



WATER-RIGHT DOCKET

Bent's Old Fort National Historic Site

Docket No: 4

IRRIGATION WELL.

Preliminary Docket Information

01-30-1954: water right record regarding identification no. beol w142354 df04

WATER RIGHT RECORD

Park: BEOL

Docket Number:

FEDERAL #4

IDENTIFICATION NO: BEOL W 1 4 2 3 5 4 DF 0 4

DITCH/WATER SYSTEM:

SOURCE OF SUPPLY: Well

LOCATION: 229 feet north and 25 feet east of the section corner common
to sections 14, 15, 22 and 23.

WATER RIGHT:

Appropriator: United States of America, National Park Service

Application/Permit Number: 13596F (RF 653)

Certificate Record Number:

Date of Priority: January 30, 1954

Quantity of Water: 720 gpm

Purpose: Irrigation

Irrigated Land Description: *Alma Day land. Used to irrigate
hay field, 1987.*

SUMMARY OF STATUS:

Depth of the well is 34 feet, the average annual amount of water to be
diverted is 153 acre feet

Decreed W-3016



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

Steven J. Witte
Division Engineer
Water Division 2
Office of the State Engineer
P.O. Box 5728
Pueblo, CO 81002

Dear Mr. Witte:

Enclosed is the annual data for October 31, 1994 to October 31, 1995 on Well Permit No. 13596F, Decree No. W-3016, Well Location: SW 1/4, SW 1/4, Sec. 14 T23 S R54 W 6th. P.M.

This well was rehabilitated and metered this spring to bring the park into compliance. It should be considered as an active well to be used for irrigation purposes. We had planned to use the well for irrigation purposes this fall, but have had delays due to utility line replacements. We plan on using the well for irrigation purposes next spring.

If you have questions or comments about this report we will be glad to answer them.

Sincerely,



Donald C. Hill
Superintendent

cc: Dan Mc Glothlin

Form 6.2

Water Use Data Submittal Form (Power Coefficient)

To be Filed in Compliance with Rule 6 of the RULES GOVERNING THE MEASUREMENT OF TRIBUTARY
GROUND WATER DIVERSIONS LOCATED IN THE ARKANSAS RIVER BASIN

To: Division Engineer, Water Division No. 2
P.O. Box 5728, Pueblo, Co 81002

Owner Information

User Info (If not same as owner)

Name Bent's Old Fort NHS
Address 35110 Highway 194 East
City, State, Zip La Junta, CO 81050
Phone (719) 384-2596

Well Location and Information: Well #4

SW 1/4, SW 1/4, Section 14, Township 23, S, Range 54, W, 6 PM
NorS EorW

Distances from section lines:

 feet from the Section line and feet from the Section line
(NorS) (EorW)

Well Permit No. 13596F Case or Decree No. W-3016

Electric Supply Information:

Electrical Supplier S.E.C.P.A. Account No. 14926

Power Meter or Serial Number 23-155-145

WD ID PERMIT NO. 13596F DECREE W-3016 SEC 14 TS 6S RING 54W

Table for Reporting Monthly Electric Meter Readings

Date	Electric Meter Reading (including multiplier)	Comment
11/30/94		
12/31/94		
1/31/95	12204	
2/28/95		Ran well 10 minutes 2/6/95 for USGS
5/30/95	12204(.5)	
6/30/95	12204(.5)	
7/28/95		
8/31/95		
9/29/95		
10/24/95	12205	

Determination of total amount pumped for season:

Total kilowatt hours for season 1 kWh

Total amount pumped (acre-feet) = $\frac{\text{Total kilowatt hours for season (kWh)}}{\text{PCC (kWh/ac-ft)}}$ $\frac{1}{87.91}$

where PCC is Power Consumption Coefficient from Power Coefficient Rating

Total amount pumped 0.0138 acre feet

Methods for calculating power demand are specified in USGS Water Resources Investigation Report (89-4107)

The above information is true and correct to the best of my knowledge. I agree to the release of information including current transformer factor, potential transformer factor, and electric meter readings to the Colorado Division of Water Resources by my electrical supplier for purposes of determining or verifying water use from the well.

Signature of Owner

Date

May 12, 1987

L54 (479)
RNR/BEOL Water Rights

Mr. Jeris Danielson
State Engineer
Division of Water Resources
1313 Sherman Street
Denver, CO 80203

Dear Mr. Danielson:

Enclosed is form WKJ-25-75 for amendment of existing records and the \$1.00 filing fee. The United States of America acquired title to the Alma F. Day property in 1972. This property includes an irrigation well (Permit #RF 653) with a decreed water right (Case No. W-3016).

Our records indicate that an amendment of existing records has been filed previously, but your computer records do not reflect this change. In addition to the new application, I have enclosed a copy of previous correspondence with your office and the original application, as well as copies of the Receipt of Satisfaction of Judgement in Civil Action 80-C-1716 and the court decree in Case W-3016.

If further documentation is necessary, please contact Walter Rusinek of my staff at 221-5341. We would appreciate verification of this change when it is processed.

Thank you,

Stanley L. Ponce, Acting Chief
Water Resources Division

Enclosures

1. Form WKJ-25-75
2. Letter, Pette to Danielson, September 3, 1981
3. Receipt and Satisfaction of Judgement (80-C-1716)
4. Original Application Form
5. Case W-3016
6. Check #171

FNP:WRusinek:cs:5/11/87:221-5341:20511rus.1tl

TL WR 85-75

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 Jefferson

SS

AFFIDAVIT

STATEMENT OF BENEFICIAL USE OF GROUND WATER
☒ AMENDMENT OF EXISTING RECORD
☐ LATE REGISTRATION

PERMIT NUMBER RF-653

LOCATION OF WELL

THE AFFIANT(S) United States of America, National Park ServiceCounty Oterowhose mailing
address is 655 Parfet St., Box 25287SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ Section 14City Denver

(STATE)

Co. 80225

(ZIP)

Twp. 23 S 54 W 6 P.M.
(N OR S) (E OR W)

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 229 feet from the south section line and 25 feet from the west section line; water from this well was first applied to a beneficial use for the purpose(s) described herein on the 30 day of January, 19 54; the maximum sustained pumping rate of the well is 720 gallons per minute, the pumping rate claimed hereby is 720 gallons per minute; the total depth of the well is 34 feet; the average annual amount of water to be diverted is 153 acre-feet; for which claim is hereby made for irrigation

purpose(s); the legal description of the land on which the water from this well is used is W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec 14 and W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec 23 in T23S, R54W of which

43 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 (they) 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) Walter RuvickSubscribed and sworn
to before me on this 11 day of May, 19 87My Commission expires: 285 West Oak St. Ft. Collins, CO 80502

(SEAL)

My commission expires December 20, 1990

285 West Oak St. Ft. Collins, CO 80502

Candy Arnett
NOTARY PUBLICACCEPTED FOR FILING BY THE STATE ENGINEER OF COLORADO
PURSUANT TO THE FOLLOWING CONDITIONS:

FOR OFFICE USE ONLY

Court Case No. _____

Prior _____ Mo. _____ Day _____ Yr. _____

Div. _____ City _____

Sec _____ W. _____ W. _____ W.

Well Use _____

Dist. _____ Basin _____ Man Dis. _____

DATE

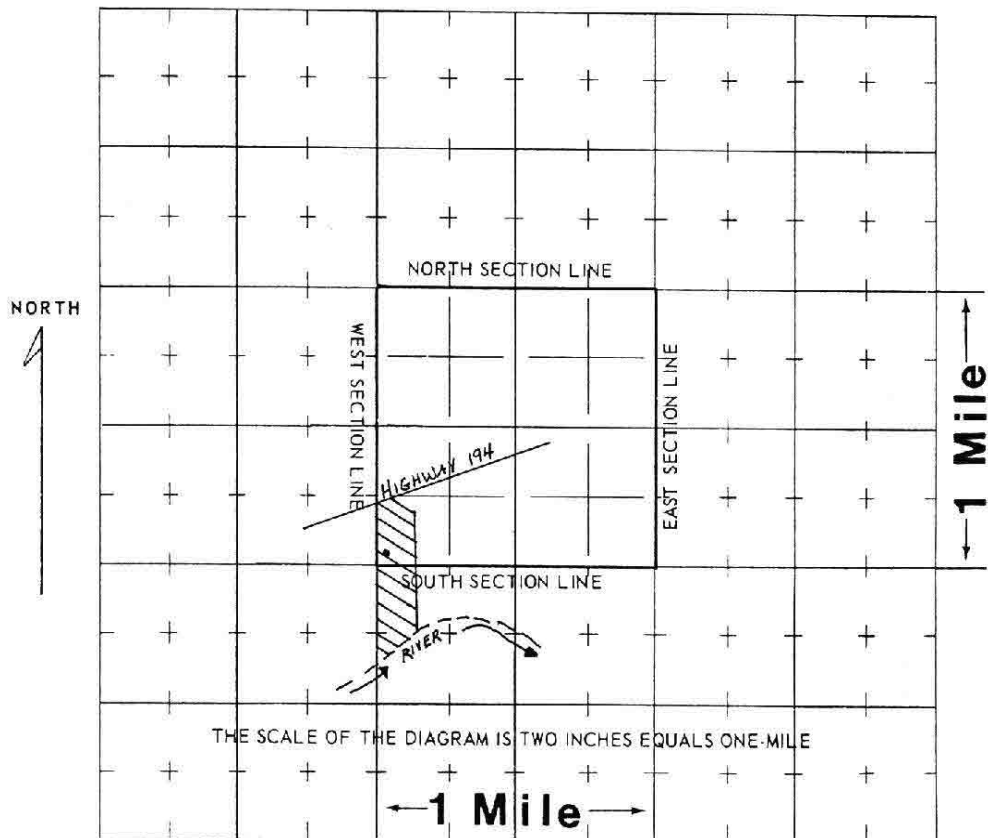
STATE ENGINEER

BY

Well drilled by unknown Lic. No. _____
 Permanent
 Pump installed by unknown Lic. No. _____
 Meter Serial No. 14926 ☐ Flow Meter Date Installed 1/30/54
 Owner of land on which
 water is being used United States of America

THE LOCATION OF THE WELL MUST BE SHOWN AND FOR LARGE CAPACITY IRRIGATION WELLS THE AREA ON WHICH THE WATER IS USED MUST BE SHADED OR CROSS-HATCHED ON THE DIAGRAM BELOW.

This diagram represents nine (9) sections. Use the CENTER SQUARE (one section) to indicate the location of the well, if possible.



WATER EQUIVALENTS TABLE (Rounded Figures)

An acre-foot covers 1 acre of land 1 foot deep.
 1 cubic foot per second (cfs) . . . 449 gallons per minute (gpm).
 1 acre-foot . . . 43,560 cubic feet . . . 325,900 gallons.
 1,000 gpm pumped continuously for one day produces 4.42 acre-feet.
 100 gpm pumped continuously for one year produces 160 acre-feet.

(WHITE AND PINK COPY TO BE FILED WITH THE STATE ENGINEER
 PINK COPY WILL BE RETURNED TO OWNER)

06/14/1994 08:09 7193842615

BENTS OLD FT NHS

PAGE 10

L1425(RMR-ML)
BEOL, Tr. 01-108

November 17, 1981

Mr. Caris Danielson
State Engineer
Division of Water Resources
Room 818
1313 Sherman Street
Denver, CO 80201

Dear Mr. Danielson:

On September 3, 1981, this office submitted to you a request for the amendment of existing record to change the ownership from Alma F. Day to the United States of America on the following described well:

Irrigation well (RF 653) Permit Number 13396P, as decreed in Case W-3016, located in the SW¹/₄ Section 14, T. 23S., R. 54W., 6th P.M.

We would like to receive some verification from your office that the records have in fact been amended.

Sincerely,

SIGNED:

John F. Pattie
John F. Pattie
Chief, Division of Land and
Water Resources

bcc: Supt., BEOL NHS

LLGARRISON:jg 11/17/81 234-2766

NAME	INFO	ACT	INT.
Superintendent	✓		✓
Admin. Tech.			
Maintenance	✓		✓
Res. Mgt. & Interp.			
Admin. Clerk			
Others			
File	✓		

*Day Well
107*



United States Department of the Interior

NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGIONAL OFFICE
655 Parfet Street
P.O. Box 25287
Denver, Colorado 80225

IN REPLY REFER TO:

L1425(RMR)ML
BEOL Tr. 01-108

September 3, 1981

Mr. Geris Danielson
State Engineer
Division of Water Resources
Room 818
1313 Sherman Street
Denver, CO 80203

Dear Mr. Danielson:

The United States of America has acquired title to the Alma F. Day property, including irrigation well (RF 653) permit number 13596F, as decreed in case W-3016.

The legal description of the property is contained within the enclosures.

We are herewith submitting Form WRJ-25-75 for amendment of existing records and requesting that your office make the necessary changes to show the United States of America as the owner of the subject well and waters and rights pertaining thereto.

Please furnish this office with a fully executed copy of the above form when your office has signed, dated and completed the amendment of records, or some other type of ownership amendment verification.

Sincerely yours,

John F. Pattie
Chief, Division of Land and
Water Resources

Enclosures 6
Form WRJ-25-75 in duplicate
Tract 01-108 legal description
Receipt and Satisfaction of Judgement 80-C-1716
Judgement on Stipulation for Settlement
Death Certificate - William W. Day
Notice of Condemnation 80-C-1716



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 JEFFERSON

SS.

AFFIDAVIT

STATEMENT OF BENEFICIAL USE OF GROUND WATER

☒ AMENDMENT OF EXISTING RECORD

☐ LATE REGISTRATION

PERMIT NUMBER

13596 F
(RF 653)

LOCATION OF WELL

THE AFFIANT(S) U.S.D.I. National Park Service (RMC)
whose mailing For the United States of America
address is 655 Parfet St., P.O. Box 25287,

County OTERO

City Denver,

CO

80225

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being duly sworn upon oath, deposes and says that he ~~is~~ (is) the owner(x) of the well described hereon, the well is located as described above, at distances of 229 feet north and 25 feet east of the section corner common to sections 14, 15, 22, 23. ~~water from this well~~ was first applied to a beneficial use for the purpose(s) described herein on the 30th day of JAN, 1954, the maximum sustained pumping rate of the well is 720 gallons per minute, the pumping rate claimed hereby is 720 gallons per minute, the total depth of the well is 34 feet; the average annual amount of water to be diverted is 153 acre-feet; for which claim is hereby made for IRRIGATION

purpose(s); the legal description of the land on which the water from this well is used is See Schedule B attached - NPS Tract No. 01-108 Bent's Old Fort NHS of which

43.00⁺ 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~~ and the statements made hereon; knows the content thereof; and that the same are true of his ~~own~~ knowledge. (COMPLETE REVERSE SIDE OF THIS FORM)

Signature(s) John F. Pattee
John F. Pattee, Chief, Div. of Land & Water Resources
Subscribed and sworn to before me on this 30th day of September, 1981

My Commission expires: November 11, 1984
May Esther Greenwald
NOTARY PUBLIC

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

FOR OFFICE USE ONLY

Court Case No. _____
Prior _____ Mo. _____ Day _____ Yr. _____
Div. _____ Cty. _____
Sec. _____ N. _____ W. _____ E. _____
Well Use _____
Dist. _____ Basin _____ Mon. Div. _____

DATE

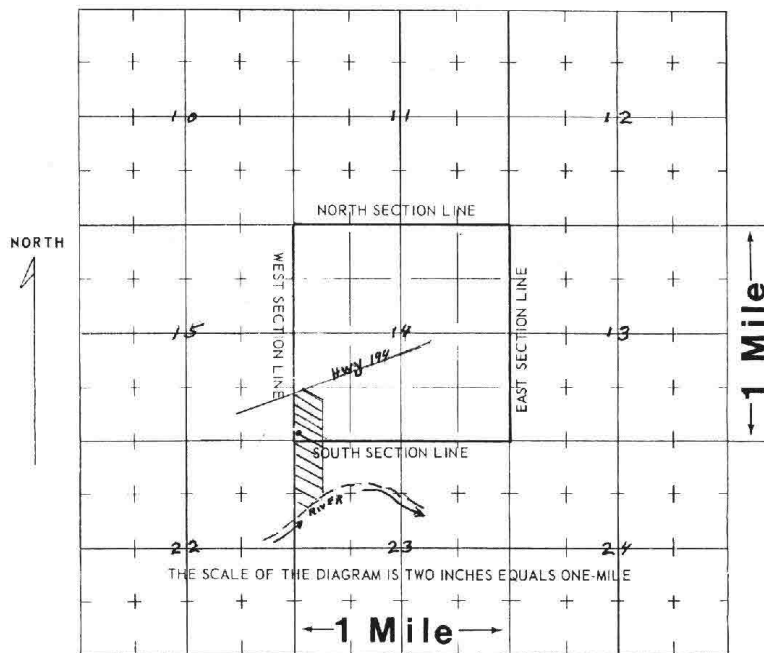
STATE ENGINEER

BY

Well drilled by _____ Lic. No. _____
 Permanent
 Pump installed by _____ Lic. No. _____
 Meter Serial No. _____ ☐ Flow Meter Date Installed _____
 Owner of land on which water is being used United States of America

THE LOCATION OF THE WELL MUST BE SHOWN AND FOR LARGE CAPACITY IRRIGATION WELLS THE AREA ON WHICH THE WATER IS USED MUST BE SHADED OR CROSS-HATCHED ON THE DIAGRAM BELOW.

This diagram represents nine (9) sections. Use the CENTER SQUARE (one section) to indicate the location of the well, if possible.



WATER EQUIVALENTS TABLE (Rounded Figures)

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 1 acre-foot . . . 43,560 cubic feet . . . 325,900 gallons.
 1,000 gpm pumped continuously for one day produces 4.42 acre-feet.
 100 gpm pumped continuously for one year produces 160 acre-feet.

(WHITE AND PINK COPY TO BE FILED WITH THE STATE ENGINEER
 PINK COPY WILL BE RETURNED TO OWNER)

IN THE DISTRICT COURT IN AND FOR
WATER DIVISION NO. 2
STATE OF COLORADO
CASE NO. W-3016

Filed in the office of the Clerk,
District Court Water Division
No. 2, State of Colorado

MAR 15 '74 AM



Christine L. Lujan
CLERK

IN THE MATTER OF THE APPLICATION)
FOR WATER RIGHTS OF)
)
WILLIAM W. DAY and ALMA F. DAY)
)
IN THE ARKANSAS RIVER OR ITS)
)
TRIBUTARIES)
)
IN OTERO COUNTY, COLORADO)

JUDGMENT AND DECREE

THE COURT FINDS That no protest has been filed to the Ruling of the Water Referee in the above case within the time provided by law, and that the said Ruling should be confirmed, approved and adopted,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED That the Ruling of the Water Referee entered on February 8, 1974, be and the same is incorporated herein by reference and is hereby confirmed, approved and adopted as the judgment of this Court.

Done this 15th day of March, A. D. 19 74.

BY THE COURT:

William L. Sobin
WATER JUDGE

cc: Jerry Quick (2 copies)
Attorney for Applicants
13 West 2nd Street
La Junta, Colorado 81050

Division Engineer

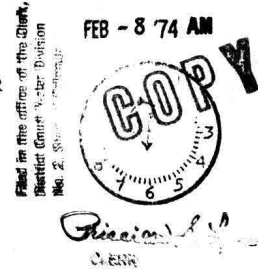
State Engineer

IN THE DISTRICT COURT IN AND FOR
WATER DIVISION NO. 2
STATE OF COLORADO

CASE NO. W-3016

IN THE MATTER OF THE APPLICATION)
FOR WATER RIGHTS OF)
WILLIAM W. DAY and)
ALMA F. DAY)
IN THE ARKANSAS RIVER)
OR ITS TRIBUTARIES)
IN OTERO COUNTY, COLORADO)

RULING OF REFEREE



Pursuant to Order of Referral filed and entered in the above case on June 30, 19 72, the undersigned Water Referee, having investigated the matter of the application on file herein, hereby makes the following findings and ruling thereon:

FINDINGS OF FACT

1. That the said application was filed on June 30, 19 72.
2. That the Water Clerk caused publication of such filing as provided by statute; that the time for filing Statements of Opposition expired on the last day of August, 19 72, and that none has been filed.
3. That the said application concerns two wells located in Otero County, Colorado, and used for irrigation purposes.
4. That there are certain surface water rights attached to each of the two parcels of land irrigated by the said wells.
5. That applicants have furnished acceptable proof as to claims made.

IT IS, THEREFORE, ORDERED AS FOLLOWS: That applicant(s) be, and ~~is~~ (are) hereby, awarded certain absolute underground water rights, to-wit:

NAME AND ADDRESS: William W. Day and Alma F. Day
Route 2
La Junta, Colorado 81050

UNDERGROUND WATER RIGHT

NAME OF WELL: Well No. 1.

LOCATION OF WELL: SW 1/4 of SW 1/4 of Sec. 14, T. 23S., R. 54W. of the 6th P.M., in Otero County, Colorado.

DEPTH: 34 feet.

PRIORITY DATE: January 30, 1954.

AMOUNT OF WATER: 1.6 c.f.s., or 720 g.p.m., but not to exceed 153 acre feet in any one calendar year in accordance with well permit.

USE OF WATER: Irrigation purposes.

STATE ENGINEER'S WELL NUMBER: RF-653, a replacement for No. 013596-F.

MEANS OF DIVERSION: Well and pump.

NOTE: Lands irrigated by means of the above well have 40 shares of Fort Lyon Canal Co. water attached to 52 acres thereof.

UNDERGROUND WATER RIGHT

NAME OF WELL: Well No. 2.

LOCATION OF WELL: NE 1/4 of SW 1/4 of Sec. 22, T. 23S., R.
54W. of the 6th P.M., in Otero County,
Colorado.

DEPTH: 39 feet.

PRIORITY DATE: December 31, 1948.

AMOUNT OF WATER: 1.6 c.f.s., or 720 g.p.m., but not to
exceed 510 acre feet in any one calendar
year.

USE OF WATER: Irrigation purposes.

STATE ENGINEER'S WELL NUMBER: 14592.

MEANS OF DIVERSION: Well and pump.

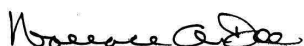
NOTE: Lands irrigated by means of the above well
have 35 shares of Fort Lyon Canal Co. water
attached to 35 acres thereof.

IT IS FURTHER ORDERED That applicant(s) shall install and maintain such water measurement devices, recording devices, content gauges and inlet and outlet measurement and recording devices, as the case may be, as are deemed essential by the Office of the State Engineer, and the same shall be installed and operated in accordance with instructions from said Office.

IT IS FURTHER ORDERED That copies of this ruling shall be mailed as provided by statute.

Dated and filed with the Water Clerk this 8th day of February, A. D. 1974.

BY THE REFEREE:


Water Referee, Water Division No. 2
State of Colorado

SCHEDULE "B"

BENT'S OLD FORT NATIONAL HISTORIC SITE

COLORADO

TRACT 01-108

DESCRIPTION:

All that certain tract or parcel of land lying and situate in the County of Otero, Colorado, T. 23 S., R. 54 W., sixth principal meridian, That portion of Indian Claim 13 lying within sections 14 and 23, being more particularly described as follows:

Beginning at a point on the south right-of-way line of Colorado Highway 194 at the point of intersection of said south right-of-way line with the west line of section 14; thence south along the west line of sections 14 and 23 to the Arkansas River; thence in a northeasterly direction along the Arkansas River to a point in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of section 23, which is 660 feet east of the west line of said section 23 measured at right angles to said west line; thence northerly along a line 660 feet east of and parallel to the west line of sections 14 and 23 to a point 600 feet south of the south right-of-way line of Colorado Highway 194; thence northwesterly to a point on the south right-of-way line of Colorado Highway 194, which point is 150 feet northeast of the point of beginning; thence southwesterly along said south right-of-way line 150 feet to the point of beginning, containing 43.00 acres of land, more or less.

FILED COURT
DISTRICT OF COLORADO

3 AUG 31 AIO: 37

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

BY _____ DEP. CLK.

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

43.00 Acres of Land, More or)
Less, Situate in Otero)
County, Colorado; ALMA F. DAY,)
et al., and UNKNOWN OWNERS,)

Defendants.)

CIVIL ACTION NO. 80-C-1716

TRACT(s) 01-108

RECEIPT AND SATISFACTION
OF JUDGMENT

Receipt is hereby acknowledged of Check No. 47,415
issued by the Clerk of the U. S. District Court on August 24, 1981,
in the amount of \$74,316.40, inclusive of interest,
payable to ALMA F. DAY

_____ for the taking by the United States of
America of certain lands in the aforementioned civil action and tract(s)
and more particularly described in the condemnation action entered
heretofore, and pursuant to Judgment entered August 19, 1981;
the Clerk of the Court is hereby authorized and directed to enter of
record full satisfaction of the aforesaid Judgment against the United
States of America.

Edward Essay By Wm. Paul, Jr.
EDWARD ESSAY

Attorney for Defendant
Alma F. Day

depre
FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 19 1981

**JAMES R. MANSPEAKER
CLERK**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**43.00 Acres of Land, More or
Less, Situate in Otero
County, Colorado; ALMA F.
DAY, et al., and UNKNOWN
OWNERS,**

Defendants.

CIVIL NO. 80-C-1716

TRACT NO. 01-108

**JUDGMENT ON STIPULATION
FOR SETTLEMENT**

CAME ON this day to be considered the matter of entry of judgment on Stipulation heretofore entered into by and between the attorney for Plaintiff, United States of America, and the attorney for Defendant, Alma F. Day;

And it appearing to the Court that this condemnation action was instituted on December 11, 1980 by the filing of a Complaint in Condemnation, and on the same day, by the filing of a Declaration of Taking, to which reference is made for all purposes, there was deposited in the Registry of the Court, the sum of \$74,500.00 as just compensation for the taking; and

It further appearing to the Court that on December 13, 1979, prior to the filing of this action, Defendant Alma F. Day executed an Offer to Sell the above-captioned tract of land to Plaintiff for the sum of \$74,500.00, which said Offer was accepted by a duly authorized representative of the National Park Service, U.S. Department of Interior, on December 14, 1979; and

It further appearing to the Court that this tract was placed in condemnation because of a dispute over the executed Offer to Sell; and

It further appearing to the Court that at the time of the filing of this action, there appeared as an exception in the title

policy, a deed of trust in favor of the La Junta State Bank, which said deed of trust has subsequently been released. Said release is recorded in the County Records of Otero County, Book 738, Page 480, Reception No. 487029; and the said La Junta State Bank should be dismissed from this action; and

It further appearing to the Court that the interests of the Fort Lyon Canal Company, and the State Engineer, Division of Water Resources for the State of Colorado, were for record-keeping purposes only, and said parties should be dismissed from this action; and

It further appearing to the Court that all taxes due and owing on said property have been paid, pursuant to Order of this Court dated July 1, 1981, in the amount of \$183.60; that this proceeding has been regularly conducted; that all persons have been served, either in person or by publication, and the only remaining party entitled to participate in the distribution is Defendant Alma F. Day; and

It further appearing to the Court that the parties have entered into a comprehensive Stipulation for Settlement:

IT IS THEREFORE ORDERED that the Stipulation is in all things ratified, confirmed and adopted as the judgment of compensation in this case.

IT IS FURTHER ORDERED that the sum of \$74,500.00, inclusive of interest and all damages, is the just compensation for the taking of Tract No. 01-108.

And it appearing to the Court that the sum of \$183.60 has previously been disbursed, and that there remains in the Registry of the Court a balance of \$74,316.⁴⁰80; *RC*

IT IS THEREFORE ORDERED that the Clerk of the Court shall issue a check, in the amount of \$74,316.⁴⁰80, *RC* payable to Defendant Alma F. Day, who is entitled thereto.

IT IS FURTHER ORDERED that the La Junta State Bank, the Fort Lyon Canal Company, and the State Engineer, Division of Water

Resources for the State of Colorado are hereby DISMISSED from this action and shall take nothing.

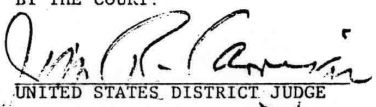
IT IS FURTHER ORDERED that nothing contained herein shall prejudice Defendant's right to benefits under Public Law 91-646, but that said benefits are in no way a part of the just compensation awarded herein.

IT IS FURTHER ORDERED that title to the estate condemned, as set forth in the Declaration of Taking, is hereby vested in Plaintiff, United States of America.

And it being represented to the Court that nothing further remains to be done as to this Civil Action, that when said funds are disbursed by the Clerk, and Receipt and Satisfaction therefor has been filed, that this case shall be closed and stricken from the active docket.

DONE AT DENVER, COLORADO, this 19th day of August, 1981

BY THE COURT:

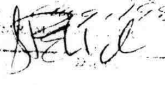

UNITED STATES DISTRICT JUDGE

ENTERED
ON THE DOCKET

AUG 20 1981

JAMES R. MANSPEAKER
CLERK
BY 

U. S. DISTRICT COURT, DISTRICT OF COLO.
CLERK OF COURT
JAMES R. MANSPEAKER
CLERK

By 

**STATE OF COLORADO
CERTIFICATE OF DEATH**
(PHYSICIAN OR CORONER)

DECEASED NAME William W. Day		SEX M		DATE OF DEATH MONTH DAY YEAR June 11, 1979	
RACE White	CITIZENSHIP OR DESCENT U.S.	AGE - LAST BIRTHDAY 65	UNDER 1 YEAR NO	DATE OF BIRTH MONTH DAY YEAR Jan. 1, 1914	COUNTY OF DEATH Otero
HOSPITAL OR OTHER INSTITUTION La Junta Medical Center			IF HOSPITALIZED, ROOM AND BOARD Inpatient		
CITY, TOWN OR LOCATION OF DEATH La Junta			CITIZEN OF WHAT COUNTRY U.S.		
MARRIED NEVER MARRIED Married			SURVIVING SPOUSE Alma F. Rider		
NATURAL SOCIAL SECURITY NUMBER 523-09-8764 A			USUAL OCCUPATION Trucker		
CITY, TOWN OR LOCATION Otero			ZIP 81050		
STREET AND NUMBER 320 McCreery			CITY, TOWN OR LOCATION La Junta		
FATHER NAME Frank Day			MOTHER NAME Molly Butcher		
MAILING ADDRESS STREET CITY AND STATE 320 McCreery La Junta, Colo. 81050			CITY OR TOWN Canon City, CO		
DISPOSITION Burial			CEMETERY OR BURIAL PLACE Lakeside Cemetery		
DATE OF BURIAL June 14, 1979			CITY OR TOWN Canon City, CO		
NAME AND ADDRESS OF FUNERAL HOME Peacock Frye Almont 401 Raton			CITY, STATE, ZIP La Junta, Colo. 81050		
PHYSICIAN Richard A. Shand, M.D.			DATE SIGNED 6-14-79		
CORONER John V. Shand			DATE SIGNED 6-14-79		
NAME AND ADDRESS OF PHYSICIAN OR CORONER P.O. Box 496, La Junta, CO 81050			DATE SIGNED 6-14-79		
CAUSE OF DEATH Cardiac arrhythmia.			STAT stat		
ACUTE OR CHRONIC Acute pulmonary edema.			12 hours		
AUTOPSY NO			WAS CAUSE OF DEATH NO		
DATE AND HOUR OF INJURY June 11, 1979			DESCRIBE HOW INJURY OCCURRED		
LOCATION La Junta, Colorado			STREET AND CITY, STATE, ZIP		

CERTIFIED to be a correct TRANSCRIPT of the original record of the death which appears on the original record of the death.

Dated at La Junta, Colorado **June 14, 1979**

John V. Shand
Local Registrar of Vital Statistics

FILED
U.S. DISTRICT COURT
DISTRICT OF COLORADO

80DEC11 P2:25

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
JAMES R. MANSPECKER
CLERK
DEP. CLK.

UNITED STATES OF AMERICA,

Plaintiff,

v.

43.00 Acres of Land,
More or Less, Situate in
Otero County, Colorado;
ALMA F. DAY, et al., and
UNKNOWN OWNERS,

Defendants.

80-C-1716
CIVIL ACTION NO.

TRACT NO. 01-108

NOTICE OF CONDEMNATION

TO: Alma F. Day, a widow; Fort Lyon Canal Company;
La Junta State Bank; and Board of County Com-
missioners, Otero County, Colorado:

YOU ARE HEREBY NOTIFIED that a Complaint in Condem-
nation has been filed in the office of the Clerk of the
above-named Court, in an action to condemn an interest
in and to the property described in Schedule B, and
delinated on Schedule C, attached hereto and made a part
hereof, for the public uses as set forth in Schedule A,
attached hereto and made a part hereof.

The authority for the taking is set forth in the said
Schedule A, and the estate taken is set forth in the said
Schedule B.

YOU ARE FURTHER NOTIFIED that if you desire to
present any objection or defense to the taking of your
property, you are required to serve your answer upon
Plaintiff's attorney, at the address herein designated,
within twenty (20) days after personal service of this
Notice upon you, exclusive of the date of service. Your

answer shall identify the property in which you claim to have an interest, state the nature and extent of the interest you claim, and state all of your objections and defenses to the taking of your property. All defenses and objections not so presented are waived. A failure so to serve an answer shall constitute a consent to the taking, and to the authority of the Court to proceed to hear the action and to fix the just compensation.

YOU ARE FURTHER NOTIFIED that, without answering, you may serve on Plaintiff's attorney a notice of appearance, designating the property in which you claim to be interested. Thereafter you will receive notice of all proceedings affecting it. At the trial of the issue of just compensation, whether or not you have previously appeared or answered, you may present evidence as to the amount of the compensation to be paid for your property, and you may share in the distribution of the award.

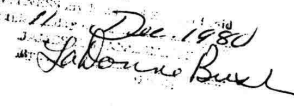
JOSEPH DOLAN
United States Attorney
B. RICHARD TAYLOR
Trial Attorney
U.S. Department of Justice
Land & Natural Resources Division


ROLAND J. BRUMBAUGH
Assistant United States Attorney
Drawer 3615, Federal Office Bldg.
1961 Stout Street
Denver, Colorado 80294

Attorneys for Plaintiff
United States of America

2

I, the undersigned, Clerk of the
United States District Court for the
District of Colorado, do certify that
the foregoing is a true and correct
copy of an
original document
filed in my office.

Witness my hand and seal
this 11th day of December, 1980
at Denver, Colorado

John H. Burrell
Clerk

SCHEDULE "A"

BENT'S OLD FORT NATIONAL HISTORIC SITE

COLORADO

AUTHORITY FOR THE TAKING

The authority for the taking of the land is under and in accordance with the Act of Congress approved August 1, 1888, 25 Stat. 357, as amended, 40 U.S.C., sec. 257; the Act of Congress approved February 26, 1931, 46 Stat. 1421, as amended, 40 U.S.C., sec. 258a; and the Land and Water Conservation Fund Act of 1965, 78 Stat. 897, as amended, 16 U.S.C., sec. 4601-4, et seq.; the Act of June 3, 1960, 74 Stat. 155, 16 U.S.C., sec. 461, which Act established Bent's Old Fort National Historic Site; and the Act of November 10, 1978, 92 Stat. 3473, which Act enlarged the boundaries of the Site; and under the authority of the Department of the Interior and Related Agencies Appropriation Act of 1979, 92 Stat. 1281, which act appropriated funds for such purpose.

PUBLIC USES

The public uses for which said land is taken are as follows:
The land is required for the proper administration, preservation, and development of the Bent's Old Fort National Historic Site for the benefit and enjoyment of the public. The said land has been selected for acquisition by the United States of America for said purposes, and for such other uses as may be authorized by Congress or by Executive Order.

SCHEDULE "B"

BENT'S OLD FORT NATIONAL HISTORIC SITE

COLORADO

TRACT 01-108

DESCRIPTION:

All that certain tract or parcel of land lying and situate in the County of Otero, Colorado, T. 23 S., R. 54 W., sixth principal meridian, That portion of Indian Claim 13 lying within sections 14 and 23, being more particularly described as follows:

Beginning at a point on the south right-of-way line of Colorado Highway 194 at the point of intersection of said south right-of-way line with the west line of section 14; thence south along the west line of sections 14 and 23 to the Arkansas River; thence in a northeasterly direction along the Arkansas River to a point in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of section 23, which is 660 feet east of the west line of said section 23 measured at right angles to said west line; thence northerly along a line 660 feet east of and parallel to the west line of sections 14 and 23 to a point 600 feet south of the south right-of-way line of Colorado Highway 194; thence northwesterly to a point on the south right-of-way line of Colorado Highway 194, which point is 150 feet northeast of the point of beginning; thence southwesterly along said south right-of-way line 150 feet to the point of beginning, containing 43.00 acres of land, more or less.

Estimated Compensation Deposited in the Registry of the Court for the above-described property: \$74,500.00

ESTATE TAKEN:

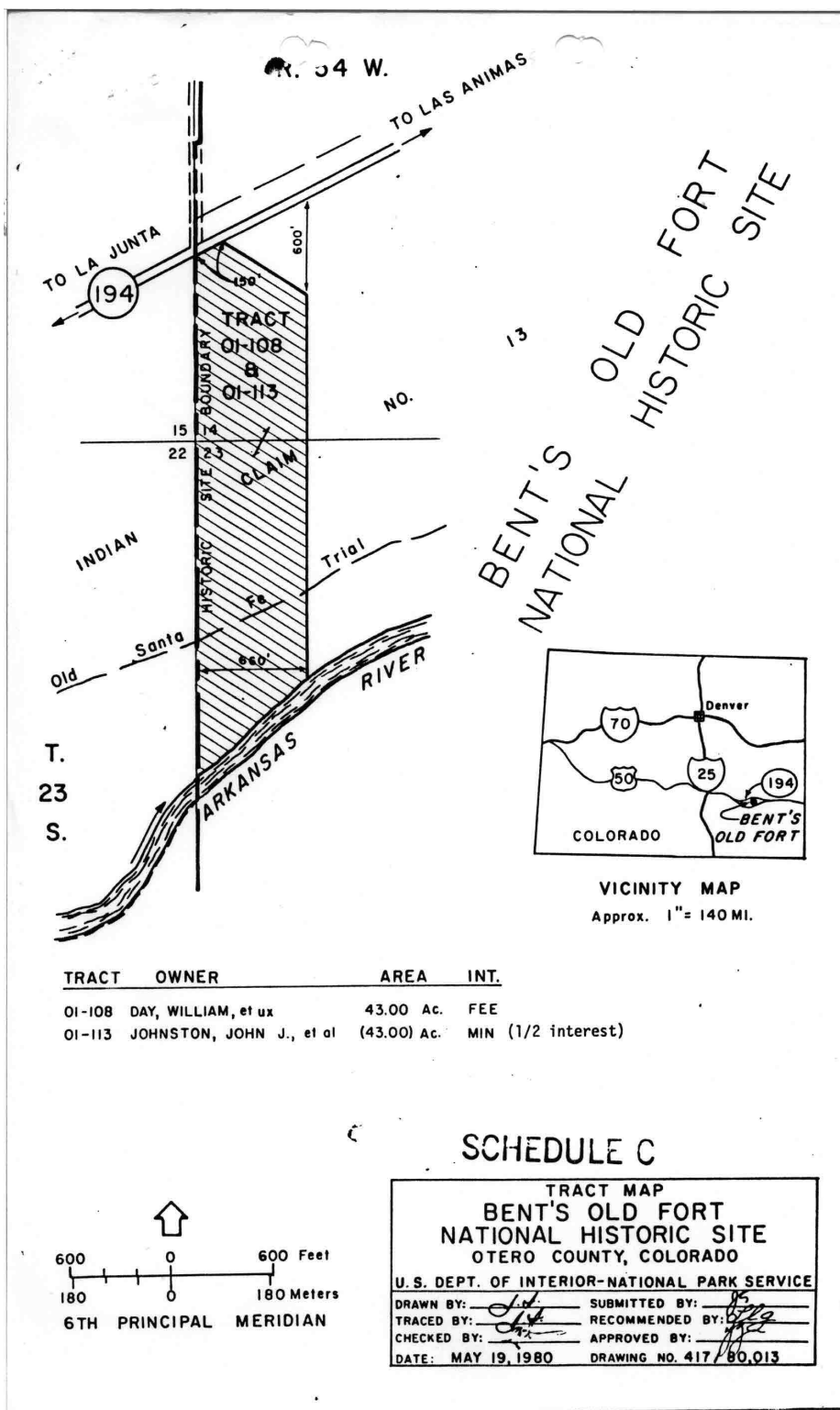
Fee simple, including one-half (1/2) interest in the oil, gas, and mineral rights in the above-described property, and including all water rights and interest in water running with, attaching to, or otherwise appurtenant to the foregoing described land including, but not limited to, 40 shares of capital stock in the Fort Lyon Canal Company, and an adjudicated irrigation well, number RF-653; SUBJECT, however, to (1) an undivided one-half (1/2) interest in the oil, gas, and mineral rights as previously reserved in Warranty Deed No. 375157, dated March 6, 1957, and recorded on March 6, 1957, in Book 520 at Page 298, of the records of Otero County, Colorado; (2) existing easements for public roads and highways, public utilities, railroads, and pipelines; (3) burdens incident to the inclusion of this land within the boundaries of the Southeastern Colorado Water Conservancy District and the La Junta Fire Protection District; and (4) reservations to the United States of America as may have been reserved in the original patents.

NAME AND ADDRESS OF PURPORTED OWNER:

Alma F. Day, a widow
Rt. 1, Box 62A
La Junta, Colorado 81050

NAMES AND ADDRESSES OF OTHER PARTIES WHO MAY HAVE OR CLAIM AN INTEREST
IN THE LAND:

La Junta State Bank c/o Public Trustee 124 Colorado Avenue P. O. Box 477 La Junta, Colorado 81050	(By virtue of Deed of Trust dated 5/25/71 (and recorded on 5/25/71 in the Otero County, Colorado, records in Book 638 at Page 272.
Fort Lyon Canal Company P. O. Box 231 Las Animas, Colorado 81054	
Treasurer, Otero County Courthouse La Junta, Colorado 81050	(By virtue of possible lien for State or county taxes.



Supporting Hydro Data

21 Nov 1996

Bent's Old Fort National Historic Site
Projected Annual Water Use
for
Well #4 or Day Property Well

Acreage to be Irrigated: 33 acres

Soil Type: Rocky Ford silty clay loam

Type of Irrigation Used: Furrow irrigation with gated pipes

Electrical Co-efficient: 87.91 kWh/acre ft.

Amount of Water Use Projected:

1997 - 102 Acre Feet (for forage sorghum as cover crop)

1998 - 212 Acre Feet (for native grasses initial season)

1999 - 57 Acre Feet (for native grasses second spring)

In late May of 1997 we will plant a cover crop of forage sorghum. According to NRCS Blaney Criddle Procedure (attached), this will require a net irrigation of 14.85 inches.

$$14.85 \text{ inches} \times 33 \text{ acres} \times (1 \text{ ft}/12 \text{ in}) = 40.84 \text{ acre feet}$$

Since furrow irrigation is only 40% efficient we have to account for the added amount of water to supply the necessary amount to the entire field:

$$40.84 \text{ acre feet} \times .40 = 102 \text{ acre feet}$$

In November 15, 1997 we will plant a dormant seeding of native grasses. According to NRCS Blaney Criddle Procedure (attached), this will require a net irrigation of 30.86 inches.

$$30.86 \text{ inches} \times 33 \text{ acres} \times (1 \text{ ft}/12 \text{ in}) = 84.87 \text{ acre feet}$$

Since furrow irrigation is only 40% efficient:

$$84.87 \text{ acre feet} \times .40 = 212 \text{ acre feet}$$

To give the native grasses a good start in the second growing season we plan on irrigating if necessary several times during the second spring.

$$8.42 \text{ inches} \times 33 \text{ acres} \times (1 \text{ ft}/12 \text{ in}) = 23.17 \text{ acre feet}$$

Since furrow irrigation is only 40% efficient:

$$23.17 \text{ acre feet} \times .40 = 57.92 \text{ acre feet}$$

Irrigation schedule:

Plant forage sorghum about May 25, 1997; irrigate 1 time before planting.

	<u># of irrigations</u>
May 1997	1
June	2
July	2
August	3
September	1
October	0

Cut and bale as hay or silage in October 1997. Plant grass seed as dormant seeding in mid-November 1997. Irrigate beginning in the early spring of 1998.

	<u># of irrigations</u>
March 1998	1
April	0
May	2
June	2
July	2
August	2
September	2
October	0

Irrigate in the spring of 1999 to give the new grasses an early start.

	<u># of irrigations</u>
March 1999	1
April	0
May	2

Our field is 2400 feet long by 620 feet wide. The irrigation furrows will be 30 inches apart. Our well pumps an average of 720 gallons per minute. For a 600 foot row the optimum flow rate is 15 gallons per minute.

$$1050 \text{ gpm} / 15 \text{ gpm} = 70 \text{ gates per set}$$

$$70 \text{ gates} \times 30 \text{ inches} \times (1 \text{ ft}/12 \text{ in}) = 175 \text{ feet per set}$$

$$2400 \text{ feet} / 175 \text{ feet} = 14 \text{ sets}$$

A 600 foot row may take 2 hours to run water to the end of the row. Rocky Ford Silty Clay Loam allows 1/2" of water to infiltrate per hour, requiring 6 hours to infiltrate 3" of water at the end of the row (saturates to a depth of 18 inches), a total of 8 hours per set.

A schedule of 6:00 a.m., 2:00 p.m., 10:00 p.m. will take about 5 days (one 5-day work week) to irrigate the entire field.

$$14 \text{ sets divided by } 3 \text{ sets/day} = 4.67 \text{ days}$$

***** IRRIGATED CROP CONSUMPTIVE USE *****
 (Using SCS Blaney Criddle Procedure)

Job Name:

By: Sutherland

Date: Wed Aug 28 1996

Location: La Junta Area Office

Weather Station Name: La Junta FAA AP

Job Elevation Above Sea Level = 4190 feet

Crop: Grain Sorghum

Planting Date = May 25

Harvest Date = August 13

Net Irrigation Application = 3.50 inches

Carryover Moisture Used at Beginning of Season = 0.00 inches

Carryover Moisture to be Used at End of Season = 0.00 inches

Month	Consumptive Use (3) (inches)	80% Chance (2) Dry Year Precipitation (inches)	50% Chance (2) Normal Year Require- ments (1) (inches)	Effect. Precip- itation (inches)	Net Irr. Require- ments (1) (inches)	Average Daily Conspt. Use (inches)	Peak Daily Consumpt Use (inches)
January	:	:	:	:	:	:	:
February	:	:	:	:	:	:	:
March	:	:	:	:	:	:	:
April	:	:	:	:	:	:	:
May	0.39	0.18	0.21	0.24	0.15	0.06	:
June	5.58	0.73	4.84	1.02	4.56	0.19	0.198
July	9.13	1.26	7.87	1.75	7.39	0.29	0.338
August	2.27	0.35	1.92	0.48	1.79	0.17	:
September	:	:	:	:	:	:	:
October	:	:	:	:	:	:	:
November	:	:	:	:	:	:	:
December	:	:	:	:	:	:	:
TOTALS:	17.37	2.52	14.85	3.49	13.88	:	:

(1) The net irrigation requirements include carryover moisture to be used at the beginning of the season and allows for carryover planned to be used at the end of the growing season.

(2) For 80 percent chance occurrence, growing season effective precipitation will be equaled or exceeded 8 out of 10 years. For 50 percent chance occurrence, effective precipitation will be equaled or exceeded 1 out of 2 years.

(3) Consumptive use is corrected upwards about 3 percent per 1000 feet for elevations more than 1000 feet above sea level.

***** IRRIGATEL CROP CONSUMPTIVE USE *****
 (Using SCS Blaney Criddle Procedure)

Job Name:
 By: Sutherland
 Location: La Junta Area Office
 Weather Station Name: La Junta FAA AP
 Job Elevation Above Sea Level = 4190 feet

Date: Wed Aug 28 1996

Crop: Pasture and Hayland
 Start Growth Date = March 22

End Growth Date = October 3

Net Irrigation Application = 3.50 inches
 Carryover Moisture Used at Beginning of Season = 0.00 inches
 Carryover Moisture to be Used at End of Season = 0.00 inches

Month	Consumptive Use (3) (inches)	Effect. Precipitation (inches)	Net Irr. Require-ments (1) (inches)	Effect. Precipitation (inches)	Net Irr. Require-ments (1) (inches)	Average Daily Conspt. Use (inches)	Peak Daily Consumpt Use (inches)
January	:	:	:	:	:	:	:
February	:	:	:	:	:	:	:
March	0.48	0.1	0.38	0.13	0.35	0.05	:
April	2.67	0.50	2.18	0.69	1.99	0.09	0.089
May	4.74	0.92	3.82	1.28	3.47	0.15	0.166
June	7.08	0.80	6.28	1.11	5.97	0.24	0.256
July	8.46	1.21	7.25	1.68	6.78	0.27	0.312
August	7.33	0.93	6.40	1.29	6.04	0.24	0.266
September	4.67	0.43	4.24	0.59	4.08	0.15	0.163
October	0.33	0.03	0.30	0.04	0.29	0.11	:
November	:	:	:	:	:	:	:
December	:	:	:	:	:	:	:
TOTALS:	35.77	4.91	30.86	6.81	28.96	:	:

(1) The net irrigation requirements include carryover moisture to be used at the beginning of the season and allows for carryover planned to be used at the end of the growing season.

(2) For 80 percent chance occurrence, growing season effective precipitation will be equaled or exceeded 8 out of 10 years. For 50 percent chance occurrence, effective precipitation will be equaled or exceeded 1 out of 2 years.

(3) Consumptive use is corrected upwards about 3 percent per 1000 feet for elevations more than 1000 feet above sea level.

Other Supporting Information

Dan McGlothlin
Owen Williams
for
Dan B. Kimball

September 3, 1996

L54(2380)
BEOL/Water Rights

Memorandum

To: Superintendent, Bent's Old Fort National Historic Site
From: Chief, Water Resources Division
Subject: Report for Travel by Dan McGlothlin to La Junta, Colorado on July 8-9, 1996

The attached trip report concerns travel by Dan McGlothlin, Water Rights Branch (WRB), to La Junta, Colorado to conduct a field reconnaissance of wells and consumptive uses of groundwater at Bent's Old Fort National Historic Site (BEOL) and to meet with the Park Superintendent and staff and a representative of the Fort Lyons Well Users Group. Field reconnaissance of water sources was necessary to document locations of ground water sources and uses, preparatory to developing a replacement water plan for Park ground water uses. The meeting, arranged by the Superintendent, was for the purpose of exchanging information on NPS needs and details of the well user group's approved replacement water plan.

If you have any questions, please contact Dan at (970) 225-3536.

Attachment

cc: (all w/attachment)
IMFA - Assistant Director, Natural Resources
Rocky Mountain Cluster Leadership Chair - Nickels (GRTE)
Rocky Mountain Cluster SSO - Wylie
SOL (Denver) - Averill
DoJ (Denver) - DuBois
2380(cc:Mail) - Williams, Jackson, Flora, McGlothlin, Hughes
FNP:DMcGlothlin:mf:8/29/96:S:\WRB\DJM\JULY96TR_RPT

August 30, 1996

L54(2380)
BEOL/Water Rights

Memorandum

To: Chief, Water Resources Division
Through: Chief, Water Rights Branch
From: Dan McGlothlin, Hydrologist
Subject: Trip Report for Travel to La Junta, Colorado on July 7-8, 1996

PURPOSE: The purpose of this trip was to conduct a field reconnaissance of wells and consumptive uses of groundwater at Bent's Old Fort National Historic Site (BEOL) and to meet with the Park Superintendent and staff and a representative of the Fort Lyons Well Users Group. Field reconnaissance of water sources was necessary to document locations of water groundwater sources and uses, preparatory to developing a replacement water plan for Park groundwater uses. The meeting, arranged by the Superintendent, was for the purpose of exchanging information about NPS needs and details of the well user group's approved replacement water plan.

ITINERARY: Departed Fort Collins, Colorado on July 7, 1996, and arrived at La Junta the same day. Returned to Fort Collins on July 8, 1996.

CONTACTS: Don Hill, Superintendent - BEOL
Dan Brown, Resource Management Specialist
Joe Dutton, Fort Lyons Well Users Group

DISCUSSION: On July 8, 1996, I met with Hill, Brown and Dutton to discuss the Fort Lyons Well Users Group plan to divert tributary ground water in the Arkansas River Valley. I explained to Dutton that the WRB is assisting the park in preparing plan(s) to replace out-of-priority depletions of groundwater to senior surface water rights and usable stateline flows. The Park was informed by the Division Engineer, Water Division 2, that the use of tributary groundwater¹ must be in accordance with new rules adopted by the State

¹ Tributary ground water, in this instance, is ground water that is delivered at some location and time as Arkansas River flow. Wells using this ground water were determined to be injuring senior Arkansas River water users in a recent court ruling.

Engineer. Thus, the National Park Service (NPS) must discontinue pumping until a replacement (augmentation) water plan is approved by the State Engineer for these uses. The Park has declared two of the three wells (BEOL Wells No. 4 and 6) inactive, these wells will remain so until a replacement water plan(s) for Park uses has been approved. The third well (BEOL Well No. 3) provides essential water for sanitary waste disposal and firefighting uses, and, therefore, is in daily use. The NPS is awaiting a response from the State Engineer on its request for an exemption from the above-referenced rules.

Dutton explained how the Fort Lyons plan functions and indicated that his group would likely accept NPS Well No. 4 into their replacement water plan. This would be possible because the agricultural land formerly irrigated with water pumped from Well No. 4 is within the service area of the Fort Lyons Canal Company (Ditch Company). Also, Dutton explained that NPS is qualified to be a participant in the plan by virtue of its co-ownership of the Ditch Company. Shares in the Ditch Company appurtenant to the irrigated acreage were acquired when title to the property (known as the Day Property) transferred to NPS in 1980. Until recently, pasture crops were flood irrigated with ditch and well water.

Under the Fort Lyons plan, out-of-priority depletions to senior Colorado water rights induced by the pumping of tributary groundwater would be replaced to the Arkansas River with first-use water and return flow water from Fryingpan-Arkansas Project, obtained through the Southeastern Colorado Water Conservancy District. Dutton said there is a one-time membership application fee of \$50.00. Members also annually pay a fee (ranging from \$6 to 9.00 per acre-foot) based on the quantity of ground water pumped. He indicated that he would provide a complete version of the plan for NPS to review and encouraged me to contact the consultants who developed the Fort Lyons plan for further information.

Hill explained that his objective is to reestablish a landscape within the Park which duplicates the scene of the time of the fort's occupation. The Park consists of acquired agricultural lands so most Park vegetation is exotic. The Park will gradually convert all historically irrigated acreage to native prairie using irrigation water to establish the native vegetation.

Some of the acreage to be converted is located on the south side of the Arkansas River, formerly irrigated from BEOL Well No. 6. Because this area is not within the boundary (i.e. service area) of the Ditch Company, Dutton said this well could not be brought into his group's plan. A different solution for replacement water will be necessary. Hill indicated that, because the Park's resources (i.e. funds and staff) are very limited, the restoration effort will necessarily take several years to complete. The Park's first priority is to complete restoration on the Day Property (with water from Well No. 4).

The use of such ground water must, therefore, be curtailed unless the depletions can be replaced with water from another source.

Following the meeting with Dutton, I visited Wells No. 3 and 4 with Hill and Brown, where I photographed the wells and associated facilities. We also visited a pond adjacent to the Arkansas River where we found remnants of a pump station (within the Park) that suggest it was used to recycle irrigation water onto the cropland. The station appeared to have been unused for several years.

We also discussed a concern Hill raised about responsibility for maintenance of a return flow ditch that runs through the Park adjacent to State Highway 194. The ditch, which frequently spills onto Park land, returns irrigation water to the Arkansas River. The Park has considered relocating the ditch so to divert water away from a wetland area and to avoid flooding other low-lying Park land adjacent to the highway. At the time of our visit, the ditch was running at half to 2/3 capacity and spilling into the wetland. I discussed with Hill the need to review Park obligations under its contract with the Ditch Company. Upon returning to his office, Hill and I reviewed an outdated copy of a Fort Lyons Ditch Company operations manual which states that the water user is responsible for waste water disposal so as to avoid damage to Company facilities, county roads and adjacent farms. Thus, it appears that the responsibility for managing the waste water in this ditch may rest with the NPS. However, a current version of the rules should be obtained to verify this determination. I advised Hill and Brown that WRD may be able to assist with Park wetland management activities.

ACTION ITEMS:

1. Obtain clarifications for replacement of out-of-priority use of BEOL Well No. 4, from author of the Fort Lyons Well Users Group replacement water plan. Responsible Party: McGlothlin. Target Date: Completed.
2. Obtain copies of replacement water plans advanced by other well user groups in the Arkansas Valley. Responsible Party: McGlothlin. Target Date: Completed.
3. Review replacement water plans, and determine whether NPS should participate in these existing plans or prepare its own. Responsible Party: McGlothlin. Target Date: October 31, 1996.
4. Provide recommendation for developing a replacement water plan to the Superintendent. Responsible Party: McGlothlin. Target Date: November 30, 1996.
5. Determine course of action necessary for Well No. 3 upon receiving the State Engineer's response to the NPS's request to designate water used from BEOL Well No. 3 as a commercial-exempt use. Responsible Party: McGlothlin. Target Date: To be determined.

[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 a interest in the program you have articulated.

We obviously desire to be in compliance and would be intersted 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?

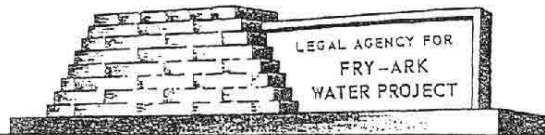
Enclosed is the letter and questionnaire from Southeastern Colorado Water Conservancy District which I faxed Monday, July 17. Don Hill and I both don't believe Bent's Old Fort needs to be included in this plan. In fact, in the future, we will have to find ways to use our water to maintain our rights 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

JUL 12 1995

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,

A handwritten signature in dark ink, appearing to read 'Steve Arveschoug', written over a horizontal line.

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

LETTER OF TRANSMITTAL
PUEBLO, COLORADO

MEMORANDUM



Roy Romo
Governor

James S. Lochhead
Executive Director, DNR

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

TO: Members, ARCC *Dan McGlothlin*
FROM: Hal Simpson *FYI per your request*
DATE: July 18, 1995 *Steve Miller for SJW*
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)

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

Revised Draft July 14, 1995

- (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

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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

Revised Draft July 14, 1995

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~~

Revised Draft July 14, 1995

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.

Revised Draft July 14, 1995

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

Revised Draft July 14, 1995

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

Rule ~~13~~¹⁴. 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 ~~14~~¹⁵. Effective date. These amended Rules shall become effective April 15, 1996.

(6-287ceb)

[R&R-AM-C.RDL]



IN REPLY
REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Bent's Old Fort National Historic Site
85110 Hwy 194 East
La Junta, Colorado 81050-9523



L54 (479)
BEOL/Water Rights

Memorandum

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

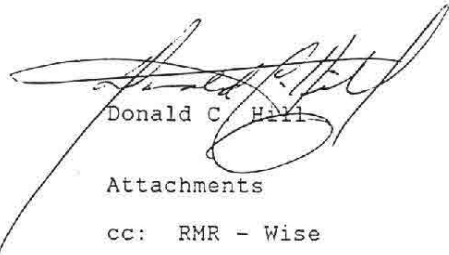
Attached for your review are the forms required by the Office of the State Engineer, State of Colorado under the Rules Governing the Measurement of Tributary Ground Water Diversions in the Arkansas River Basin.

* Form 3.2 Notice of Power coefficient Rating or Re-rating has been completed for Docket No. BEOL 004 (Day Property Well).

* Form 4 Notice of Totalizing Flow Meter Installation has been completed for Docket No. BEOL 003 (Maintenance Facility Well).

Attached also find a copy of the certification for Mr. Guy Watters who conducted the testing on the wells. Communications with Steve Witte, Division of Water Resources, State of Colorado in Pueblo verified that Mr. Watters signature is appropriate for the Registered Professional Engineer.

We will not submit the originals to the State Engineers Office until we have your review comments. Contact Carol L. Maass (719) 384-2596 with your comments.


Donald C. Hill

Attachments

cc: RMR - Wise

BEOL #1

Form 3.2

Notice of Power Coefficient Rating or Re-Rating

To be Filed in Compliance with Rules 3.2 and 5 of the RULES GOVERNING THE MEASUREMENT OF
TRIBUTARY GROUND WATER DIVERSIONS LOCATED IN THE ARKANSAS RIVER BASIN

To: Division Engineer,
Water Division No. 2
P.O. Box 5728
Pueblo, Co 81002

Submitted for Rating (Rule 5)
 Re-Rating (Rule 3.2)

Owner Information

User Info (If not same as owner)

Name Bents Old Fort NHSAddress 35110 HWY 194 E.City, State, Zip La Junta, CO 81050Phone 719-384-2800

Well Location and Information:

BEOL Well #4

SW 1/4, SW 1/4, Section 14, Township 23, S, Range 54, W, 6th PM
NorS EorW

Distances from section lines:

 feet from the Section line and feet from the Section line
(NorS) (EorW)

Well Permit No. 13596FCase or Decree No. W-3016

Electric Supply Information:

Electrical Supplier S.E.C.P.A. Account No. 14926Power Meter or Serial Number 23-155-145Meter Type MT 12S Multiplier none, 10, 00, Other (specify)Kh Factor on Kilowatt hour meter (Kh) 28.8Potential Transformer (PT) Factor: 2.5:1 (2.5) , 2.4:1 (2.4) , other (specify) , not used (1) Current Transformer (CT) Factor: 200 to 5 (40) , 400 to 5 (80) , 800 to 5 (160) ,other (specify) , not used (1)

WD
ID
PERMIT NO. 13596F
DECREE W-3016
SEC 14 TS 23S RING 54W

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER
Division of Water Resources
Department of Natural Resources
1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

RECORDS
1-303-866-3447



Roy Romer
Governor
James S. Lochhead
Executive Director
Hal D. Simpson
State Engineer

August 31, 1994

Mr. Guy Waters
Holbrook Pump
P.O. Box 155
Cheraw, CO 81030

Re: Well Testing Course

Dear Mr. Waters:

It is my pleasure to inform you that you have passed the Well Testing Course which you attended in Pueblo on the 2nd, 3rd and 4th of August. Therefore, I am approving you as a person qualified to conduct totalizing flow meter verification testing and power coefficient testing for 1994. I look forward to working with you in this important matter.

You will need to submit a request for approval for the 1995 year if you wish to do testing next year. If you have any questions, please contact the Division 2 office in Pueblo.

Sincerely,


for Hal D. Simpson
State Engineer

HDS/GVS/jmg

cc: Steve Witte
Certification File

5028.gvs

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

RULES GOVERNING THE MEASUREMENT OF TRIBUTARY GROUND WATER DIVERSIONS LOCATED IN THE ARKANSAS RIVER BASIN

AUTHORIZATION

In order for the State Engineer and Division Engineer for Water Division No. 2 to properly administer the waters of the Arkansas River basin and to comply with the Arkansas River Compact, it has become necessary to require the metering of tributary wells within the basin. The State Engineer's authority to promulgate these rules is based on section 37-80-104, C.R.S., which requires the State Engineer to make and enforce such regulations with respect to deliveries of water as will enable the state of Colorado to meet its interstate commitments; section 37-92-501, C.R.S., which authorizes the State Engineer to adopt rules and regulations to assist in the performance of the administration, distribution and regulation of the waters of the state in accordance with the constitution of the state of Colorado; the provisions of Article 92 (The Water Rights Determination and Administration Act of 1969) and other applicable laws; and section 37-92-502(5), C.R.S., which authorizes the State Engineer to order any owner or user of a water right to install and maintain at such owner's or user's expense necessary meters, gauges, or other measuring devices and to report at reasonable times to the appropriate Division Engineer the readings of such meters, gauges or other measuring devices.

ORDER OF THE STATE ENGINEER

IT IS ORDERED that the following rules are adopted and approved by the State Engineer.

Rule 1. Scope. These rules are applicable to all wells located in the Arkansas River basin except decreed and/or permitted wells as described in section 37-92-602, C.R.S.; wells located within a designated ground water basin; decreed and/or permitted nontributary wells; permitted wells subject to sections 37-90-137(4), C.R.S.; and wells permitted and decreed for not more than 50 gallons per minute that are part of a judicially-approved plan for augmentation.

Rule 2. Definitions:

A. The following definitions are applicable to these rules governing the measurement of tributary ground water diversions located in the Arkansas River basin:

1. **"Compound or complex system"** means any well for which the method of delivery varies during the irrigation season between open discharge, sprinkler system or gated pipe that are used in a single irrigation season or where more than one electrical device is operated from the same electric power meter.

2. **"Inactive well"** means any well that is not in use and is disconnected from a power source.

3. **"Power coefficient"** means the amount of electrical energy expressed as kilowatt hours (KWH) consumed in pumping one acre foot of water.

4. "Tributary well(s)" are those wells that produce underground water and ground water as defined in section 37-92-103(11), C.R.S.

B Any other term used in these rules that is defined in Article 99 or 92 is used with the meaning given therein.

Rule 3. All wells within the scope of these rules shall either, by July 15, 1994, be equipped with a totalizing flow meter that is installed and maintained according to manufacturer's specifications and recommendations or, by October 1, 1994, be rated to determine a power coefficient.

3.1 When a totalizing flow meter is used, it shall be the owner's responsibility to keep the meter in acceptable operating condition. Any meter designed and manufactured for the purpose of measuring the flow of water, and which has a totalizing feature, shall be considered to be acceptable for purposes of these rules. The State Engineer may adopt standards and specifications for the installation, repair, and maintenance of meters. As a minimum, totalizing flow meters shall be properly verified in the field to be in accurate working condition under the supervision of an individual or entity approved annually by the State Engineer to do such tests when installed; contain sufficient recording digits to assure that "roll over" to zero does not occur within three years; and shall be maintained by the well owner so as to provide a continuous, accurate record of withdrawals. If the meter is not operational, the well shall not be pumped unless a working meter is installed or unless a specific backup water measurement program approved by the State Engineer is put into effect. Totalizing flow meters are required to be re-verified in the field to be in accurate working condition under the supervision of an individual or entity annually approved by the State Engineer every four years after the date of original installation and flow meters in existence as of the effective date of these rules shall be certified to be in accurate working condition under the supervision of an individual or entity annually approved by the State Engineer by June 15, 1995, and re-verified to be in accurate working condition every four years thereafter. The Division Engineer shall be notified in writing of the date and person performing the re-verification.

3.2 The State Engineer may adopt standards and specifications for power coefficient testing. As a minimum, power coefficients shall be determined utilizing rating procedures approved by the State Engineer and conducted under the supervision of an individual or entity annually approved by the State Engineer to do such tests; be conducted when the pumping system has stabilized, i.e., both operating pressure and pumping drawdown has not changed more than 10% in the last hour; have been determined on or after April 1, 1992; and be updated through re-rating at least every four years. The Division Engineer shall be notified in writing of the date and person performing the re-rating.

3.3 If the well(s) are part of a complex or unimproved system, or if the pump is driven by internal combustion means, the owner or user of the well must utilize the totalizing flow meter method and the provisions of Rule 3.1 apply.

3.4 All flow measuring equipment utilized in verification of accuracy and working condition in the field and/or testing of wells must provide an accuracy within plus or minus 2%.

Rule 4. All owners of wells within the scope of these rules who choose to install totalizing flow meters shall provide notice in writing to the Division Engineer for Water Division No. 2 by July 14, 1994, stating: the name and address of the owner of the well(s); the name and address of the user of the well(s) (if different than the owner); the well permit number(s); the decree or case number(s); the legal description of the location of the well(s); the meter manufacturer; the meter model number; the meter size; the meter serial number(s); the volumetric units (gallons or acre-feet); the name of power utility company and power company account number (if applicable); the kilowatt hour meter reading on the date of installation (if applicable); the beginning totalizing flow meter reading; and the date of installation. Notification to the Division Engineer shall be on a form prescribed by the State Engineer.

Rule 5. All owners of wells within the scope of these rules who choose to utilize the power coefficient method shall provide notice in writing to the Division Engineer for Water Division No. 2 by October 1, 1994, stating: the name and address of the owner of the well(s); the name and address of the user of the well(s), if different than the owner; the well permit number(s); the decree or case number(s); the legal description of the location of the well(s); the power meter serial number(s); the utility company name; the power company account number; the power coefficient; the date of power coefficient rating; the kilowatt hour meter reading on the date of the power coefficient rating; the name and address of the State Engineer approved individual or entity supervising the power coefficient rating; the current transformer (C.T.) factor, if applicable; and the potential transformer (P.T.) factor, if applicable. Notification to the Division Engineer shall be on a form prescribed by the State Engineer.

Rule 6. Data Submittal.

Rule 6.1 Data as to the monthly amounts of water pumped from wells within the scope of these rules shall be for the period of November 1 to October 31 (coinciding with the Arkansas River compact year) and shall be filed with the Division Engineer no later than January 31, 1995 and every year consecutive year thereafter.

Rule 6.2 For the year 1994, owners utilizing the power coefficient method shall calculate the amount of water pumped using monthly power records for the period of November 1, 1993 through October 31, 1994.

Rule 6.3 Data shall be submitted on forms prescribed by the State Engineer. Such forms shall also include a consent to release power company data to the Division Engineer.

Rule 7. Inactive wells are excluded from these rules provided a sworn affidavit is filed with the Division Engineer by July 15, 1994, and March 1, every consecutive year thereafter, stating the status of the well as inactive. Such sworn statement shall include: the name and address of the owner of the well(s); the name and address of the user of the well(s), if different than the owner; the well permit number(s); the decree or case number(s); the legal description of the location of the well(s); and a statement that the well(s) are disconnected from any power source. If the well owner desires to have the power to the well remain connected for any reason, approval of such must be first obtained from the State Engineer pursuant to Rule 11. Should the well(s) become active at any time, all aspects of these rules are immediately in effect. Notification to the Division Engineer shall be on a form prescribed by the State Engineer.

Rule 8. No water shall be withdrawn from any well not in compliance with these rules except to determine a power coefficient or to install a totalizing flow meter.

Rule 9. Failure to comply with any of these rules will subject the well owner and/or user to court proceedings and the state's costs, including reasonable attorneys fees, associated with enforcement of these rules pursuant to section 37-92-503, C.R.S. Prior to filing any court action, the Division Engineer shall notify the well owner of the violation in writing and shall advise the well owner of the date by which the violation must be corrected in order to avoid court proceedings, which date shall be at least ten days following the mailing of the notice to the well owner or personal service on the well owner.

Rule 10. If any portion of these rules is found to be invalid, the remaining portion of the rules shall remain in force and unaffected.

Rule 11. When the strict application of any provisions of these rules would cause unusual hardship, the State Engineer may grant a variance for a specific instance provided a written request for the variance is made to the State Engineer and the State Engineer finds the request justifiable.

IT IS FURTHER ORDERED that these rules shall become effective on the 15th day of July, 1994, and shall remain in effect until amended as provided by law. Any person desiring to protest these rules may do so in the manner provided in section 37-92-501, C.R.S. Any such protest to these rules must be filed by the end of the month following the month in which these rules are published.

Dated this 6th day of July, 1994.


Hal D. Simpson
State Engineer

AS APPROVED BY THE COURT this 8 day of July, 1994, *more or less July 5, 1994.*


JOHN R. TRACEY, WATER JUDGE

DISTRICT COURT
WATER DIVISION NO. 2
STATE OF COLORADO
Certified to be a full, true
and correct copy of original
on file.
Date: 7/15/94
MAUREN P. C. MEYER, CLERK



NATIONAL PARK SERVICE
WATER RESOURCES DIVISION
FORT COLLINS, COLORADO

FAX #: (303) 225-9965
VERIFICATION #: (303) 225-3500



DATE 6/14/94

TO

NAME Carol Maass

GROUP BEOL

CITY, STATE _____

MAIL CODE _____

OFFICE PHONE _____

FAX NUMBER (719) 384-2615

VERIFICATION _____

FROM

NAME Bill Hansen

GROUP WRB

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET) 8

SPECIAL INSTRUCTIONS

Carol-- Here are the regulations. I have underlined the important sections.
If we are going to use Well # 3 only for fire fighting, and are willing to cap or
lock the well, we might be exempt from the Notree requirements. BUT, because the
Decree says sanitation I recommend filing an affidavit of Inactivity until
the well is replumbed & used. We need to file a Notree, after the flow meter
is installed, for the Day Well. Call w/ questions.

Bill

Receipt Verified By _____ Date _____ Time _____

CASE NO. 94CW12 - RULES GOVERNING THE MEASUREMENT OF TRIBUTARY
GROUND WATER DIVERSIONS LOCATED IN THE ARKANSAS RIVER BASIN

**RULES GOVERNING THE MEASUREMENT OF TRIBUTARY GROUND WATER DIVERSIONS
LOCATED IN THE ARKANSAS RIVER BASIN**

AUTHORIZATION

In order for the State Engineer and Division Engineer for Water Division No. 2 to properly administer the waters of the Arkansas River basin and to comply with the Arkansas River Compact, it has become necessary to require the metering of tributary wells within the basin. The State Engineer's authority to promulgate these rules is based on section 37-80-104, C.R.S., which requires the State Engineer to make and enforce such regulations with respect to deliveries of water as will enable the state of Colorado to meet its compact commitments; section 37-92-501, C.R.S., which authorizes the State Engineer to adopt rules and regulations to assist in the administration, distribution and regulation of the waters of the state in accordance with the constitution of the state of Colorado, the provisions of Article 92 (The Water Rights Determination and Administration Act of 1969) and other applicable laws; and section 37-92-502(5), C.R.S., which authorizes the State Engineer to order any owner or user of a water right to install and maintain at such owner's or user's expense necessary meters, gauges, or other measuring devices and to report at reasonable times to the appropriate Division Engineer the readings of such meters, gauges or other measuring devices.

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Rule 2. Definitions:

A. The following definitions are applicable to these rules governing the measurement of tributary ground water diversions located in the Arkansas River basin:

1. **"Compound or complex system"** means any well for which the method of delivery varies during a single reporting year (November 1 to October 31) between open discharge, sprinkler system or gated pipe or where more than one electrical device is operated from the same electric power meter.
2. **"Inactive well"** means any well that is not in use and is disconnected from a power source.
3. **"Power coefficient"** means the amount of electrical energy expressed as kilowatt hours (KWH) consumed in pumping one acre-foot of water.

B. Any other term used in these rules that is defined in Article 90 or 92 is used with the meaning given therein.

Rule 3. All wells within the scope of these rules shall either, by June 15, 1994, be equipped with a totalizing flow meter that is installed and maintained according to manufacturer's specifications and recommendations or, by October 1, 1994, be rated to determine a power coefficient.

3.1 When a totalizing flow meter is used, it shall be the owner's responsibility to keep the meter in acceptable operating condition. The State Engineer may adopt standards and specifications for totalizing flow meters and the installation, repair, and maintenance of meters. As a minimum, totalizing flow meters shall be: properly field calibrated under the supervision of a registered professional engineer when installed; contain sufficient recording digits to assure that "roll over" to zero does not occur within three years; and maintained by the well owner so as to provide a continuous, accurate record of withdrawals. If the meter is not operational, the well shall not be pumped until a working meter is installed or a specific backup water measurement program approved by the State Engineer is put into effect. Totalizing flow meters are required to be recalibrated in the field under the supervision of a registered professional engineer every four years after the date of original installation and flow meters in existence as of the effective date of these rules shall be certified as in calibration under the supervision of a registered professional engineer by June 15, 1995, and recalibrated every four years thereafter. The Division Engineer shall be notified in writing of the date of and person supervising the recalibration.

3.2 The State Engineer may adopt standards and specifications for power coefficient rating. As a minimum, power coefficients shall: be determined utilizing rating procedures conducted under the supervision of a registered professional engineer and approved by the State Engineer; be conducted when the pumping system has stabilized, i.e., both operating pressure and pumping drawdown have not changed more than 10% in the last hour; have been rated on or after April 1, 1992; and be updated through re-rating at least every four years. The Division Engineer shall be notified in writing of re-rating results, the date of and person supervising the re-rating.

3.3 If the well(s) are part of a complex or compound system, or if the pump is driven by internal combustion means, the owner or user of the well must utilize the totalizing flow meter method and the provisions of rule 3.1 apply.

3.4 All flow measuring equipment utilized in field calibration or rating of wells must be accurate within plus or minus 5%.

Rule 4. All owners of wells within the scope of these rules who choose to install totalizing flow meters shall provide notice in writing to the Division Engineer for Water Division No. 2 by June 15, 1994, stating: the name and address of the owner of the well(s); the name and address of the user of the well(s) (if different than the owner); the well permit number(s); the decree or case number(s); the legal description of the location of the well(s); the meter manufacturer; the meter model number; the meter size; the meter serial number(s); the volumetric units (gallons or acre-feet); the power utility company name (if applicable); the power company account number (if applicable); the kilowatt hour meter reading on the date of installation (if applicable); the beginning totalizing flow meter reading; and the date of installation. Notification to the Division Engineer shall be on a form prescribed by the State Engineer.

Rule 5. All owners of wells within the scope of these rules who choose to utilize the power coefficient method shall provide notice in writing to the Division Engineer for Water Division No. 2 by October 1, 1994, stating: the name and address of the owner of the well(s); the name and address of the user of the well(s) (if different than the owner); the well permit number(s); the decree or case number(s); the legal description of the location of the well(s); the power meter serial number(s); the power utility company name; the power company account number; the power coefficient; the date of power coefficient rating; the kilowatt hour meter reading on the date of the power coefficient rating; the name and address of the registered professional engineer supervising the power coefficient rating; the current transformer (C.T.) factor (if applicable); and the potential transformer (P.T.) factor (if applicable). Notification to the Division Engineer shall be on a form prescribed by the State Engineer.

Rule 6. **Data Submittal.**

6.1 Data as to the monthly amounts of water pumped shall be submitted to the Division Engineer no later than January 31, 1995 and every year consecutive year thereafter. The reporting period is from November 1 to October 31 (coinciding with the Arkansas River compact year).

6.2 For the year 1994, owners using the power coefficient method shall calculate the amount of water pumped using monthly power records from the period of November 1, 1993 through October 31, 1994, in order to obtain a complete year of record.

6.3 Data shall be submitted on forms prescribed by the State Engineer. Such forms shall require owner consent to release power company data to the Division Engineer.

Rule 7. Inactive wells are excluded from these rules provided a sworn notarized affidavit is filed with the Division Engineer by June 15, 1994, and March 1, every consecutive year thereafter, stating the status of the well as inactive. Such sworn statement shall include: the name and address of the owner of the well(s); the name and address of the user of the well(s) (if different than the owner); the well permit number(s); the decree or case number(s); the legal description of the location of the well(s); and a statement that the well(s) are disconnected from any power source. Should the well(s) become active at any time, the owner shall immediately notify the Division Engineer and all aspects of these rules shall apply. Notification to the Division Engineer shall be on a form prescribed by the State Engineer.

Rule 8. No water shall be withdrawn from any well not in compliance with these rules except as necessary to determine a power coefficient or to install a totalizing flow meter.

Rule 9. Failure to comply with any of these rules will subject the well owner and/or user to court proceedings and the state's costs, including reasonable attorneys fees, associated with the enforcement of these rules pursuant to section 37-92-503, C.R.S.

Rule 10. If any portion of these rules is found to be invalid, the remaining portion of the rules shall remain in force and unaffected.

Rule 11. If the strict application of any provisions of these rules would cause unusual hardship, upon written request, the State Engineer may grant a variance under these rules.

IT IS FURTHER ORDERED that these rules shall become effective on the 15th day of June, 1994, and shall remain in effect until amended as provided by law. Any person desiring to protest these rules may do so in the manner provided in section 37-92-501, C.R.S. Any such protest to these rules must be filed by the end of the month following the month in which these rules are published.

Dated this 29th day of March, 1994

Signed: Hal D. Simpson, State Engineer, 818 Centennial Building,
1313 Sherman Street, Denver, CO 80203

(Rules, 3 pages)

37-90-137(4)



(4) (a) In the issuance of a permit to construct a well outside a designated ground water basin and not meeting the exemptions set forth in section 37-92-602 to withdraw nontributary ground water or any ground water in the Dawson, Denver, Arapahoe, Laramie-Fox Hills, and Dakota aquifers, the provisions of subsections (1) and (2) of this section shall apply.

(b) (I) Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years.

(II) Subject to the provisions of subsections (1) and (2) of this section, the amount of such ground water available for withdrawal shall be that quantity of water, exclusive of artificial recharge, underlying the land owned by the applicant or underlying land owned by another:

(A) Who has consented in writing to the applicant's withdrawal; or

(B) Whose consent exists by virtue of a lawful municipal ordinance or a quasi-municipal district resolution in effect prior to January 1, 1985, and which consent was the subject of a water court application for determination of nontributary ground water rights filed by the affected municipality or quasi-municipal district prior to January 1, 1985; or

(C) Who shall be deemed to have consented to the withdrawal of ground water pursuant to the provisions of subsection (8) of this section.

(c) Material injury to vested nontributary ground water rights shall not be deemed to result from the reduction of either hydrostatic pressure or water level in the aquifer.

(d) The annual amount of withdrawal allowed in any well permits issued under this subsection (4) shall be the same as the amount determined by court decree, if any, and may, if so provided by any such decree, provide for the subsequent adjustment of such amount to conform to the actual aquifer characteristics encountered upon drilling of the well or test holes.

(5) Any right to the use of ground water entitling its owner or user to construct a well, which right was initiated prior to July 6, 1973, as evidenced by an unexpired well permit issued prior to July 6, 1973, or a current decree, shall not be subject to the provisions of subsection (4) of this section.

(6) Rights to nontributary ground water outside of designated ground water basins may be determined in accordance with the procedures of sections 37-92-302 to 37-92-305. Such proceedings may be commenced at any time and may include a determination of the right to such water for existing and future uses. Such determination shall be in accordance with subsections (4) and (5) of this section. Claims pending as of the effective date of this act which have been published pursuant to section 37-92-320 in the resume need not be republished.

(7) In the case of dewatering of geologic formations by removing nontributary ground water to facilitate or permit mining of minerals:

(a) No well permit shall be required unless the nontributary ground water being removed will be beneficially used; and

(b) In the issuance of any well permit pursuant to this subsection

37-92-602

PART 6
APPLICATION OF ARTICLE

37-92-601. Disposition of pending proceedings - showings of reasonable diligence.-- All proceedings pending on June 7, 1969, for the adjudication of water rights, for a change of water rights, or for the disposition of other matters which are of the type to be handled by proceedings provided for in this article shall be concluded by June 1, 1972, in accordance with the provisions of the statute under which they are instituted, and priorities and changes of water rights which are determined in such pending proceedings shall be integrated by the various division engineers in their current records and shall be included in tabulations prepared by the division engineers pursuant to the provisions of this article. Any such proceedings which are not concluded by June 1, 1972, shall be heard from that time on to completion by the water judge for the division in which the proceedings are pending, under procedures provided for in this article, except that the chief justice of the supreme court may provide that a judge, other than the water judge, shall complete proceedings in specific cases. Persons who have filed statements of claim in such pending proceedings may withdraw therefrom at any time and file applications or otherwise proceed in accordance with this article. Showings of reasonable diligence under existing conditional decrees or conditional decrees entered in such pending proceedings shall be made in accordance with the provisions of this article in the year 1972 and every fourth year thereafter in even-numbered years, but the time shall be tolled during any period in which the water judge finds the applicant was prevented from filing by reason of conditions beyond his control. Applications for quadrennial findings of reasonable diligence shall be filed with the water clerk pursuant to section 37-92-302 (1) not later than June 1 of each such years. When and if a conditional water right awarded in any such conditional decree becomes a water right pursuant to the procedures in this article, the priority awarded such water right shall be the same as if the proceedings in which the conditional decree was entered had remained open until the final determination with respect to such water right.

→ 37-92-602. Exemptions - presumptions.--
(1) The provisions of this article, except for sections 37-92-201 and 37-92-202, shall not be applicable to:

- (a) Designated ground water basins as defined and established by article 90 of this title;
- (b) Wells not exceeding fifteen gallons per minute of production and used for ordinary household purposes, fire protection, the watering of poultry, domestic animals, and livestock on farms and ranches, and the irrigation of not over one acre of home gardens and lawns, but not used for more than three single-family dwellings;
- (c) Wells not exceeding fifteen gallons per minute of production and used for drinking and sanitary facilities in individual commercial businesses;

(d) Wells to be used exclusively for fire-fighting purposes if said wells are capped, locked, and available for use only in fighting fires; and

(e) Wells not exceeding fifty gallons per minute which are in production as of May 22, 1971, and were and are used for ordinary household purposes for not more than three single-family dwellings, fire protection, the watering of poultry, domestic animals, and livestock on farms and ranches, and the irrigation of not over one acre of gardens and lawns.

(2) With respect to applications filed prior to May 8, 1972, the state engineer shall issue a permit for the construction of wells specified in subsection (1) of this section without regard to the provisions of section 37-90-137 (2) and (3) upon submission of an application which shall be accompanied by a fee of five dollars. It is the legislative intent that the exemption in subsection (1) of this section is for an applicant to obtain a water supply for his own use.

(3) (a) Wells of the type described in paragraphs (b) to (d) of subsection (1) of this section may be constructed only upon the issuance of a permit in accordance with the provisions of this subsection (3). A person desiring to use such a well shall submit an application for a permit accompanied by a fee of twenty dollars for an application under paragraph (c) of this subsection (3) and a fee of sixty dollars for an application under paragraph (b) of this subsection (3).

(b) (i) With respect to applications filed on and after May 8, 1972, the state engineer shall first make a determination as to whether or not the exercise of the requested permit will materially injure the vested water rights of others or any other existing well, subject to the provisions of subparagraph (ii) of this paragraph (b). If the state engineer finds that the vested water rights of others or any other existing well will be materially injured, he shall deny the permit. Otherwise, the permit shall be issued, and it shall set forth such conditions for drilling, casing, equipping, and using the well as are reasonably necessary to prevent waste, pollution, or material injury to existing rights. The state engineer shall endorse upon the application the date of its receipt, file and preserve such application, and make a record of such receipt and the issuance of the permit in his office, so indexed as to be useful in determining the extent of the uses made from various ground water sources.

(ii) If a permit is sought by a user for a well exempted under paragraph (b) of subsection (1) of this section which will be the only well on a residential site, which well will be used solely for household purposes in a single-family dwelling not including irrigation or will be the only well on a tract of land of thirty-five acres or more and will be used solely for the purposes specified in paragraph (b) of subsection (1) of this section, and the return flow from such uses shall be returned to the same stream system in which the well is located, there shall be a presumption that there will not be material injury to the vested water

rights of others or to any other existing well resulting from such well, which presumption may be rebutted by evidence sufficient to show such material injury.

(iii) If the application is for a well, as defined in subparagraph (ii) of this paragraph (b), which will be located in a subdivision, as defined in section 30-28-101 (10), C.R.S. 1973, and approved on or after June 1, 1972, pursuant to article 28 of title 30, C.R.S. 1973, for which the water supply plan has not been recommended for approval by the state engineer, the cumulative effect of all such wells in the subdivision shall be considered in determining material injury.

(c) If any person wishes to relocate an existing well of the type specified in paragraphs (b) to (e) of subsection (1) of this section, he shall file an application pursuant to this subsection (3) for the construction of a well and shall state in such application his intent to abandon the existing well which is to be relocated. If such relocated well will not change substantially the usage of water which can lawfully be made by means of the existing well, a permit to construct and use the relocated well shall be issued, and the existing well shall be abandoned within ninety days after the completion of the relocated well.

(d) Wells for which permits have been granted or may be granted must be constructed within two years after the permit is issued which time may be extended for successive years at the discretion of the state engineer for good cause shown.

(e) The state engineer shall act upon an application filed under this subsection (3) within forty-five days after such filing and shall support his ruling with a written statement of the basis therefor, and the provisions of article 4 of title 24, C.R.S., shall apply.

(f) Any person aggrieved by a decision of the state engineer granting or denying an application filed under this subsection (3) may within thirty days after such decision file a petition for review with the water clerk of the water division in which the well is located. Upon receipt of such petition, the water judge of said water division shall promptly conduct such hearings as are necessary to determine whether or not the decision of the state engineer shall be upheld. In any case in which the state engineer's decision is reversed, the water judge shall order the state engineer to grant or to deny the application, as such reversal may require, and may specify such terms and conditions as are appropriate. Appeals from any decision of the water judge shall be made as in other civil actions.

(4) Notwithstanding the provisions of the introductory portion of subsection (1) of this section, water rights for wells of the type specified in paragraphs (b) to (e) of said subsection (1) may be determined pursuant to sections 37-92-302 to 37-92-306; except that the original priority date of any such well may be awarded regardless of the date of application therefor.

(5) Any wells exempted by this section which were put to beneficial use prior to May 8, 1972, and any wells exempted by section 37-90-105 not of record in the office of the state engineer may be recorded in that office upon written application, and payment of a processing fee of sixty dollars, and permit approval. The record shall include the date the water is claimed to have been appropriated or first put to beneficial use.

SECTION 9. Appropriation.-- In addition to any other appropriation, there is hereby appropriated, out of any moneys in the ground water management cash fund not otherwise appropriated, to the department of natural resources for allocation to the state engineer, for the fiscal year beginning July 1, 1987, the sum of two hundred ninety-seven thousand nine hundred dollars (\$297,900), or so much thereof as may be necessary, for the implementation of this act.

Bill Hansen
water Rights, NPS

6/14/94

Bent's Old Fort NTHS Wells

Federal #1 - abandoned

Federal #2 - abandoned

Federal #3 - See attached

this is the well in the Maintenance Building
used for Non-portable water

- File shows latest correspondence December 1, 1993
on Water Division No. 2 Case No. 80CW142
June 1, 1994 Case No. 93CW84

(not material)

Livestock Well on Southside - attached 6 pages
(heater & pump on same meter)

Day Property Well (RF 653) - attached 7 pages
(separate electric meter)

Federal #3, the Livestock Well on the Southside and
the Day Property Well would all be utilized
in the future

Carol L Maars

(719) 384-2597

Howerton Water Wells from Las Animas, Colorado. The State of Colorado granted a
permit to use the ground water (permit 09082-F, copy attached) on March 31, 1965.

Page 2

La Junta (Colorado) Tribune-Democrat

Ed Collins: Well Resources

Two new well reports are due by June 15

Forms of Notice of an Inactive Well and Notice of Totalizing Flow Meter Installation are due at the Division II Office of the State Engineer by June 15.

The reporting forms are required by the "Rules Governing the Measurement of Tributary Ground Water Divisions Located in the Arkansas River Basin," issued by the state engineer and division engineer. The effect of the rules are to require metering

for nearly all irrigation, municipal and commercial wells.

The notice of an inactive well is required for all wells subject to the rules which will not be used during 1994. Submittal of the notice exempts the well from water measuring requirements for the year if the well is not used. To qualify a well must be disconnected from a power source.

The notice of totalizing flow water meter installation form is

required if the well owner elects to install a meter.

For wells that the method of delivery varies during the year between open discharge, sprinkler system or gated pipe, or where more than one electrical device is operated from the same electric power meter, the totalizing flow meter is the only allowable method of water measurement.

For those with qualifying wells who elect the power coefficient rating

measuring method water use from electric meter readings, the form is required by Oct. 1, 1994.

The recent "Rules" require measurement and reporting of water taken from wells located in the Arkansas River Basin. This does not apply to domestic, household and other well exempted. The rule does apply to nearly all irrigation, municipal and commercial wells.

For forms and information contact the engineer's office at (781) 542-3168.

(703) 2.

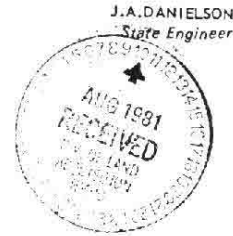
Domestic - exempt
If permit or 11119
250 gpm
Report as inactive
Reporting delayed - Deadline
until July 1st due

RICHARD D. LAMM
Governor



DIVISION OF WATER RESOURCES

DEPARTMENT OF NATURAL RESOURCES
ROBERT W. JESSE
IRRIGATION DIVISION ENGINEER
1906 W. NORTHERN AVENUE
PUEBLO, COLORADO 81004
OFFICE: 542-3368 HOME: 545-2873



August 6, 1981

Mr. John F. Pattie
Chief, Division of
Land Acquisition
655 Parfet
P. O. Box 25287
Denver, Colorado 80225

Dear Mr. Pattie:

Enclosed are the forms to change the State Engineer's records to show the U. S. Government as the owner of well No. 13596F (RF653) as decreed in case W-3016. Also enclosed is a copy of the Pumping Rules and Regulations to which this well is subject.

There is no provision for changing the Water Court Decree. To change the State Engineer's records, complete the white and pink copies then send them with \$1.00 to the State Engineer's Office in Denver.

Please feel free to contact this office if you have any questions or comments.

Sincerely,

Kenneth J. Cooper
Assistant Division Engineer

KJC/eg

Encl

IN THE MATTER OF THE PROPOSED RULES	)	
AND REGULATIONS GOVERNING THE USE,	)	
CONTROL, AND PROTECTION OF SURFACE	)	ORDER OF THE
AND GROUND WATER RIGHTS LOCATED	)	STATE ENGINEER
IN THE ARKANSAS RIVER AND ITS	)	
TRIBUTARIES.	)	

IT IS ORDERED that the following proposed rules and regulations are adopted and approved as the rules and regulations of the State Engineer.

Any person desiring to protest any one of these proposed rules and regulations may do so in the same manner as provided in Section 148-21-20, Colorado Revised Statutes 1963, as amended. Any protests to said proposed rules and regulations must be filed by the end of the month following the month in which said proposed rules and regulations were published.

PROPOSED RULES AND REGULATIONS

1. These proposed rules and regulations shall affect all underground water as defined in Section 148-21-3(4), Colorado Revised Statutes 1963, as amended, as follows:

"(4) 'Underground water' as applied in this act for the purpose of defining the waters of a natural stream, means that water in the unconsolidated alluvial aquifer of sand, gravel and other sedimentary materials, and all other waters hydraulically connected thereto which can influence the rate or direction of movement of the water in that alluvial aquifer or natural stream. Such 'underground water' is considered different from 'designated ground water' as defined in 148-18-2(3)."

except water withdrawn from wells, such as domestic and livestock, exempted from administration under Section 148-21-45, Colorado Revised Statutes 1963, as amended.

2. All rights to appropriate underground water for which an application for determination of the amount and priority thereof has not been filed with the Water Clerk prior to July 1, 1972 are junior to all claims for underground water filed with the Water Clerk prior to that date. Such junior rights are not allowed to divert any water from the effective date of this order unless such junior rights meet the terms of Rules 5 and 6.

3. Ground water diversions, except those set forth in Rule 2 hereof, will be continuously curtailed, from the effective date of this order, on a basis not to exceed four-sevenths ($4/7$) of the time to provide for a reasonable lessening of material injury, whether present or future, to senior appropriators. Unless a different operational period is approved by the division engineer or his agent, such diversions are not permitted on Thursday, Friday, Saturday and Sunday of each week. The division engineer shall administer this rule so that the operator of the well or wells may have a cycle of operation to make most efficient use of the water available; provided, that other appropriators are not adversely affected.

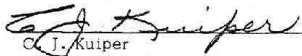
4. Adjudicated underground water rights shall not be regulated to a greater extent than unadjudicated water rights.

5. Any underground water appropriator or appropriators affected by these rules and regulations may use a part or all of the water the well or wells will produce without regard to any regulations if the division engineer approves a written plan submitted by the appropriator or appropriators whereby the amount of the depletion from the stream by said well or wells will be returned to the stream so that prior vested rights are not damaged.

6. Any appropriator may elect to treat any well or wells as temporary alternate points of diversion for part or all of any decreed surface right upon submission and approval of a written plan to the division engineer; provided, that no material injury occurs to prior vested rights.

IT IS FURTHER ORDERED that the said rules and regulations shall become effective on the 19th day of FEBRUARY, A.D., 1973, and shall remain in force and effect until amended as provided for by law.

Dated this 16th day of NOVEMBER, A.D. 1972.


C. J. Kuiper
State Engineer

Number of Documents in Docket	76		
Documents Dated from	1/30/1954	to	10/24/1995
Docket Compiled:	1/31/2011		