to June 8, 1890.

b. For the purpose of determining stream depletions to Stateline flows and senior Colorado water rights and Stateline flows caused by pumping ground water as a sole source of irrigation supply for flood irrigation, it will be assumed that the stream depletions are fifty percent (50%) of the amount pumped.

c. For the purpose of determining stream depletions to Stateline flows and senior Colorado water rights and Stateline flows caused by pumping ground water for use in sprinkler irrigation systems, it will be assumed that the stream depletions are seventy-five percent (75%) of the amount pumped.

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the amount of water to which said surface rights would have been entitled in the absence of such ground water withdrawals in accordance with: (1) a decreed plan for augmentation approved by the Water Judge in accordance with the procedures of Section 37-92-302 to 37-92-305; or (2) a plan approved by the state and division engineers in accordance with these Rules; however, in recognition that depletions to senior Colorado water rights may be different than the presumptive stream depletions set forth in Rule 4, the state and division engineers shall not be bound by such presumptive stream depletions in approving such plans. For the purpose of determining depletions to senior Colorado water rights for plans approved pursuant to this Rule, the state and division engineers may use the presumptive depletions in Rule 3.4 or determine depletions based on site-specific information provided by the appropriator.

Rule 54. Return Flows from Fryingpan-Arkansas Project Deliveries and Return Flows from Other Imported or Fully Consumable Water. To provide an easily applied and consistent basis to determine return flows from imported water Fryingpan-Arkansas Project deliveries for plans approved pursuant to these Rules, it will be assumed that return flows from diversions of Fryingpan-Arkansas Project deliveries for irrigation use or waters imported into the Arkansas River Basin are forty percent (40%) of headgate deliveries to ditches diverting from the Arkansas River. Return flows from diversions of other waters imported into the Arkansas

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~~appropriators their successors, lessees, contractees, or assigns are~~ may be entitled based on their right to use or reuse such ~~return flows, imported waters.~~

~~Rule 76.~~ Requirements for Approval of Plans; Unit Response Functions.

~~The state engineer is the state official charged with the administration of water rights in Colorado and, together with the division engineer for Water Division No. 2, in general is responsible for the enforcement of the terms of the Arkansas River Compact. Based on stream depletions determined in accordance with these Rules and the results of the HIM, if applicable, or such other method as approved by the Special Master and/or the United States Supreme Court, the state and division engineers may approve a plan to divert ground water which provides sufficient augmentation water, in amount and time, to replace depletions to senior Colorado water rights caused by such diversions, including future stream depletions which may occur as the result of such diversions, and any and all depletions to usable Stateline flows caused by such diversions. Such plans shall be submitted to the division engineer by February 1 of each year. As a condition to approval of a plan to replace depletions to usable Stateline flows, the state and division engineers may require augmentation water over and above the amount necessary to replace depletions determined in accordance with Rule 3.4 to address situations where sufficient augmentation water may not be available, such as a dry year or underestimating pumping or augmentation water. To provide an easily~~

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plans; however, the state and division engineers shall remain responsible for enforcement of these Rules and the terms of the Arkansas River Compact; and, notwithstanding the submission of a plan by an entity on behalf of an appropriator, should the plan prove insufficient, the appropriator shall ultimately remain responsible to replace depletions to usable Stateline flows and depletions which would deprive senior surface rights in Colorado of the amount of water to which said surface rights would have been entitled in the absence of such ground water withdrawals.

Rule 8. Plans for April 15, 1996, to April 14, 1997, and Thereafter. To provide a reasonable period to allow appropriators to develop plans in accordance with these Rules and to secure the augmentation water necessary for such plans, the state and division engineers may approve a plan to divert ground water for the period April 15, 1996, to April 14, 1997, if the appropriator provides sufficient augmentation water, in amount and time, to replace 60 percent of the depletions to senior Colorado water rights and 60 percent of any depletions to usable Stateline flows caused by such diversions, provided the Special Master and/or the U.S. Supreme Court does not direct otherwise. After April 15, 1997, full replacement of such depletions shall be required and no plan shall be approved which does not provide for full replacement of such depletions in accordance with these Rules.

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approved pursuant to these Rules or fails to furnish or pay for augmentation water necessary for such a plan, the state or division engineer may issue an order to the power supplier to discontinue power energy to the well unless and until the appropriator has complied with the terms of such a plan or furnished or paid for augmentation water necessary for such a plan.

Rule 11. Information Which Must Be Furnished. Any appropriator or entity acting on behalf of appropriators who seeks approval of a plan pursuant to these Rules must furnish the following information: (1) the location of each well in the plan; (2) the structure identification number (if one has been assigned) of each well in the plan; (3) the permit or registration number of each well in the plan; (4) the appropriation date of the water right diverted through each well in the plan; (5) the case number of the proceeding in which the water right diverted through each well in the plan was decreed; (6) the use of each well in the plan; (7) in the case of wells used for irrigation, (a) the method of irrigation (flood, sprinkler, surge, drip, etc.) of each well in the plan, (b) the number of acres irrigated by each well in the plan, (c) whether each well in the plan is used as a supplemental irrigation supply or a sole source of irrigation supply, and (d) if used as a supplemental irrigation supply, (i) the surface rights or the name of the ditch or reservoir company and number of shares, (ii) the number of acres irrigated with the surface rights or shares, and (iii) a description of how the surface rights and

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intervals and shall make such tabulations available for inspection by the public in the office of the division engineer.

Rule ~~1314~~ 1414. Severability. If any portion of these Rules is found to be invalid, the remaining portion of the Rules shall remain in force and unaffected.

Rule ~~1415~~ 1415. Effective date. These amended Rules shall become effective April 15, 1996.

(6-287ceb)

[R&R-AM-C.RDL]

REPORT OF TELEPHONE CONVERSATION

DATE: 6/30/94 TIME: 0800
PROJECT: BEOL Well #5

NPS PERSON ON CALL: Denise Newberry

[] I RECEIVED A CALL FROM [X] I CALLED

PERSON: Al Eckermann + Groundwater Information
ORGANIZATION: State Engineer
ADDRESS:

TELEPHONE: (303) 866-3587 Records 866-3447

DISCUSSION: Questions asked

- ① Is there a decree associated with this well — No, it is permitted
- ② What type of well is this?
Domestic exempt well

ACTION TO BE TAKEN: Dan McGlothlin was told

COPIES TO: Docket

W.F. Hansen
Dan McGlothlin
Owen Williams

June 22, 1994

L54(479)
BEOL/Water Rights

Memorandum

To: Superintendent, Bent's Old Fort National Historic Site
From: Chief, Water Rights Branch
Subject: Measurement of Tributary Ground Water Diversion

The Office of the State Engineer (SE), State of Colorado, has promulgated the attached rules (Case No. 94CW12 - Rules Governing the Measurement of Tributary Ground Water Diversions in the Arkansas River Basin) for the administration of waters in the Arkansas River basin. These rules implement procedures for metering and reporting tributary ground water pumped from wells within the basin to comply with the Arkansas River Compact. Also attached for your information are the forms to be used for compliance and reporting.

To assess applicability of the new rules to National Park Service (NPS) water rights at Bent's Old Fort National Historic Site (BEOL), we reviewed BEOL's water rights dockets and discussed the status of park wells with Carol Maass of your staff. We have determined that these rules apply to two park wells.

With respect to the June 15, 1994, deadline stated in the rules for filing a **Notice of Totalizing Flow Meter Installation** or **Notice of Inactive Well**, we were informed by the Division Engineer, Water Division 2 (personal communication with Bill Hansen of my staff on June 14, 1994) that this deadline was suspended due to protest of the rules. A new date for filing these notices has not been set. However, we are recommending that the park proceed immediately in complying with the SE's rules as outlined below. A new deadline for the Notices is expected to be established in the near future.

Based upon our review of the information obtained from the park, we have prepared for your consideration the following assessments and recommendations for complying with the SE's rules.

Docket No. BEOL 0001 and 0002 (referred to by the park as Federal No.'s 1 and 2). These wells are abandoned, no water rights exist. No action required.

Docket No. BEOL 0003 (referred to by park as Federal No. 3, well is located in the park's maintenance facility)

A conditional water right for 150 gallons per minute for sanitation and firefighting purposes exists for this well. In December, 1993, the NPS filed, through Department of Justice, an application for a finding of reasonable diligence for a conditional water right decreed on December 15, 1987 (Case No. 80CW142). On May 25, 1994, the Water Referee, Water Division 2 ruled for the continuation of the conditional right and we are currently waiting for a decree from the Water Court. Once the finding of reasonable diligence has been decreed by the Water Court, NPS will have six years in which to make full use of the right, thereby establishing a basis for applying to make the conditional right absolute. If NPS is unable to make full use of this right and, at the end of six years, wishes to maintain the conditional right, it may apply again for a finding of reasonable diligence.

We understand that Federal No. 3 is inactive and that the park intends to make repairs and/or modifications to the system in the future. If the well is to remain out of service, a **Notice of Inactive Well** (Form 7) should be filed in accordance with the yet to be determined new deadline. Note that the well must be "disconnected from any and all power sources" and not be used until the Division Engineer is notified in writing of intent to re-activate the well. So long as the well remains inactive, this Notice must be refiled by March 1 every consecutive year following the original Notice submittal (refer to Rule 7). As stated in Rule 8, "no water shall be withdrawn from any well not in compliance with the rules except as necessary to determine a power coefficient rating or to install a totalizing flow meter."

As part of repairs and/or modifications of the Federal No. 3 system, and prior to re-activation, the well must be equipped with a totalizing flow meter that is installed and maintained according to manufacturer's recommendations. The totalizing flow meter must be installed in accordance with Rules 3.1, 3.3, 3.4 and 4. Included in these rules is the requirement that the meter, when installed, be properly field calibrated under the supervision of a registered professional engineer. Should the well become active at any time, the Division Engineer must be notified immediately with a **Notice of Totalizing Flow Meter Installation** (Form 4).

If the Park prefers to utilize power consumption measurements for documenting and reporting water use, rating procedures must be conducted under the supervision of a registered professional engineer and in accordance with requirements of Rule 3.2, 3.3 and 4. A **Notice of Power Coefficient Rating or Re-Rating** (Form 3.2) must be filed by October 1, 1994 (this deadline has not been suspended, according to the Division Engineer). Note that the SE requires a stand-alone power meter connection to the well, i.e. the meter may not service other power connections, for the purpose of reporting water pumped using the power coefficient method.

After the well is reactivated, a water use data report must be submitted no later than January 31, 1995, and every consecutive year thereafter (refer to Rule 6). The reporting period is November 1 to October 31. The report requires monthly amounts of water pumped. Depending on the method of measurement of water withdrawn, either Form 6.1 or 6.2 is to be used.

A benefit derived from filing annual water data reports for Federal No. 3 (if the well is reactivated within the next six years) is the establishment of a verifiable record of water pumped for sanitation and firefighting purposes in accordance with NPS's conditional water right. The annual water use report should greatly facilitate the task of preparing evidence, for the Water Court's review, that proves NPS's diligence in exercising the conditional right over the next six years, and verifying the amounts of water used from this well in support of a future application to make the conditional right absolute.

Docket - BEOL 0004 (irrigation well referred to by the park as the Day Property Well)

The NPS has an absolute underground water right for the Day Property Well with a priority date of January 30, 1954. The United States acquired title to the Alma F. Day property in 1972, which property included an irrigation well with a decreed right (Case No. W-3016) for irrigation purposes in the amount of 720 gallons per minute (not to exceed 153 acre-feet in one calendar year). It is our understanding that the park intends to use this well within the next few weeks for the purpose of irrigating and restoring native prairie grassland.

This being the case, the Day Property Well must be equipped with a totalizing flow meter, or be rated to determine a power coefficient. As stated earlier, depending on which measurement method you choose, the appropriate Notice must be filed with the Division Engineer. We recommend a totalizing flow meter be installed and calibrated, as soon as possible, under the supervision of a registered professional engineer in accordance with Rule 3.1. Again, an annual report of water use must be submitted to the Division Engineer no later than January 31, 1995, and every consecutive year thereafter.

Docket - BEOL 0005 (livestock well referred to by the park as the Harmon Property Well)

This well is used to provide livestock water. Permit No. 156062-A was issued December 13, 1989 for the watering of livestock on a farm or ranch. The well is administered by the SE as an exempt well (as described in the statutes, wells not exceeding 15 gallons per minute of production for the watering of livestock on a farm or ranch are exempt from administration). We conclude that the special rules governing the measurement of tributary ground water diversions do not apply to this well.

As soon as we learn of the new deadline for filing a **Notice of Inactive Well** or **Notice of Totalizing Flow Meter Installation**, we will inform you. The appropriate forms for Federal Nos. 3 and 4 should be completed by the park as soon as possible. The Water Rights Branch will be happy to assist you in reviewing the completed forms prior to submittal. We would like copies of all forms submitted, including annual reports of pumpage, to maintain current water right dockets for each well.

Please let me know how we can be of assistance to you in complying with the SE's rules. If you have any questions regarding these recommendations, please contact Dan McGlothlin of my staff at (303) 225-3536 or me at (303) 225-3505.

Owen Williams

Attachments

cc: RMR - Wise (all w/o attachments)
479 - McGlothlin, Pettee, Johns, Newberry

FNP:DMcGlothlin:CC:6-27-94:(303)-225-3536:S:\WRB\BEOLFORM.MEM

Docket Information

Number of Documents in Docket 25

Documents Dated from 12/13/1989 to 10/24/1995

Docket Compiled: 1/31/2011