



WATER-RIGHT DOCKET

Dinosaur National Monument

Docket No: 11

TWO UNNAMED SPRINGS.

Preliminary Docket Information

00-00-0000: water right record park: dino docket number: federal #11

WATER RIGHT RECORD

Park: DINO

Docket Number:
Federal #11

IDENTIFICATION NO: DINO, S, 35, 04, 24, B, F, 11,

DITCH/WATER SYSTEM:

SOURCE OF SUPPLY: Two unnamed springs

LOCATION: Sec. 35, T4S, R24E, SLB&M

WATER RIGHT:

Appropriator: United States of America, National Park Service

Application/Permit Number: 18048

Certificate Record Number: 5657

Date of Priority: October 2, 1958

Quantity of Water: 0.0421 c.f.s.

Purpose: Irrigation

Irrigated Land Description:

SUMMARY OF STATUS: This is a Federal water right consisting of two small springs, each feeding into a small reservoir.

This property, the former AuMiller land, is contiguous to Cub Creek. Doug Chew, owner of the downstream Daniels Ranch, owns water rights to Cub Creek. AuMiller obtained this certificate only because Chew did not protest his appropriation application as an interference with the Daniels water rights.

The above property was purchased by the U.S. on March 3, 1971, Deed #35.

For further correspondence pertaining to these water rights, see Federal #10.

State Water Rights Documentation

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Dinosaur National Monument
Artesia, Colorado 81610

ALIEN WATER RIGHTS
within
DINOSAUR NATIONAL MONUMENT

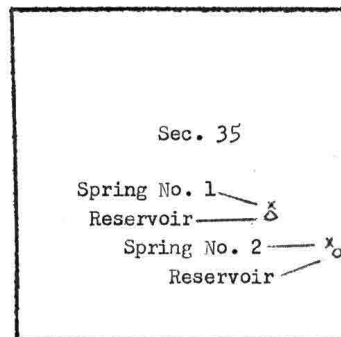
Application Number: 18048

Applicant: Harry AuMiller

Quantity; Use Period: 0.0421 sec. ft.; April 1 to October 30

Source: Two small springs, each feeding into a small reservoir

Point of Diversion: Spring No. 1 - North 30 degrees 01 minutes West
2387 feet from SE corner Section 35, Township 4
South, Range 24 East, SLB&M.
Spring No. 2 - North 12 degrees 30 minutes West
1457 feet from SE corner Section 35, Township 4
South, Range 24 East, SLB&M.



JUN 11 1958

ORIGINAL

CERTIFICATE OF APPROPRIATION OF WATER STATE OF UTAH

APPLICATION NO. 18048 CERTIFICATE NO. 5657
 NAME AND ADDRESS OF APPROPRIATOR HARRY AMILLER, JENSEN, UTAH
 SOURCE OF SUPPLY TWO UNNAMED SPRINGS IN JUNTAN COUNTY, UTAH; GREEN RIVER DRAINAGE AREA
 QUANTITY OF WATER FOUR HUNDRED TWENTY-ONE/TEN THOUSANDTHS (0.0421) SECOND- FOOT PRIORITY OF RIGHT OCTOBER 2, 1958
 PERIOD AND NATURE OF USE FROM APRIL 1 TO OCTOBER 30 INCLUSIVE OF EACH YEAR FOR IRRIGATION PURPOSES

Whereas, It has been made to appear to the satisfaction of the undersigned that the appropriation of water has been perfected in accordance with the Laws of Utah; Therefore, Be it known that I, WAYNE D. CRIDDLE the duly appointed, qualified and acting State Engineer, by authority of the Laws of Utah, do hereby certify that said appropriator is entitled to the use of water as herein set out, subject to prior rights, if any, for diversion and use as follows, to wit: The water appropriated is yielded by two unnamed springs hereinafter designated as Springs No. 1 and No. 2, the point of issuance, being the point of diversion described as follows: Spring No. 1, situated N30°01'W 2387.0 ft. from SE Cor. Sec. 35; Spring No. 2, situated N12°35'W 1457.0 ft. from SE Cor. said Sec. 35 T4S R24E SLEM. Of the water appropriated 0.0348 sec.-ft. is yielded by Spring No. 1 and conveyed Southerly by means of a small earth ditch 440.0 ft. to a division point, where 140.0 ft. of head ditch conveys the water to 0.23 acre of land hereinafter described for use as a sole supply. The water at times by-passes the division point and is conveyed Southerly 450.0 ft. by means of a small earth ditch to an equalizer constructed in and of earth and having a capacity of 0.18 acre-foot. The water is released as needed from the equalizer, conveyed therefrom an additional 80.0 ft. by ditch where the water is commingled in use on the land. Of the water appropriated 0.0073 sec.-ft. is yielded by Spring No. 2, conveyed therefrom Southerly by means of a small earth ditch 50.0 ft, where it is, at times, commingled with water appropriated under Application No. 27956. From said point of commingling, the water is conveyed an additional 100.0 ft. to an earth equalizer having a capacity of 0.014 acre-foot. From the equalizer the water is conveyed 50.0 ft. to point of use. The water appropriated is, during the aforesaid period, intermittently used to irrigate land embraced within E $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 35 T4S R24E SLEM, more definitely described as follows: 0.23 acre in NE $\frac{1}{4}$ SE $\frac{1}{4}$, 18.70 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ said Sec. 35. Total area irrigated is 18.93 acres. The water is incidentally used, during the entire year, to water 75 cattle, 10 swine and 100 fowl.

This certificate entitles the holder to use only sufficient water from all rights combined to constitute an economic duty without waste. The amount of water appropriated for incidental stock-watering is limited to an amount less than that appropriated for irrigation purposes.

The works employed in this appropriation are to be operated and maintained in such a manner and condition as will prevent waste of water.

In Witness Whereof, I have hereunto set my hand and affixed the seal of my office this 29th day of April 1959

Wayne D. Criddle
 Wayne D. Criddle STATE ENGINEER

Examined by 8/14/58 Harry Lee Jensen
 Date 8/14/58 Filed 8/14/58
 by David H. Hatcher

UPPER Sept 10 1958
 REINSTATED Oct 1 1958

Form F-146-9,000-Stanway

Application No. 18048

Application to Appropriate Water for Irrigation Purposes STATE OF UTAH

49-181

Do not fill out this blank until you have read carefully and thoroughly understand the Rules and Regulations on the back hereof and all the notes in the body of it, as well as the Rules and Regulations in pamphlet form promulgated by the State Engineer.

For the purpose of acquiring the right to use a portion of the unappropriated water of the State of Utah, for irrigation purposes, Application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of the Laws of Utah.

Note—The information given in the following blanks should be free from explanatory matter, but when necessary a complete supplementary statement should be made on the following page under the heading "Explanatory."

- The name of the applicant is HARRY AUMILLER
- The post-office address of the applicant is Jensen, Utah
- The quantity of water to be appropriated is 1.2 second-feet or 87.12 (See note on page 4)
- The water is to be used each year from April 1 (Month) (Day) to October 30 (Month) (Day) incl., and stored each year (if stored) from (Month) (Day) to (Month) (Day) incl.
- The drainage area to which the direct source of supply belongs is Green River (Leave blank)
- The direct source of supply is three unnamed springs (Name of stream or other source)
 which is tributary to Cub Creek tributary to Green River
 Note—Where water is to be diverted from a well, a tunnel, or a drain the source should be designated as "Underground Water" in the first space and the remaining spaces should be left blank. If the source is a stream, a spring, a spring area, so indicate in the first space, giving its name, if named, and in the remaining spaces, designate the stream channels to which it is tributary, even though the water may sink, evaporate, or be diverted before reaching said channels. If water from a spring flows in a natural surface channel before being diverted, the direct source should be designated as a stream and not a spring.
 (See note on page 4)

- The point of diversion from stream, spring, spring area, drain, well (flowing or pump), tunnel, or (Strike words not needed) is in Utah county, situated at a point

3.39 mi. 600 feet from the witness corner to the E. Corner Section 35, T4S, R24E, S.1. M. (NE 1/4 11-66 095 10 E from NE 1/4 35 T 4S R 24 E S 1 M)

Note—The point of diversion must be located definitely by course and distance or by giving the distance north or south and east or west, and described with reference to some United States land corner or United States mineral boundary, if within a distance of six miles of either or if at a greater distance, to some prominent and permanent natural object. (Also see note on page 4.)

No Application will be received in which the point of diversion is not described definitely. Any change made in this description after Application is received and before approved will bring down priority of Application to date when submitted to such of record in the State Engineer's office.

- The diverting and carrying works will consist of three ditches, a holding pond, and a small control gate (Strike words not needed)
- The cross section of the diverting channel will be (Strike words not needed)
- The diverting works and diverting channel will be constructed of earth, wood, iron, concrete. (Strike words not needed)
- The length of the diverting channel, exclusive of laterals, will be 2000 231.0 feet
- The top width of the diverting channel will be (if a ditch) 3 2 feet
- The bottom width of the diverting channel will be (if a ditch) 2 1 feet
- The depth of water in the diverting channel will be (if a ditch) 2 1.5 feet
- The width of the diverting channel will be (if a flume) feet
- The depth of water in the diverting channel will be (if a flume) feet
- The diameter of the diverting channel will be (if a pipe, including well) 2 11.2 inches
- The grade of the diverting channel will be three 1.22 vertical feet per thousand
- The legal subdivisions of the land to be irrigated are as follows: Parts of:
Section 35, and part of Section 36, T4S, R24E, S.1. M.

Note—If only part of legal subdivisions are to be irrigated the words "part of" should precede each description. Any change made in description of land area after application is received will bring down priority of application to date when amended application is received.

Total area to be irrigated is 80 10.92 acres

- The character of the soil in the above described tract of land is Mountain loam & sandy loam
- The character of the subsoil in the above described tract of land is gravelly

** set by original*

EXPLANATORY

The following additional facts are set forth in order to define more clearly the full purpose of the proposed appropriation. If additional space is required under this paragraph, sheets cut the same size as this form folded should be added identified as "Explanatory Continued."

Point of issuance of Springs are as follows: *Consider the point of Div.*

* *2887*
#1 N. ~~34° 20' W~~ *1153* ft. from ~~NE. cor.~~ *to the SE. cor.* Sec. 35, T4S, R24E.

* *2887*
#2 S. ~~32° 15' W~~ *552* feet from above witness corner *sec 35 T4S R24E*

The water from the above springs will be carried by ditches to a small holding pond; the outlet of which is described as the point of diversion. Part of the water from spring No. ~~2~~ will be carried in a pipe to dwelling and farmstead and used for culinary and stockwatering purposes *on the 60 acre spring.*

The flow of water is sufficient to supply the needs of the spring.

App. 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 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This page is not to be filled in by applicant)

State Engineer's Endorsements

- Dates,
10:25 A.M.
- 1 Sept. 5, 1946 Application received over counter ~~by mail~~ in State Engineer's office by L.S.M.
 - 2 Jan. 2, 1947 Priority of Application brought down to, on account of change of insurance
Sept. 2, 1948 legitimate in taking quantity of water
 - 3 Sept. 5, 1946 Fee for filing Application, \$2.50 Received by L.S.M. Rec. No. 15202
 - 4 Sept. 27, 1946 Application copied in book I-47, page 424-2, and indexed by LCM ig ICM
 - 5 Sept. 10, 1946 Application plotted by A.S.T.
 - 6 Jan. 23, 1947 Application examined by R.R.R.
 - 7 Nov. 19, 1946 Application returned with letter to applicant for correction
Jan. 12, 1947
 - 8 Jan. 1, 1947 Corrected Application resubmitted over counter ~~by mail~~ to State Engineer's office by mail
Jan. 13, 1947
 - 9 Jan. 23, 1947 Copy brought up to date (red inked) and placed in record book by LCM
 - 10 Jan. 23, 1947 Fee for publishing notice requested.
 - 11 Feb. 2, 1947 Fee for publishing notice \$10.00 Received by L.S.M. Receipt No. 16144
 - 12 Jan. 21, 1947 Application approved for advertisement by R.R.R. C. H. W.
 - 13 Mar. 5, 1947 Notice to water users prepared by R.R.R.
 - 14 Mar. 2, 1947 Publication began; was completed Apr. 10, 1947
Notice published in Verma's Express, Verma, etc.
 - 15 Mar. 17, 1947 Proof slips checked by R.R.R. Wm
 - 16 Apr. 24, 1947 Application protested by Anna B. Wallis by the J. Langston and Judge Wm
Apr. 28, 1947 Langston Chen by Wm W. Collins Verma etc.
 - 17 Jan. 16, 1947 Application designated for approval ~~rejection~~ by F.C.M.
 - 18 Jan. 14, 1947 Fee for approving Application requested R.R.R.
 - 19 Jan. 27, 1947 Application proofread by R.R.R. L.S.M.
 - 20 Jan. 27, 1947 Application ~~approved~~ rejected and returned to applicant

This Application is approved, subject to prior rights, if any, on the following conditions:

- 1 Actual construction work shall be diligently prosecuted to completion.
- 2 Proof of Appropriation shall be submitted to the State Engineer's office on Sept. 10, 1953.

Joseph M. Dray

Joseph M. Dray State Engineer.

- Time for making Proof of Appropriation extended to Sept. 10, 1954 Sept. 10, 1955
Sept. 10, 1956 Sept. 10, 1957 Sept. 10, 1958 Jan. 14, 1959
- 22 Aug. 10, 1953 Proof of Appropriation submitted.
 - 23 Aug. 10, 1953 Fee for filing Proof of Appropriation, \$1.00, rec'd by R.R.R. Rec. No. 4775
 - 24 Aug. 10, 1953 Fee for exam. maps, profiles and drawings, \$5.00, rec'd by R.R.R. Rec. No. 4775
 - 25 Aug. 10, 1953 Fee for issuing Cert. of Appropriation, \$1.00, rec'd by R.R.R. Rec. No. 4775
 - 26 Aug. 10, 1953 Certificate of Appropriation No. 4775 issued

I hereby certify that the foregoing is a true copy of the Application for appropriate water and of the endorsements thereon as shown by the records of my office on the date given below.

Salt Lake City, Utah,

State Engineer

Application No. 18048

RECEIVED

Application No. 18749

Application to Appropriate Water for Irrigation Purposes STATE OF UTAH

Do not fill out this blank until you have read carefully and thoroughly understand the Rules and Regulations on the back hereof and all the notes in the body of it, as well as the Rules and Regulations in pamphlet form promulgated by the State Engineer.

For the purpose of securing the right to use a portion of the unappropriated water of the State of Utah for irrigation purposes, Application is hereby made to the State Engineer, based upon the following statement, which is submitted in accordance with the requirements of the Laws of Utah.

Year: 1912. In reference to the following blanks should be true from explanatory matter, but when necessary explanatory statements should be made on the following page under the heading "Explanatory."

1. The name of the applicant is Harry A. Miller
2. The post office address of the applicant is Jeppson, Utah
3. The quantity of water to be appropriated is 0.8 second-feet or acre-feet
4. The water is to be used each year from April 1 to October 30 incl. and stored each year (if stored) from to incl.
5. The storage area to which the direct source of supply belongs is Green River
6. The direct source of supply is an unnamed spring (Name of stream or other source) which is tributary to Green River
7. The point of diversion from stream, spring, spring-run, drain, well, flowing or pump, tunnel, or other source is at the corner of the 36th Sec. 36, T. 24 N., R. 24 E., S. 4 N. (If the water is diverted from a well, a tunnel, or a drain, the source should be designated as "Under a well," "Under a tunnel," or "Under a drain," and the character of the source should be designated as "Under a well," "Under a tunnel," or "Under a drain," and in the remaining spaces designate the stream or other source to which it is diverted, and the water may sink, evaporate, or be diverted before reaching said channel. If water from a spring flows in a natural surface channel before being diverted, the direct source should be designated as a stream, and not a spring.) (Reg. note on page 4)
8. The diverting and carrying works will consist of temporary earth dam and a ditch
9. The cross section of the diverting channel will be 4 ft
10. The diverting works and diverting channel will be constructed of earth, stone, or concrete
11. The length of the diverting channel, exclusive of laterals, will be 4000 feet
12. The top width of the diverting channel will be (if a ditch) 4 feet
13. The bottom width of the diverting channel will be (if a ditch) 2 feet
14. The depth of water in the diverting channel will be (if a ditch) 1 feet
15. The width of the diverting channel will be (if a flume) feet
16. The depth of water in the diverting channel will be (if a flume) feet
17. The diameter of the diverting channel will be (if a pipe, excluding well) inches
18. The grade of the diverting channel will be 3 feet per thousand
19. The legal subdivisions of the land to be irrigated are as follows: parts of the 36th Sec. 36, T. 24 N., R. 24 E., S. 4 N.

Note: If only part of a legal subdivision is to be irrigated, the owner, tenant, or possessor of said subdivision should be named, and the portion of the subdivision to be irrigated should be designated. If the entire subdivision is to be irrigated, the owner, tenant, or possessor of said subdivision should be named.

Total acre to be irrigated is 80 acres

The character of the water is surface

The character of the natural or the above described tract of land is irrigable

EXPLANATORY

The following additional facts are set forth in order to define more clearly the full purpose of the proposed appropriation. If additional space is required under this paragraph, please cut the same size as this form, which should be added identical to this explanatory statement.

The water from spring described in this application will be used in connection with water from 3 other springs described in Application No. _____ to irrigate lands owned by applicant described in this application. Water will be diverted from spring by means of a ditch and carried to the place of use.

/s/ Harry L. Miller
Signature of Applicant

*If applicant is a corporation or other organization, applicant must be in the nature of said corporation or organization before the proper official of such corporation. The officer of such kind must be filed in. If there are more than one applicant, a joint or separate statement may be filed for all applicants. The applicant.

STATE OF UTAH

County of _____

On this _____ day of _____, 19____, I, _____, personally appeared before me, a notary public and notary of Utah, the above applicant who, on oath declared that he is a citizen of the United States.

My commission expires _____, 19____. _____, Notary Public.



THE STATE OF UTAH
OFFICE OF STATE ENGINEER
SALT LAKE CITY
October 7, 1946

ED. H. WATSON
State Engineer

NOTICE TO WATER USERS.

The following applications have been filed with the State Engineer to appropriate water in Utah County, State of Utah, throughout the entire year, unless otherwise designated, all locations being from S.L.W.M.

18029-Harry Ausbiller, Jensen, Utah, 0.8 sec. ft. for spring water from an unnamed spring tributary to Cub Creek to Green River at a point N. 68 deg. 08' E. 1142 ft. from Wilson Corner for the W. 14 Cor. Sec. 36, Twp. 4 S., R. 24 E., S. 24 N. 24 E. said Wilson Corner being located S. 1 deg. 08' E. 7856 ft. from W. 14 Cor. Sec. 36, Twp. 4 S., R. 24 E. The diverting and carrying works will consist of an earth dam and 4000 ft. of ditch and the water will be used from April 1 to Oct. 30 to irrigate 80 acres of land contained in Secs. 35 and 36, Twp. 4 S., R. 24 E.

Protests relating the granting of any of the foregoing applications, with reasons therefor, must be in affidavit form with extra copy and filed with the State Engineer, 405 State Capitol, Salt Lake City 1, Utah, on or before March 15, 1947.

ED. H. WATSON
State Engineer
J16F12

RE: APPLICATION No. 18029 (11-47, p. 478)

Memorandum for Office Study Only, by A. E. REDDEN

APPLICANT: Harry Ausbiller, Jensen, Utah.

SOURCE: An Unnamed Spring, tributary to Cub Creek to Green River.

QUANTITY: 0.8 sec. ft. of water to be used to irrigate 80 acres of land located in parts of Secs. 35 and 36, Twp. 4 S., R. 24 E., S. 24 N. 24 E.

RECEIVED: Sept. 5, 1946.

COMMENT: It is proposed to appropriate 0.8 sec. ft. of water from an unnamed spring, tributary to Cub Creek, to Green River at a point N. 68°05' E. 1142 ft. from Wilson Corner of the W. 14 Cor. Sec. 36, T. 4 S., S. 24 N. 24 E., said Wilson Corner being located 11,556 chs. S. 1° 8' E. from W. 14 Cor. Sec. 36, T. 4 S., S. 24 N. 24 E., S.L.W.M. The diverting and carrying works will consist of an earth dam and 4000 ft. of ditch and the water will be used from April 1 to October 30 to irrigate 80 acres of land located in parts of the Secs. 35 and 36, T. 4 S., S. 24 N. 24 E., S.L.W.M.

There is no other point of diversion within 11 miles of this application, said application being located approximately four miles north and nine miles east of Jensen.

It is recommended that the Application be advertised.

REB/vn

3/13/47

NOTICE TO WATER USERS PUBLISHED in Vernal Express, Vernal Utah from January 16 to February 27, 1947.

PROTEST OF DOUGLAS CHASE: Received March 10, 1947.

Protestant alleges that the source of water involved is a spring from which protestant takes irrigation water under a right established prior to 1888 and that on April 6, 1916 by a decree of the Fourth Judicial Court for Uintah County, applicant's predecessors-in-interest, E. H. Morris, Josie Morris, and Crawford MacKnight and their successors in interest were "perpetually enjoined, debarred and prohibited from obstructing the waters of the said Cub or Daniels Creek and its tributaries, and feeding surface, or any portion thereof,....and from diverting therefrom in any manner or at any place or point, so as to affect the flow of the water of the

APPLICATION NO. 18046 (I-47, p. 428)

said Cub or Daniels Creek, to, through or over the land of the plaintiff, F. B. Daniels (protestant's predecessor in interest) between the 10th day of April and the 10th day of November of each year.

Protestant further alleges that if the application is granted, it will interfere with the water rights owned by protestant.

RCC/vm

W.F.H.

2/5/47

ANSWER TO PROTEST, RECEIVED April 9, 1947. Applicant alleges that the decree, dated April 6, 1916, does not affect the status of the flow of said spring water since the decree was entered as it pertains to the water sought to be appropriated. Applicant denies that the protestant has used all of the water continuously since the date of the decree, applicant also alleges that the water sought to be appropriated is tributary to Cub Creek, but that the water has not reach Cub Creek during the irrigation season since 1916, and that the right so decreed has been abandoned by the protestant and that the said water sought to be appropriated has been used by the applicant and his predecessors for more than 20 years for irrigation purposes.

REPLY TO ANSWER, RECEIVED April 28, 1947

Protestant denies the allegations of the applicant and alleges that the water sought to be appropriated is tributary to Cub Creek or Daniels Creek, and that said water during the irrigation season does reach the land of the protestant, and that it has been in use for irrigation purposes. Protestant also denies that the water has been abandoned by the protestant.

Recommendation: It is recommended that a field examination be made before setting a date for hearing.

2/5/47

2/5/47

2/5/47

On July 7, 1949, J. A. Ward and the writer contacted Harry AuMiller, and visited the springs in question.

The protestant, Douglas Chew, was contacted at his ranch after returning from the springs, and the matter was quite clearly discussed with both the applicant and the protestant. The springs arise in a mountain meadow adjacent to Cub Creek about 10 miles northwest of Hatch, Utah. The three unnamed springs, under Application No. 18046, are small seeps that quickly sink into the alluvium a short distance from their point of emergence. The unnamed spring, described under Application No. 18049, was flowing about 1/3 of a sec. ft. at the time of the visit. Ditches have been constructed to convey the water from the upper spring to the meadow land adjacent to Cub Creek now owned by the applicant. There is no evidence of any ditch conveying the water from the upper spring directly to Cub Creek.

RE: APPLIC. NO. 18049 (I-47, p. 428) -3-

7/18/49 Continued

The matter of past use was discussed with an elderly lady named Dora Morris, and her sister Ann B. Willis - the latter appeared as protestant in the matter of Application No. 18048. Mrs. Morris stated that she has used the water on this property from about 1912 to 1940, - at which time the property was sold to Harry AnMiller. She claims that for the first few years the water was used adversely, and this use continued until a court decree was issued, and in about 1915, the stated decree allowed all of the water from the springs to the owner of the so-called Daniels ranch. It was her understanding that the Daniels ranch had established a diligence right from Dub Creek about 1885. She claimed that after the court decree and after the land was sold to an individual by the name of Hardy, she continued use of the water by permission. On questioning, she admitted that the arrangement was purely verbal until the present owner of the Daniels ranch, Douglas Chew, acquired the property.

In discussing the matter with Douglas Chew, he confirmed past use of the water by Mrs. Morris and stated that he had no particular interest in Application No. 18048, and would not object to its approval. He definitely does object to Application No. 18049 for the reason that the spring does contribute materially to Dub Creek, which is his chief source of water for irrigation purposes. His ranch at the present time shows evidence of diligence and the effective use of water. Part of the ranch is irrigated with water pumped from Green River, but the water from Dub Creek is utilized to the fullest possible extent.

CNR/ig

C.N.R.

9/27/50

On Friday, September 22, 1950, the writer contacted Harry AnMiller, the applicant, at the Dinosaur Monument. He stated that an agreement had been reached with protestant on these applications and that it was not likely that an agreement could be reached. He was informed that on the basis of the evidence now at hand, Application No. 18048 might be approved since the water does not contribute to Dub Creek by direct surface flow, and that the proposed use would not materially decrease any contribution to Dub Creek, but that Application No. 18049 should be rejected for the reason that this source does contribute materially to Dub Creek, which water is covered by a decree.

The applicant requested that application be held until spring, 1951, when time he will contact his attorney and endeavor to submit further evidence to this office.

CNR/ig

Mr. Harry Auldler
Jensen, Utah

Mr. Knox Patterson
Attorney-at-Law
203-5 Boston Building
Salt Lake City, Utah

Mr. Hugh S. Colton
Attorney-at-Law
Vernal, Utah

Mr. Douglas Chew
Vernal, Utah

Gentlemen:

RE APPLICATION NO. 18049

This letter will advise the applicant and protestant of the action taken by the State Engineer relative to the above numbered application.

Application No. 18049 was filed in the State Engineer's Office September 5, 1916. It proposes to appropriate .8 cuse-ft. of water from an unnamed spring, tributary to Cub Creek in Uintah County for irrigation purposes.

Notice to Water Users was published in the Vernal Express, Vernal, Utah, in the manner and for the period prescribed by law.

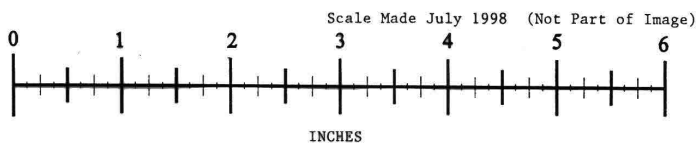
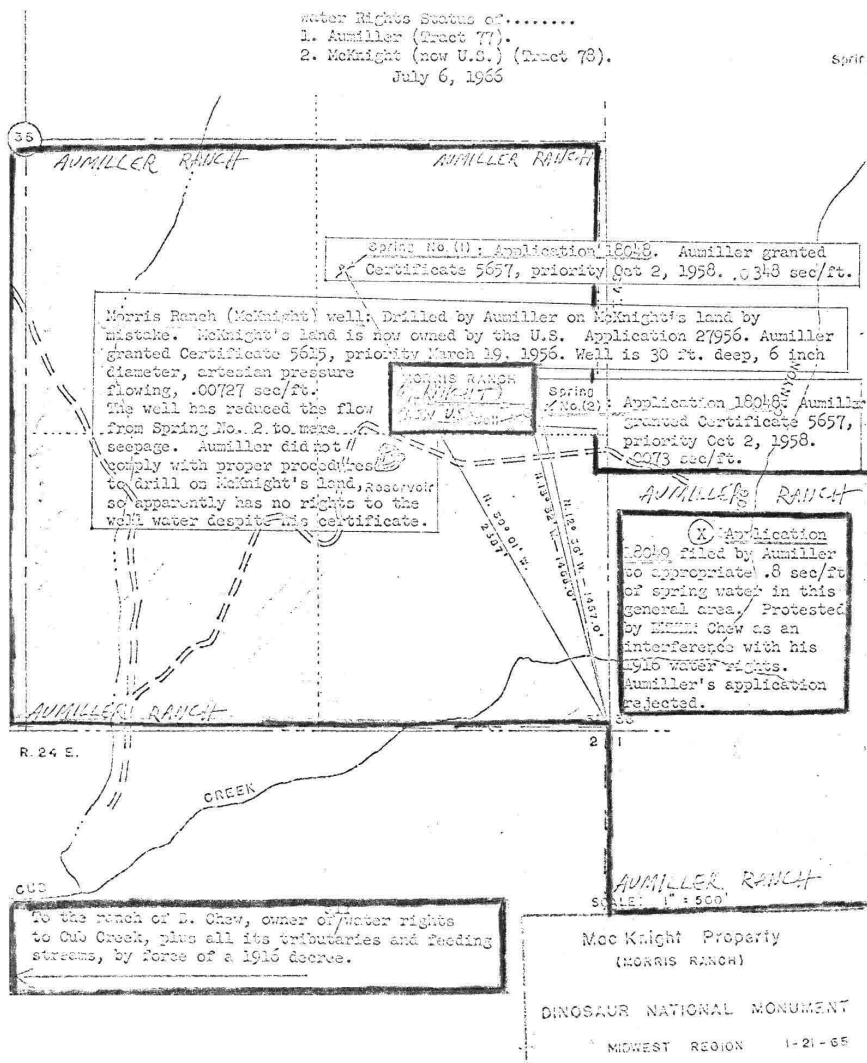
The application was protested by Douglas Chew on the grounds that he is the owner of right to the use of the waters of Cub Creek, said right being established by diligence prior to 1880 and confirmed by court decree dated April 6, 1916; that said spring was tributary to Cub Creek and that the proposed diversion will interfere with his established rights.

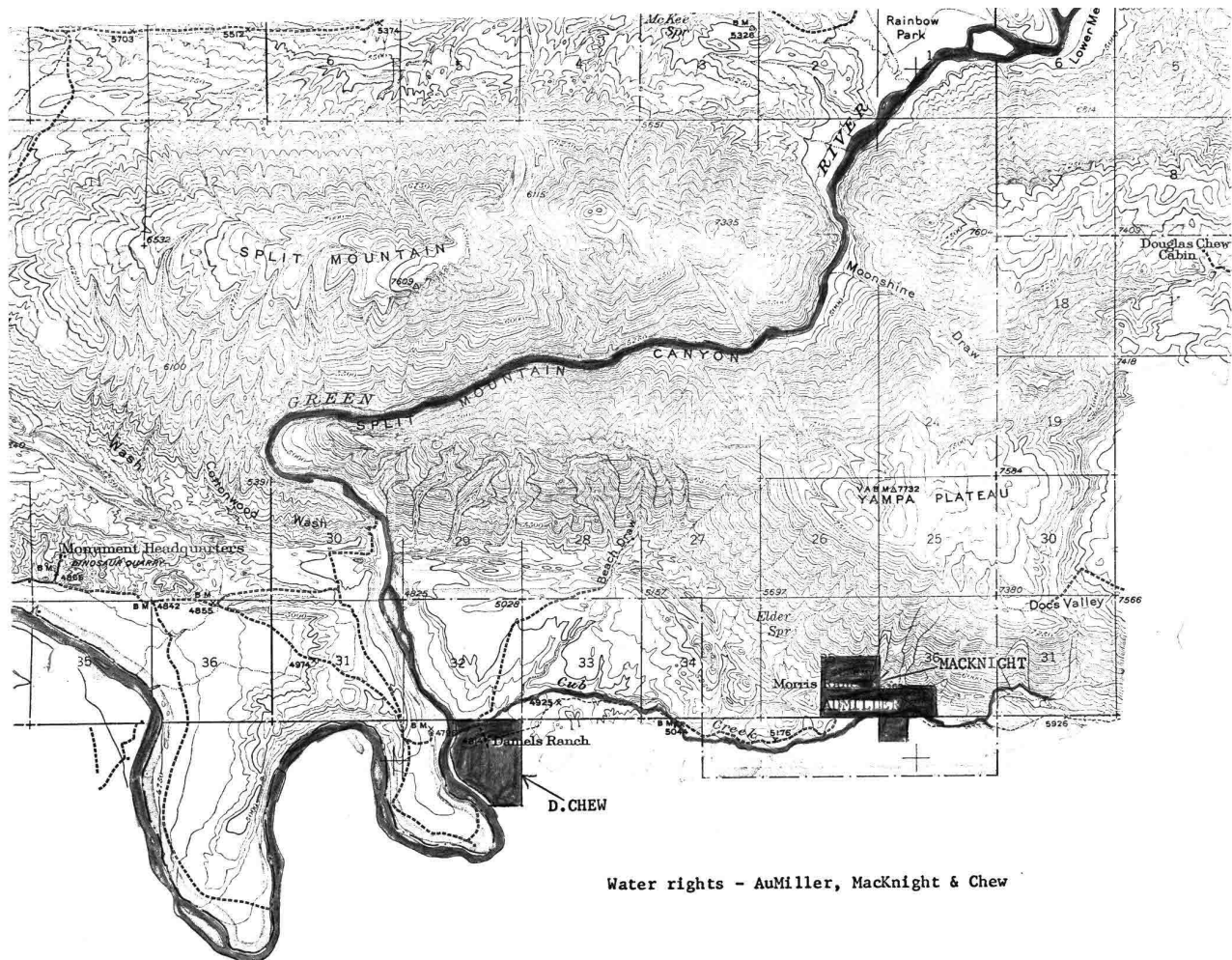
A field examination reveals that the spring in question does contribute materially to the flow of the creek and, therefore, is considered as included in the decree of April 6, 1916, which awarded to H. S. Jendala, protestant's predecessor-in-interest, the use of all of the waters flowing in that certain stream designated and commonly known as "Cub Creek", and as well, all of its tributaries and feeding springs between the 15th day of April and the 15th day of November of each and every year, and of sufficient of the waters of said stream for domestic and culinary purposes during the remainder of the year.

On the basis of this decree, it would appear that there is no unappropriated water available for the applicant, and that the proposed diversion and use would interfere with established rights. Therefore, Application No. 18049 is rejected, as of this date, and the application so returned, is returned to the applicant.

REJECT

RECEIVED





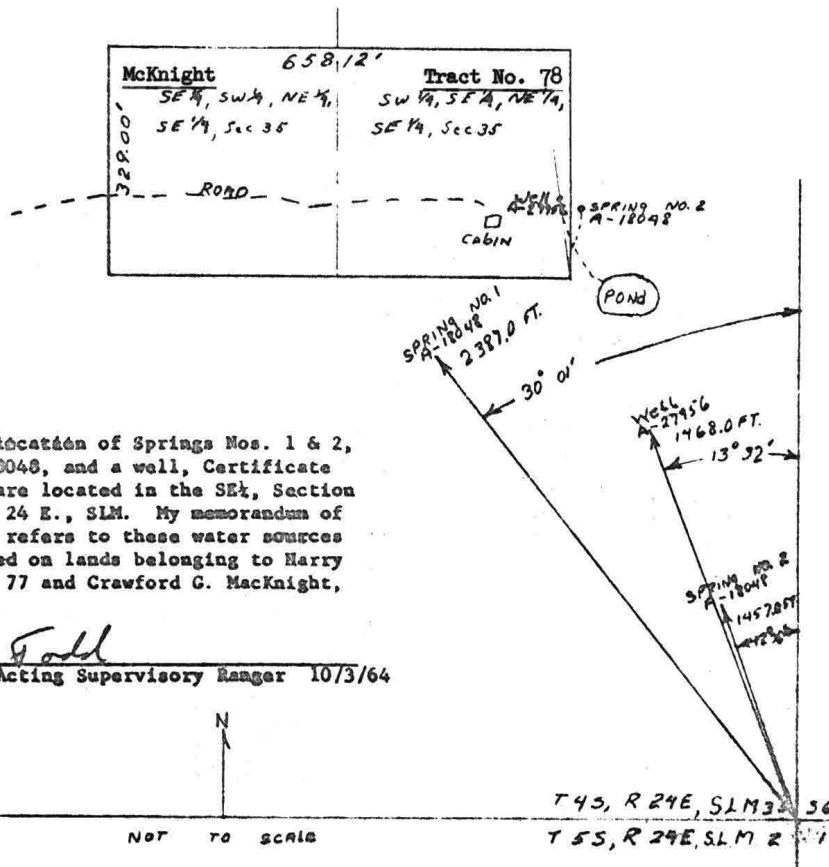
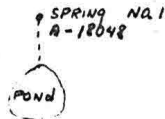
Water rights - AuMiller, MacKnight & Chew

~~CRAWFORD, MACKNIGHT~~

Harry Aumiller

TRACT NO. ~~88~~ 77

WATER SOURCES



Sketch showing location of Springs Nos. 1 & 2, Certificate A-18048, and a well, Certificate A-27956, which are located in the SE 1/4, Section 35, T. 4 S., R. 24 E., SLM. My memorandum of October 3, 1964 refers to these water sources which are located on lands belonging to Harry Aumiller, Tract 77 and Crawford G. MacKnight, Tract 88.

James W. Todd
James W. Todd, Acting Supervisory Ranger 10/3/64



DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Dinosaur National Monument
Dinosaur, Colorado 81610

December 10, 1965

IN REPLY REFER TO:

L1425 DINO(OL)

Memorandum

To: Regional Director, Midwest Region
From: Superintendent, Dinosaur
Subject: Land Acquisition, Tract ~~IX~~ 01-109

Mr. A. G. ...	
Mr. B. G. ...	
Mr. C. G. ...	
Mr. D. G. ...	
Mr. E. G. ...	
Mr. F. G. ...	
Mr. G. G. ...	
Mr. H. G. ...	
Mr. I. G. ...	
Mr. J. G. ...	
Mr. K. G. ...	
Mr. L. G. ...	
Mr. M. G. ...	
Mr. N. G. ...	
Mr. O. G. ...	
Mr. P. G. ...	
Mr. Q. G. ...	
Mr. R. G. ...	
Mr. S. G. ...	
Mr. T. G. ...	
Mr. U. G. ...	
Mr. V. G. ...	
Mr. W. G. ...	
Mr. X. G. ...	
Mr. Y. G. ...	
Mr. Z. G. ...	

Handwritten: WOK

Handwritten: memo to Supt. 12/17/65

Deed #35
Purchased 3-3-71
\$27,200.00
271.99 acres

Harry AuMiller, owner of Tract 77, Cub Creek vicinity visited our office November 26, and asked if any action had been taken to acquire his property. Mr. AuMiller was advised conditions had not changed since August 1964 when Superintendent Semingsen offered to purchase the 271.99 acre tract for \$16,000.00. Mr. AuMiller replied his rock bottom price is still \$25,000. The July 18, 1963 appraisal of Tract ~~77~~⁰¹⁻¹⁰⁹ establishes a market value of \$14,500. Our offer of \$16,000 made on several occasions, is tops.

Mr. AuMiller has personally suggested (to Superintendent Semingsen, August 1964, and to Chief Ranger Jones November, 1965) friendly condemnation proceedings be instituted to acquire these properties. He no doubt believes court action would net a higher price.

Tract ~~77~~⁰¹⁻¹⁰⁹ is urgently needed to permit planning and development of camping and other public use facilities at Cub Creek. Completion of the first segment of the Quarry to Blue Mountain road this fall has placed Mr. AuMiller's property within 2-1/2 miles of an excellent surfaced road suitable for all year travel. A usable dirt road to the property makes sale of the tract, to speculators or commercial interests, feasible and Mr. AuMiller would like to sell.

The public should not be deprived of ownership, development or use of Cub Creek. Ownership of Tract ~~77~~⁰¹⁻¹⁰⁹ is essential to assure adequate camping and recreational opportunities in Dinosaur National Monument. We favor immediate eminent domain proceedings to protect the public interest and urge your concurrence. We also urge detail of a land acquisition officer to this area to assist with development of data and guidance in initiating court action.

Other properties within Dinosaur National Monument have been approved for acquisition during the past three years; have been appraised and negotiations conducted without success. Two properties - the Mantle and the Chew - are critical. Acquisition of these properties is essential for road construction

to and development of the Echo Park vicinity. We believe condemnation of the AuMiller tract may favorably influence negotiations with other property owners.

Dinosaur's land acquisition program is complex and during Forester Barrows tenure received nearly full time attention. With his retirement, Chief Ranger Jones and myself give the work a good share of our time. However, we cannot devote the attention warranted to assure expeditious handling of detail. Colorado State University cites Dinosaur as one of the most complex land acquisition problems of the Service. Land Management classes make studies of it because of the complexity.

We are slipping behind. Lands authorized for acquisition in 1964, 1965 and 1966 fiscal years remain in private ownership. Development requirements are not being met. Eminent domain proceedings on Tract ⁰¹⁻¹⁰⁹77 may well be the push needed to put us in motion.



Daniel J. Tobin, Jr.
Superintendent

In dup.

Dinosaur National Monument
Artesia, Colorado

L54

December 18, 1964

Memorandum

To: Maynard Barrows

From: Supv. Park Ranger Todd

Subject: Information obtained from Utah State Engineer concerning
what took place prior to issuance of water right certificates
to AuMiller in 1958 and 1959 on application numbers 18048
and 27956

On September 5, 1946, Mr. Harry AuMiller filed application numbers 18048 for appropriation of water from three unnamed springs in the Cub Creek drainage area. Two of these springs were approved on April 29, 1959, as shown by application number 18048 and certificate number 5657, which your office has on file. The third spring originally filed for under this application was eventually disregarded by Mr. AuMiller and removed from the application by the State Engineers office.

On the same filing date as above, September 5, 1946, Mr. AuMiller also filed application number 18049 for appropriation of 0.8 second-feet of water from a spring located NE from the above springs in a canyon now known as Hog Canyon.

Notice to water users regarding application number 18049 was published in the Vernal Express from January 16 to February 13, 1947. Notice regarding application number 18048 was published in the same newspaper from March 13 to April 10, 1947.

March 10, 1947, protest was filed by Douglas Chew regarding application number 18049. *Hog Canyon*

April 26, 1947, protest was filed by Ann B. Willis regarding application number 18048. Grounds for protest was on the basis of domestic use of the water in question by Ann B. Willis and her sister, Josie Morris. Water was used by verbal permission from Douglas Chew and was not appropriated by the State Engineer. This protest was dismissed as invalid by the State Engineer.

With this review of preceding events, the following reasons for rejection of application number 18049 and approval of 18048 are submitted, as written in the record on application number 18049 and which is quoted as follows:

"Protest of Douglas Chew: Received March 10, 1947. Protestant alleges that the source of water involved is a spring from which protestant takes irrigation water under a right established prior to 1888 and that on April 6, 1916 by a decree of the Fourth Judicial Court for Uintah County, applicants predecessors-in-interest, M. B. Morris, Josie Morris, and Crawford MacKnight and their successors in interest were perpetually enjoined, debarred and prohibited from abstracting the waters of the said Cub or Daniels Creek, and its tributaries, and feeding springs, or any portion thereof . . . and from diverting therefrom in any manner or at any place or point, or as to effect the flow of the water of the said Cub or Daniels Creek, to, through or over the lands of the plaintiff, E. B. Daniels (protestants predecessor in interest) between the 10th day of April and the 10th day of November of each year."

"Protestant further alleges that if the application is granted, it will interfere with the water rights owned by protestant."

"Answer to protest, received: April 9, 1947. Applicant alleges that the decree, dated April 6, 1916, does not affect the status of the flow of said spring water since the decree was entered as it pertains to the water sought to be appropriated. Applicant denies that the protestant has used all of the water continuously since the date of the decree, applicant also alleges that the water sought to be appropriated is tributary to Cub Creek, but that the water has not reached Cub Creek during the irrigation season since 1916, and that the right so decreed has been abandoned by the protestant and that the said water sought to be appropriated has been used by the applicant and his predecessors for more than 20 years for irrigation purposes."

"Reply to answer, received April 28, 1947. Protestant denies the allegations of the applicant and alleges that the water sought to be appropriated is tributary to Cub Creek or Daniels Creek, and that said water during the irrigation season does reach the land of the protestant, and that it has been in use for irrigation purposes. Protestant also denies that the water has been abandoned by the protestant."

"Recommendation: It is recommended that a field examination be made before setting a date for hearing."

"On July 7, 1949, J. A. Ward and the writer contacted Harry AuMiller, and visited the springs in question."

"The protestant, Douglas Chew, was contacted at his ranch after returning from the springs, and the matter was quite clearly discussed with both the applicant and the protestant. The springs arise in a mountain meadow adjacent to Cub Creek about 10 miles northeast of Jensen, Utah. The three unnamed springs, under Application No. 18048, are small seeps that quickly sink into the alluvium a short distance from their point of emergence. The unnamed spring, described under Application No. 18049, was flowing about 1/3 of a sec. ft. at the time of the visit."

Ditches have been constructed to convey the water from the upper spring to the meadow land adjacent to Cub Creek now owned by the applicant. There is no evidence of any ditch conveying the water from the upper spring directly to Cub Creek."

"The matter of past use was discussed with an elderly lady name Josie Morris, and her sister Ann B. Willis - the latter appeared as protestant in the matter of Application No. 18048. Mrs. Morris stated that she has used the water on this property from about 1912 to 1944 - at which time the property was sold to Harry AuMiller. She claims that for the first few years the water was used adversely, and this use continued until a court decree was issued, and in about 1915, the stated decree allowed all of the water from the springs to the owner of the so-called Daniels ranch. It was her understanding that the Daniels Ranch had established a diligence right from Cub Creek about 1885. She claimed that after the court decree and after the land was sold to an individual by the name of Hardy, she continued use of the water by permission. On questioning, she admitted that the arrangement was purely verbal until the present owner of the Daniels ranch, Douglas Chew, acquired the property."

"In discussing the matter with Douglas Chew, he confirmed past use of the water by Mrs. Morris and stated that he had not particular interest in Application No. 18048, and would not object to its approval. He definitely does object to Application No. 18049 for the reason that the spring does contribute materially to Cub Creek, which is his chief source of water for irrigation purposes. His ranch at the present time shows evidence of diligence and the effective use of water. Part of the ranch is irrigated with water pumped from Green River, but the water from Cub Creek is utilized to the fullest possible extent."

"On Friday, September 22, 1950, the writer contacted Harry AuMiller, the applicant, at the Dinosaur Monument. He stated that no agreement had been reached with protestant on these applications and that it was not likely that an agreement could be reached. He was informed that on the basis of the evidence now at hand, Application No. 18048 might be approved since the water does not contribute to Cub Creek by direct surface flow, and that the proposed use would not materially decrease any contribution to Cub Creek, but that Application No. 18049 should be rejected for the reason that this source does contribute materially to Cub Creek, which water is covered by a decree."

"The applicant requested that action be withheld until spring, within which time he will contact his attorney and endeavor to submit further evidence to this office."

January 16, 1952: letter of rejection on application No. 18049, as written by the Utah State Engineer:

"This letter will advise the applicant and protestant of the action taken by the State Engineer relative to the above numbered application."

"Application No. 18049 was filed in the State Engineer's Office September 5, 1946. It preposes to appropriate .8 sec.-ft. of water from an unnamed spring, tributary to Cub Creek in Uintah County for irrigation purposes."

"Notice to water users was published in the Vernal Express, Vernal, Utah, in the manner and for the period prescribed by law."

"The application was protested by Douglas Chew on the grounds that he is the owner of right to the use of the waters of Cub Creek, said right being established by diligence prior to 1888 and confirmed by court decree dated April 6, 1916; that said spring was tributary to Cub Creek and that the proposed diversion will interfere with his established rights."

"A field examination reveals that the spring in question does contribute materially to the flow of Cub Creek and must, therefore, be considered as included in the decree of April 6, 1916, which awarded to E. B. Daniels, protestant's predecessor-in-interest, the use of all of the waters flowing in that certain stream designated and commonly known as 'Cub Creek', and as well, all of its tributaries and feeding springs between the 10th day of April and the 10th day of November of each and every year, and of sufficient of the water of said stream for domestic and culinary purposes during the remainder of the year."

"On the basis of this decree, it would appear that there is no unappropriated water available for the applicant, and that the proposed diversion and use would interfere with established rights. Therefore, Application No. 18049 is rejected, as of this date, and the application so endorsed, is returned to the applicant."

Regarding the well under Application 27956, issued December 19, 1958, no protests were filed after submission of the application with the State Engineer on March 19, 1956. However, mention was made of the court decree of 1916 and the controversy encountered over application numbers 18048 and 18049. Without protest by the owner of a decree, approval of a water right application by the State Engineer will be made, as was the case in this situation.

In conjunction with this, two additional applications have been filed with the State Engineer for appropriation of water in the Cub Creek drainage. The first on April 8, 1953, application No. 24772, by Stanford R. Mahoney, for 1000 acre-feet of water. The second on April 11, 1953, application No. 24784, by Josie Morris, for 1.8 second-feet of water. Both of these applications were protested with subsequent rejection by the State Engineer. Reasons for rejection, as quoted from the record, on application numbers 24772 and 24784:

"As to the latter of the two applications named above, a decree on Cub Creek dated April 6, 1916, together with recent deeds, would not only estop this applicant from proceeding but would negative the existence of unappropriated water."

"As to the earlier application, it is clear that the application was filed for purposes of monopoly and speculation and that it cannot meet the statutory requirements for approval. January 8, 1960."

We hope this information will answer the remaining questions concerned with the legality of water right certificates now held by AuMiller.



James W. Todd
Supv. Park Ranger

Enclosures: Application Number 18049
" " 24772
" " 24784



UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Dinosaur National Monument
91 West Main, Vernal, Utah

IN REPLY REFER TO:

L1425

(AuMiller)

(MacKnight)

December 12, 1962

Reg. Director	
Admin. Asst.	
Asst. to R. D.	
Asst. Dir.	
Cons. Intell.	
Res. Plan.	
Reg. Comm.	
Info. & Pubs.	
Rec. Mgmt.	
File	

Acron taken 12/17/62 memo & Director - a. d. Dept. Sec. v.

Memorandum

To: Regional Director, Midwest Region

From: Superintendent, Dinosaur

Subject: Request to Appraise Tract 77, 271.99 Acres, Harry A. AuMiller, and Tract 78, 5 acres, Crawford MacKnight, Within Dinosaur National Monument

On December 10, Mr. AuMiller came into our office and stated he would like to sell and we explained it was necessary to have his land appraised before negotiations could be undertaken. While Mr. AuMiller desires a rather high price of about \$100 per acre we believe he will agree to sell at a more reasonable figure. This tract is a strategic one as it is the best location in the Monument for a campground along the proposed road from the Quarry to Blue Mountain and Harpers Corner. Vegetation is desirable for such an installation with good grass, cottonwood trees, several flowing springs and Cub Creek running through part of the tract. There are a number of petroglyphs in the area and it was included within the Monument boundary in 1960 for this reason and because of its suitability for campground purposes.

Acquisition would eliminate the grazing of 150 sheep from May 1 to Oct. 31, and would stop possibilities of subdivision. Mr. AuMiller says a retired school teacher has been living in a trailer on his place the past two summers and now is trying to interest a group in buying the tract for vacation homesite development. This is the second time Mr. AuMiller has contacted us about selling and he readily gave permission for appraisal of the tract which is partially fenced and has two small buildings and an irrigated field of 20 or 30 acres.

A five acre plot within the AuMiller land now belongs to Crawford MacKnight having been deeded to him in 1959 by Josie Morris. Josie is 89 or 90 years old and lives alone in her cabin on the MacKnight tract throughout the year. She wishes to live here the rest of her life and so we discussed the possibility of a sale with Mr. MacKnight with a provision of life tenure to Josie. He agreed to an appraisal of the tract and commented that Josie may not live through the winter unless they are able to move her to a town or city during the cold part of the year.

C.C. MAILED TO	Dir. R.
BY	DATE 12/27/62

We estimate the two tracts can be appraised for \$150 by doing this work at the same time scenic easements are evaluated as requested in our memorandum of Nov. 21. Accordingly we request authority to appraise Tracts 77 and 78.


Carl M. Semingsen
Superintendent

In dupl.

Docket Information

Number of Documents in Docket 27

Documents Dated from 10/2/1958 to 12/10/1965

Docket Compiled: 3/9/2011