



WATER-RIGHT DOCKET

Capitol Reef National Park

Docket No: 3

FREMONT RIVER, HEADQUARTERS AREA

State Water Rights Documentation

03-28-2002: Letter to Chief, WRB from Utah Dept of NR regarding Request for extension of time



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Kathleen Clarke
Executive Director

Robert L. Morgan
State Engineer

1594 West North Temple, Suite 220
PO Box 146300
Salt Lake City, Utah 84114-6300
801-538-7240
801-538-7467 (Fax)

March 28, 2002

USA National Park Service
CHIEF WATER RIGHTS BRANCH
1201 Oak Ridge Drive
Fort Collins, CO 80525

Dear Applicant:

RE: 95-544 (a19741)

Request for extension of time in which to submit Proof of Beneficial Use contemplated by the above-numbered water right has been considered and the time for receiving Proof of Beneficial Use is hereby extended to January 31, 2005.

This extension is granted in accordance with the law which states: 'The construction of the works and the application of water to beneficial use shall be diligently prosecuted to completion within the time fixed by the state engineer. Extensions of time... may be granted by the state engineer on proper showing of diligence or reasonable cause of delay... In the consideration of an application to extend the time in which to place the water to beneficial use under an approved application,... the state engineer shall deny such extension and declare the application lapsed, unless the applicant affirmatively shows that he has exercised or is exercising reasonable and due diligence in working toward completion of the appropriation.'

I earnestly recommend that you complete your development and submit Proof of Beneficial Use at the earliest possible date.

Utah water law provides that to maintain a water right's validity, the water must be beneficially used. The filing of a change application does not excuse placing the water to beneficial use or protect the right from the challenge of partial or total forfeiture.

If needed, please contact the RICHFIELD Regional Office.
The telephone number is (801)-896-4429.

Yours truly,

Jerry D. Olds, P.E.
State Engineer

E X T E N S I O N G R A N T E D

RLM:dd

IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF UTAH DIVISION OF WATER RIGHTS
REQUEST FOR REINSTATEMENT AND EXTENSION OF TIME **JAN 29 2002**
(Before Fourteen Years)

WATER RIGHT NO. **95-544 (a19741)**APPLICANT: **USA National Park Service**STATE OF UTAH
COUNTY OF**Wayne**CHIEF WATER RIGHTS BRANCH
1201 Oak Ridge Drive
Fort Collins, CO 80525

FEB - 4 2002

RICHFIELD AREA
RECEIVED
WATER RIGHTS
SALT LAKE

I, Albert J. Hendricks, Superintendent of Capitol Reef National Park, being first duly sworn that he or she is the (agent of the) owner of the above number application; that the information given is true and correct to the best of his or her knowledge.

Describe briefly the type, extent, and cost of construction completed to date, and the estimated cost of any remaining construction to complete the project and to submit **PROOF of BENEFICIAL USE**. Give reasons why the work could not be completed and water put to beneficial use within the time allowed.

Right No. 95-544 (a19741) is a Change Application to add an additional source of water

(underground water well) and point of diversion under Right NO. 95-544, (a4187),

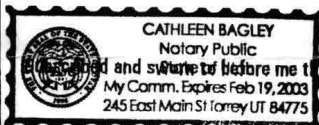
Certification a462. The well and associated diversion works are in place and operational.

Additional time is needed to develop supporting documentation required for proof of

Beneficial Use.

Pursuant to Section 73-3-12, Utah Code Annotated 1953 (as amended), request is made for **REINSTATEMENT** and **EXTENSION OF TIME** for filing proof from

January 31, 20 02 to January 31, 20 04.



APPLICANT (if a corporation, give title of officer signing)

28th day of January, 20 02.

Cathleen Bagley
NOTARY PUBLIC

FOR OFFICE USE ONLY	
CR# 004240	
\$25 FEE RECD. 2-5-02	BY KKH RECEIPT NO. 02-00472 COMPUTER ☒
PROOF DUE DATE: January 31, 2002	14 YEAR PERIOD ENDS: August 9, 2010
REMARKS	

PLEASE RETURN

O. Box 563 • Richfield, Utah 84701 • (435) 896-4429.

Extension Request



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor
Kathleen Clarke
Executive Director
Robert L. Morgan
State Engineer

1594 West North Temple, Suite 220
PO Box 146300
Salt Lake City, Utah 84114-6300
801-538-7240
801-538-7467 (Fax)

DATE: February 5, 2002

RECEIPT No. 02-00472

>>>>>>OFFICIAL RECEIPT<<<<<<<

RECEIVED FROM:

USA National Park Service
CHIEF WATER RIGHTS BRANCH
1201 Oak Ridge Drive
Fort Collins, CO 80525

NATURE OF SERVICE:

Before 14 Year Extension

95-544(a19741)

FEE:

25.00

TOTAL: \$25.00

METHOD OF PAYMENT: CHECK 4240

RECEIVED BY:

KKH

1



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor
Kathleen Clarke
Executive Director
Robert L. Morgan
State Engineer

1594 West North Temple, Suite 220
PO Box 146300
Salt Lake City, Utah 84114-6300
801-538-7240
801-538-7467 (Fax)

November 30, 2001

USA National Park Service 95-544
CHIEF WATER RIGHTS BRANCH
1201 Oak Ridge Drive
Fort Collins, CO 80525

Dear Applicant:

RE: Application No. 95-544 (a19741)
PROOF-DUE DATE: January 31, 2002

To appropriate water in Utah, or to change the point of diversion, place and nature of use of water, you must make application, receive approval, complete the intended development work and submit proof that the water has been put to beneficial use. Upon submission of satisfactory proof, a certificate will be issued, which is your evidence of a water right. Our records indicate that you have not made proof of beneficial use on your application. This is due January 31, 2002.

Proof must be prepared by a registered engineer or land surveyor and must be filed in this office on or before the above proof-due date. Failure to make proof by this due date will allow the application to LAPSE. Blank forms for submitting proof will be sent upon request.

If proof cannot be submitted at this time, an extension of time may be requested by completing the enclosed form and submitting it on or before the proof-due date. The fee for filing this request is \$25.00.

Submission of a request for extension of time does not assure that it will be granted. Generally diligence must be shown. If specific conditions of approval and/or a previous extension granted are not met, a further extension may be denied. Requests should be made for the reasonable period needed to complete the project and proof.

Your contact with this office, should you need it, is with our Regional Office in Richfield. The telephone number is (435)896-4429.

Yours truly,

A handwritten signature in cursive script that reads "Robert L. Morgan".

Robert L. Morgan, P.E.
State Engineer

Enclosure: Extension Form
Certified Mail

P R O O F D U E



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
Robert L. Morgan
State Engineer

1636 West North Temple, Suite 220
Salt Lake City, UT 84116-3156
801-538-7240
801-538-7467 (Fax)

August 9, 1996

USA National Park Service
CHIEF WATER RIGHTS BRANCH
1201 Oak Ridge Drive
Fort Collins, CO 80525

Dear Applicant:

RE: APPROVED CHANGE APPLICATION
NUMBER 95-544 (a19741)

Enclosed is a copy of approved Change Application No. 95-544 (a19741). This is your authority to proceed with the actual construction work which under Section 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion. The water must be put to beneficial use and proof of beneficial use be made to the State Engineer on or before January 31, 2002; otherwise, the application will be lapsed.

Proof of beneficial use is evidence to the State Engineer that the water has been placed to its full intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location and the uses for the water. Your proof of change will become the basis for the extent of your water right.

Failure on your part to comply with the requirements of the statutes may result in forfeiture of this application. It is the applicant's obligation to maintain a current address with this office. Please notify this office immediately of any change.

Your contact with this office, should you need it, is with the Richfield Regional Office. The telephone number is (801)896-4429.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Robert L. Morgan'.

Robert L. Morgan, P.E.
State Engineer

RLM:mw

Encl.: Copy of Approved Change Application
Memorandum Decision



BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)
)
NUMBER 95-544 (a19741))

MEMORANDUM DECISION

Change Application Number 95-544 (a19741), in the name of USA National Park Service, was filed on February 15, 1996, to change the point of diversion of 0.0557 cfs of water. Heretofore, the water has been diverted from Fremont River, located North 406 feet and East 504 feet from the SW Corner of Section 14, T29S, R6E, SLB&M, and used for municipal purposes in Capitol Reef National Park in Section 14; Section 15; Section 22; Section 23, T29S, R6E, SLB&M.

Hereafter, it is proposed to divert 0.0557 cfs of water from Fremont River and adding an existing well located South 1812 feet and West 2514 feet from the NE Corner of Section 22, T29S, R6E, SLB&M, to be used as heretofore.

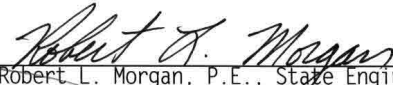
The application was advertised in The Richfield Reaper from February 28, 1996, to March 6, 1996, and was not protested. It is the opinion of the State Engineer that this application can be approved without adversely affecting prior rights. Therefore, the applicant is put on notice that diligence must be shown in pursuing the development of this application which can be demonstrated by the completion of the project as proposed in the application.

It is, therefore, **ORDERED** and Change Application Number 95-544 (a19741) is hereby **APPROVED** subject to prior rights and with the following conditions:

- 1) This application must be totally developed and placed to beneficial use on or before the noted proof due date, which is at least five years from the date of approval.
- 2) Extensions of time will only be considered under unusual circumstances.
- 3) The amount of water diverted by the applicant from the Fremont River and well shall be limited to a flow rate of 0.0557 cfs.

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 9th day of August, 1996.


Robert L. Morgan, P.E., State Engineer

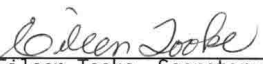
MEMORANDUM DECISION
CHANGE APPLICATION NUMBER
95-544 (a19741)
PAGE -2-

RLM:KF:et

Mailed a copy of the foregoing Memorandum Decision this 9th day of August, 1996,
to:

USA National Park Service
CHIEF WATER RIGHTS BRANCH
1201 Oak Ridge Drive
Fort Collins, CO 80525

BY:


Eileen Tooke, Secretary

STATE ENGINEER'S ENDORSEMENT

CHANGE APPLICATION NUMBER: a19741

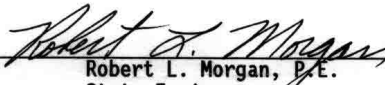
WATER RIGHT NUMBER: 95 - 544

1. February 15, 1996 Change Application received by CR.
2. February 15, 1996 Priority of Change Application.
3. February 15, 1996 Application reviewed and approved for advertising by KF.
February 28, 1996 Publication began in Richfield Reaper.
April 15, 1996 Publication completed and verified by DD.
4. March 26, 1996 End of protest period.
Application protested: NO
5. July 15, 1996 Application designated for APPROVAL by KF and KLJ.
6. Comments:

Conditions:

This application is hereby APPROVED by Memorandum Decision, dated August 9, 1996, subject to prior rights and the following conditions:

- a. Actual construction work necessitated by proposed change shall be diligently prosecuted to completion.
- b. Proof of beneficial use shall be submitted to the State Engineer's Office by January 31, 2002.


Robert L. Morgan, P.E.
State Engineer

Time for making proof of beneficial use extended to _____

Proof submitted _____

APPLICATION FOR PERMANENT CHANGE OF WATER

DIVISION OF WATER RIGHTS

FEB 15 1996

IRONFIELD AREA

STATE OF UTAH

RECEIVED

FEB 20 1996

Rec. by CR

Rec Paid \$ \$75.00

Receipt #

95-544

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

a19741

CHANGE APPLICATION NUMBER:

WATER RIGHT NUMBER: -

This Change Application proposes to change the POINT(S) OF DIVERSION.

1. OWNERSHIP INFORMATION.

A. NAME: USA National Park Service INTEREST: 100%
 c/o Southwest Region Office Chief, Water Rights Branch
 ADDRESS: P.O. Box 728, Santa Fe, NM 87501 1201 Oak Ridge Drive
 Fort Collins, CO 80525

B. PRIORITY OF CHANGE: 2/15/96 FILING DATE: 2/15/96

C. EVIDENCED BY:
 95-544 (a4187) Cert. a462

* DESCRIPTION OF CURRENT WATER RIGHT: *

2. SOURCE INFORMATION.

A. QUANTITY OF WATER: 0.0557 cfs

B. SOURCE: Fremont River COUNTY: Wayne

C. POINT OF DIVERSION -- SURFACE:
 (1) N 406 feet E 504 feet from SW corner, Section 14, T 29S, R 6E, SLBM
 DIVERT WORKS: intake box with pump

3. WATER USE INFORMATION.

MUNICIPAL: from Jan 1 to Dec 31. Capitol Reef National Park.

WATER RIGHTS DATA BASE
 ENTERED - DATE 02/15/96 BY [initials]
 VERIFIED - DATE 02/15/96 BY [initials]

Permanent Change

CHANGE APPLICATION NUMBER: a19741 for Water Right: - continued***** Page: 2

4. EXPLANATORY.

This right was originally to Alma Chesnut for 0.66 cfs in the decree of Hanksville Canal vs Torrey Irrigation. This 0.0557 cfs was acquired by the Park Service through condemnation on July 23, 1942.

* THE FOLLOWING CHANGES ARE PROPOSED: *

5. SOURCE INFORMATION.

A. QUANTITY OF WATER: 0.0557 cfs

B. SOURCE: Fremont River and Underground (Well) COUNTY: Wayne

C. POINT OF DIVERSION -- UNDERGROUND: Changed as Follows:

(1) S 1812 feet W 2514 feet from NE corner, Section 22, T 29S, R 6E, SLBM
WELL DIAMETER: 6 inches WELL DEPTH: 78 feet
COMMENT: Exiting well

D. POINT OF DIVERSION -- SURFACE: Changed as Follows:

(1) N 406 feet E 504 feet from SW corner, Section 14, T 29S, R 6E, SLBM
DIVERT WORKS: intake box with pump
SOURCE: Fremont River

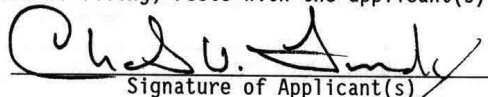
E. COMMON DESCRIPTION: Capitol Reef National Park

6. WATER USE INFORMATION. Same as HERETOFORE.

7. PLACE OF USE. Same as HERETOFORE.

8. SIGNATURE OF APPLICANT(S).

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application, through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).


Signature of Applicant(s)

*Pocket ?
Issue File*



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE

Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525-5596

January 24, 1996

L54(2380)
CARE/Water Rights

Memorandum

To: Superintendent, Capitol Reef National Park

From: Owen Williams, Chief, Water Rights Branch

Subject: Permanent Change Application for Water Supply System at Capitol Reef National Park

The attached Permanent Change Application has been prepared for your signature and transmittal to the Utah State Engineer's Office in Richfield. This change application is for the purpose of adding the 1993-developed well (now in use under a Temporary Change Application) as a permanent water-supply source for domestic/municipal uses at Capitol Reef National Park. The Fremont River diversion, which previously served as the water-supply source, can still be used as long as any combined diversion from the well and the river does not exceed the certificated amount for domestic/municipal uses (0.0557 cubic feet per second).

Please provide a final review for the correctness of the well description (diameter, depth, location). With respect to verifying well location, the Water Rights Branch does not have a copy of the surveyor's results. Hopefully these results have been sent by the surveyor to either Jennifer Norton or Tom Clark of your staff, who can then provide this check. Note that a \$75 check must accompany this change application when it is submitted to the state (see attached). Once submitted, the change application will be advertised in a local publication to allow public review and an objection period. If any objections are filed a hearing and final determination should occur sometime this spring. If you have any questions please contact Jeff Albright of my staff at (970)225-3528.

Attachments

cc: IMFA - Wise
SOL - Loveless



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Robert L. Morgan
State Engineer

Southern Area

130 North Main Street

P.O. Box 563

Richfield, Utah 84701-0563

801-896-4429

January 9, 1996

Jeff Albright
USA NATIONAL PARK SERVICE
P.O. Box 278
Santa Fe, NM 87501

RE: CHANGE APPLICATION

Dear Mr. Albright:

Enclosed is a Change Application prepared by this office for your review and signature. If everything appears to be correct, sign where indicated and return to this office along with the \$75.00 filing fee.

Call or write this office if we can be of further assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kirk Forbush'.

Kirk Forbush, P.E.
Regional Engineer

/cr
enclosure: r15



APPLICATION FOR PERMANENT CHANGE OF WATER

STATE OF UTAH

Rec by

Fee Paid \$

Receipt #

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

CHANGE APPLICATION NUMBER:

WATER RIGHT NUMBER: -

This Change Application proposes to change the POINT(S) OF DIVERSION.

1. OWNERSHIP INFORMATION.

A. NAME: USA National Park Service INTEREST: 100%

c/o Southwest Region Office Chief, Water Rights Branch

ADDRESS: P.O. Box 728, Santa Fe, NM 87501 1201 Oak Ridge Drive

Fort Collins, CO 80525

B. PRIORITY OF CHANGE: FILING DATE:

C. EVIDENCED BY:
95-544 (a4187) Cert. a462

* DESCRIPTION OF CURRENT WATER RIGHT: *

2. SOURCE INFORMATION.

A. QUANTITY OF WATER: 0.0557 cfs

B. SOURCE: Fremont River COUNTY: Wayne

C. POINT OF DIVERSION -- SURFACE:
(1) N 406 feet E 504 feet from SW corner, Section 14, T 29S, R 6E, SLBM
DIVERT WORKS: intake box with pump

3. WATER USE INFORMATION.

MUNICIPAL: From Jan 1 to Dec 31. Capitol Reef National Park.

Permanent Change



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
Robert L. Morgan
State Engineer

Southern Area
130 North Main Street
P.O. Box 563
Richfield, Utah 84701-0563
801-896-4429



April 3, 1995

National Park Service
c/o Chief of Water Rights Branch
1201 Oak Ridge Drive
Fort Collins, CO 80525

TEMPORARY CHANGE APPLICATION
NUMBER t18822

Dear Applicant:

The above numbered Temporary Change Application has been approved subject to prior rights and the following condition:

- ♦ The total amount of water diverted from the well shall be limited to 0.0557 cfs of water for the municipal uses of Capitol Reef National Park.

Copies are herewith returned to you for your records and future reference.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Kirk Forbush'.

Kirk Forbush, P.E.
Regional Engineer
for Robert L. Morgan, P.E.
State Engineer

RLM/KF/cr

enclosure



r31

APPLICATION FOR TEMPORARY CHANGE OF WATER

DIVISION OF WATER RIGHTS

APR 3 1995

STATE OF UTAH

Rec. by CR

Fee Paid \$ \$75.00

Receipt #

Microfilmed

Roll #

NICKFIELD AREA

For the purpose of obtaining permission to make a temporary change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

CHANGE APPLICATION NUMBER: t18822

WATER RIGHT NUMBER: 95 - 544

This Change Application proposes to change the POINT(S) OF DIVERSION.*

* Maintain existing source and add an additional (ground water) source.

1. OWNERSHIP INFORMATION.

A. NAME: National Park Service
c/o Jeff Albright Chief, Water Rights Branch
ADDRESS: 1201 Oak Ridge Drive, Fort Collins, CO 80525

INTEREST: 100%

B. PRIORITY OF CHANGE: APRIL 3, 1995

FILING DATE: APRIL 3, 1995

C. EVIDENCED BY: 95-544, (a4187), Cert. a462

* DESCRIPTION OF CURRENT WATER RIGHT: *

2. SOURCE INFORMATION.

A. QUANTITY OF WATER: 0.0557 cfs

B. SOURCE: Fremont River

COUNTY: Wayne

C. POINT OF DIVERSION -- SURFACE:

(1) N 406 feet E 504 feet from SW corner, Section 14, T 29S, R 6E, SLBM
DIVERT WORKS: intake box with pump

3. WATER USE INFORMATION.

MUNICIPAL: from Jan 1 to Dec 31. Capitol Reef National Park.

Temporary Change

CHANGE APPLICATION NUMBER: t18822 for Water Right: 95 - 544 continued***** Page: 2

4. EXPLANATORY.

This right was originally to Alma Chesnut for 0.66 cfs in the decree of Hanksville Canal vs Torrey Irrigation. This 0.0557 cfs was acquired by the Park Service through condemnation on July 23, 1942.

* THE FOLLOWING CHANGES ARE PROPOSED: *

5. SOURCE INFORMATION.

A. QUANTITY OF WATER: 0.0557 cfs **REMAINING WATER:** Same as HERETOFORE

B. SOURCE: Underground Water Well **COUNTY:** Wayne

C. POINT OF DIVERSION -- UNDERGROUND: Changed as Follows:
(1) S 1812 feet W 2514 feet from NE corner, Section 22, T 29S, R 6E, SLBM
WELL DIAMETER: 6 inches WELL DEPTH: 78 feet

D. COMMON DESCRIPTION: Capitol Reef National Park

6. WATER USE INFORMATION. Same as HERETOFORE.

7. PLACE OF USE. Same as HERETOFORE.

8. SIGNATURE OF APPLICANT(S).

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application, through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

x. 
Signature of Applicant(s)



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
Robert L. Morgan
State Engineer

Southern Area
130 North Main Street
P.O. Box 563
Richfield, Utah 84701-0563
801-896-4429

RECEIVED

CAPITOL REEF NATIONAL PARK

March 14, 1994

USA National Park Service
c/o Superintendent Capitol Reef National Park
Torrey, Utah 84775-0001

TEMPORARY CHANGE APPLICATION
NUMBER t17905

Dear Applicant:

The above numbered Temporary Change Application has been approved subject to prior rights and the following condition:

The total amount of water diverted from
Underground Water shall be limited to a
flow rate of .055 cfs of water.

Copies are herewith returned to you for your records and future reference.

Sincerely,

Kirk Forbush, P.E.
Regional Engineer
for Robert L. Morgan, P.E.
State Engineer

RLM/KF/cr

enclosure

RECEIVED
CAPITOL REEF NATIONAL PARK

	INIT	DATE
SUPT		
Mgmt. Asst.		
Admin. Off		
CHL. & Vp.		
CH Maint.		
Res. Mgmt.		
FILES	105T	



APPLICATION FOR TEMPORARY CHANGE OF WATER

DIVISION OF WATER RIGHTS

MAR 11 1994

RICHTERFIELD AREA

STATE OF UTAH

Rec. by _____

Fee Paid \$ _____

Receipt # _____

Microfilmed _____

Roll # _____

For the purpose of obtaining permission to make a temporary change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. _____ *APPLICATION NO. t _____

Changes are proposed in (check those applicable)

xx _____ point of diversion. _____ place of use. _____ nature of use. _____ period of use.

1. OWNER INFORMATION

Name: The United States of America. c/o Superintendent, Capitol Reef National Park Interest: _____ %

Address: _____

City: Torrey. State: UT Zip Code: 84775-0001

2. *PRIORITY OF CHANGE: _____ *FILING DATE: _____

*Is this change amendatory? (Yes/No): _____

3. RIGHT EVIDENCED BY: Cert. No. a-462, Change Applic. a-4187

Prior Approved Temporary Change Applications for this right: _____

***** HERETOFORE *****

4. QUANTITY OF WATER: 0.0557 cfs and/or _____ ac-ft.

5. SOURCE: Freemont River

6. COUNTY: Wayne

7. POINT(S) OF DIVERSION: North 51°09' East 646.84 feet from the SW Corner,
Section 14, T29S. R6E. SLB&M

Description of Diverting Works: Intake box on river with pump to water treatment plant

8. POINT(S) OF REDIVERSION

The water has been rediverted from _____ at a point: _____

Description of Diverting Works: _____

9. POINT(S) OF RETURN

The amount of water consumed is _____ cfs or _____ ac-ft.

The amount of water returned is _____ cfs or _____ ac-ft.

The water has been returned to the natural stream/source at a point(s): _____

*These items are to be completed by the Division of Water Rights.

Temporary Change

Irrigation: From _____ to _____
 Stockwatering: From _____ to _____
 Domestic: From Jan 1 to Dec 31
 Municipal: From Jan 1 to Dec 31
 Mining: From _____ to _____
 Power: From _____ to _____
 Other: From _____ to _____

11. PURPOSE AND EXTENT OF USE

Irrigation: _____ acres. Sole supply of _____ acres.
 Stockwatering (number and kind): _____
 Domestic: 21 Families and/or _____ Persons.
 Municipal (name): Water supply at Capitol Reef National Park for campgrounds, residential area, headquarters area
 Mining: _____ Mining District in the _____ Mine.
 Ores mined: _____
 Power: Plant name: _____ Type: _____ Capacity: _____
 Other (describe): _____

12. PLACE OF USE

Legal description of place of use by 40 acre tract(s): All in Township 29S, R6E, SLB&M:
NW1/4, SW1/4 Sec 14; SW1/4, SW1/4 Sec 14; SW1/4 NW1/4 Sec 15; NW1/4 SW1/4 Sec 15;
NE 1/4 SW1/4 Sec 15; SE1/4, SE1/4 Sec 15; NE1/4 NE1/4 Sec 22; SE1/4, NE1/4 Sec 22;
NW 1/4, NW1/4 Sec 23

13. STORAGE

Reservoir Name: _____ Storage Period: from _____ to _____
 Capacity: _____ ac-ft. Inundated Area: _____ acres.
 Height of dam: _____ feet.
 Legal description of inundated area by 40 tract(s): _____

***** THE FOLLOWING CHANGES ARE PROPOSED *****

14. QUANTITY OF WATER: _____ cfs and/or _____ ac-ft.
15. SOURCE: Maintain existing source and add an additional (groundwater) source
 Balance of the water will be abandoned: _____, or will be used as heretofore: _____
16. COUNTY: Wayne
17. POINT(S) OF DIVERSION: Groundwater source located South 54°13' West 3099 feet from the
SW Corner, Section 14, T29S, R6E, SLB&M
South 1812 Ft. West 2514 Ft. From NE corner Section 22, T29S, R6E
 Description of Diverting Works: 78 foot deep, 6 inch diameter well equipped with pump, pipe
 *COMMON DESCRIPTION: connection to existing municipal/domestic use distribution

18. POINT(S) OF REDIVERSION

The water will be rediverted from _____ at a point: _____

 Description of Diverting Works: _____

19. POINT(S) OF RETURN

The amount of water to be consumed is _____ cfs or _____ ac-ft.
 The amount of water to be returned is _____ cfs or _____ ac-ft.
 The water will be returned to the natural stream/source at a point(s): _____

USE AND PERIOD OF USE

Irrigation: From ___/___/___ to ___/___/___
 Stockwatering: From ___/___/___ to ___/___/___
 Domestic: From ___/___/___ to ___/___/___
 Municipal: From ___/___/___ to ___/___/___
 Mining: From ___/___/___ to ___/___/___
 Power: From ___/___/___ to ___/___/___
 Other: From ___/___/___ to ___/___/___

21. PURPOSE AND EXTENT OF USE

Irrigation: _____ acres. Sole supply of _____ acres.
 Stockwatering (number and kind): _____
 Domestic: _____ Families and/or _____ Persons.
 Municipal (name): _____
 Mining: _____ Mining District at the _____ Mine.
 Ores mined: _____
 Power: Plant name: _____ Type: _____ Capacity: _____
 Other (describe): _____

22. PLACE OF USE

Legal description of place of use by 40 acre tract(s): _____

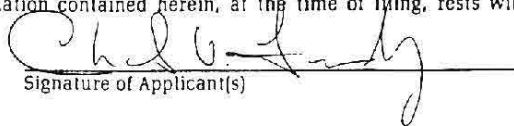
23. STORAGE

Reservoir Name: _____ Storage Period: from _____ to _____
 Capacity: _____ ac-ft. Inundated Area: _____ acres.
 Height of dam: _____ feet.
 Legal description of inundated area by 40 tract(s): _____

24. EXPLANATORY

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): _____

 The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).


 Signature of Applicant(s)

FORM 31 2M 5-57

THE STATE OF UTAH
OFFICE OF THE STATE ENGINEER
SALT LAKE CITY

March 20, 1963

RECEIVED	
NPS SOUTHWEST REGIONAL OFFICE	
MAR 22 1963	
	Summits Unit
Regional Director	
Cons. Interp & Use	
Administration	
Resource Planning	✓ 3/22
Program Coord.	
Operations	
Construction	
Natural History	
Wild & Archaeology	
Ranger Service	
Files	

Walt
3/25

Walt
3/25

United States of America
National Park Service
P. O. Box 1728
Santa Fe, New Mexico

Gentlemen:

RE: APPROVED APPLICATION NO. a-4187

Enclosed find Application No. a-4187 which has been approved by me. The approved Application is your authority to proceed with actual construction work which, under Sections 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion, the water being put to beneficial use and proof of change made to the State Engineer on or before -----January 31, 1965-----

Failure on your part to comply with the requirements of the statutes may result in forfeiture of this Application.

Yours truly,

Wayne D. Cridale

Wayne D. Cridale
STATE ENGINEER
403 STATE CAPITOL
SALT LAKE CITY, UTAH

ADDRESS ALL COMMUNICATIONS TO:

js

Encl: Copy of approved change application

CHANGE APPLICATION APPROVED

(Form for perfected right)

Walt

Request of National Park Service Date April 14, 1966 at 9:15 a.m.
 Recorded in Book 1 of Water Rights Page 78 Wayne Co. Und. Rec. Sec.
 Form 5 2M Wayne County Recorder

**CERTIFICATE OF PERMANENT CHANGE OF POINT OF
 DIVERSION, PLACE, PURPOSE OR PERIOD OF USE
 OF WATER
 STATE OF UTAH**

Change Application No. a-4187 Certificate No. a-462

1. Name of applicant United States of America, National Park Service
2. Address of applicant Southwest Region Office, P. O. Box 728, Santa Fe, New Mexico 87501
3. Right or rights upon which change was based Decreed Right, Sixth District Court, dated July 15, 1935.
4. Priority of original right July 15, 1935 Priority of change Oct. 22, 1962
5. Quantity of water changed 0.0557 c.f.s. ----- Acre ft.
6. Source of supply Fremont River
7. Drainage area Colorado River
8. Nature of change
 Point of diversion ☒ Place of use ☒ Purpose of use ☒ Period of use ☐
9. Present point of diversion North 51°09' East 646.84 feet from the SW Corner, Section 14, T29S, R6E, S1&2M.
10. Description of present diverting works Intake box on river with pump to water treatment plant.
11. Present place of use In Capitol Reef National Monument in Sections 14, 15, 22, and 23, T29S, R6E, S1&2M.
12. Present purpose of use Municipal
13. Present period of use January 1 to December 31

This certificate entitles the holder to use only sufficient water from all rights combined to constitute an economic duty without waste.

The right evidenced by this certificate is restricted to the change described herein, and the certificate in no way establishes nor validates the water right claimed by the applicant, and the change is to in no way enlarge the original right or rights.

The works employed in this change are to be operated and maintained in such 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 17th day of March, 19 66.

Hubert C. Lambert
 Hubert C. Lambert, State Engineer

In the event the right evidenced by this certificate is transferred a copy of such transfer should be furnished to the State Engineer.

Entered ☒ Indexed ☒
Abstracted ☒ Flat ☒
Cards ☒

Southwest Region
Santa Fe, New Mexico

OCT 12 1962

154
CARE

CERTIFIED MAIL

Mr. Wayne D. Criddle
State Engineer, Utah
403 State Capitol
Salt Lake City 14, Utah

Dear Sir:

Enclosed are two copies of Form 107 which is an Application for Permanent Change of Point of Diversion, Place and Nature of Use of Water.

This application proposes to change the point of diversion of a portion of the water right owned by the United States of America at Capitol Reef National Monument from the Fremont River in Wayne County. We propose to change this water right from irrigation to municipal purposes as a water supply for Capitol Reef National Monument. The water use will be 25 gpm and will serve campgrounds, the residential area and headquarters area.

We have enclosed no purchase order for fees because on the first page of the Act which amended the state water laws for the State of Utah on May 10, 1955 there is a statement under 73-2-14 that the United States of America shall not be required to pay any fees provided by this section except for preparing copies of any and all documents. If this section has been further amended and we are required to make payment would you please notify us and we will send you a purchase voucher for the correct amount.

We have enclosed two copies because we would like for you to sign and approve both and return one for our files.

Sincerely yours,

Thomas ~~W. [unclear]~~
Regional Director

Enclosures

W O D C	
OCT 15 1962	
CHF	
ADM. SEC.	
PERM. DIV.	
P. & S. DIV.	
ARCH. DIV.	
ENG. DIV.	
LI. DIV.	
C. A.	
Q. & S.	
CONT.	
SAFTY	
HAZ.	
ACTION TAKEN - DATE	

EXTRA FILE COPY

Copy to: Director (2) w/o enclosures
Chief, WODC (2) w/o enclosures
Supt., Capitol Reef w/o enclosures

Form 107 10-56 1M

CHANGE APPLICATION NO. 2-4187

Application for Permanent Change of Point of Diversion, Place and Nature of Use of Water **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.

For the purpose of obtaining permission to permanently change the point of diversion, place ^{and} nature of use of water right acquired by Eminent Domain with Declaration of Taking from Alma Chesnut, July 23, 1942 (Give No. of Application, certificate of appropriation, title and date of Decree or other identification of right) (See Ex-Planatory) to that hereinafter described, 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.

1. The name of the applicant is United States of America, National Park Service
2. The post-office address of the applicant is P. O. Box 1726, Santa Fe, New Mexico
3. †The flow of water which has been or was to have been used in second-feet is .66
4. †The quantity of water which has been or was to have been used in acre-feet is
5. †The water has been or was to have been used each year from JANUARY 1 to December 31 incl.
(Month) (Day) (Month) (Day)
6. †The water has been or was to have been stored each year from to incl.
(Month) (Day) (Month) (Day)
7. The drainage area to which source of supply belongs is (Leave blank)
8. The direct source of supply is Premont River
in Wayne County.
9. †The point of diversion as described in the original Application or the point at which the water has been diverted is situated at a point, whence the section corner common to Secs. 14, 15, 22 and 23, T. 29 S., R. 6 E., SLM bears N. 53° 26' E. 700.0'.
SW COR. 14
10. †The water involved has been or was to have been used for the following purposes:
Irrigation of cultivated lands in NW 1/4 SW 1/4, NE 1/4 SW 1/4, and NW 1/4 SE 1/4 SW 1/4 of
Sec. 14, T. 29 S., R. 6 E., SLM.

Total 14.97 Acres.

NOTE—If for irrigation, give legal subdivision of land and total acreage which has been or was to have been irrigated. If for other purposes, give nature, place and extent of use or proposed use.

11. †The point at which water has been or was to have been returned to the stream channel is situated as follows:

NOTE—The above space is to be filled in only when all or part of the water is returned to the natural stream or channel.

The Following Changes Are Proposed

12. The flow of water to be changed in cubic feet per second is 0.0557 cfs (25 gpm)
13. The quantity of water to be changed in acre-feet is
14. The water will be used each year from January 1 to December 31 incl.
(Month) (Day) (Month) (Day)
15. The water will be stored each year from to incl.
(Month) (Day) (Month) (Day)
16. The point at which it is now proposed to divert the water is situated (See note) whence the section corner common to Secs. 14, 15, 22 and 23 bears S. 51° 09' W. 646.34'.
SW COR. 14, T. 29 S., R. 6 E., SLM
17. The proposed diverting and conveying works will consist of pump diversion from River, water settling and treatment facilities with 12,583' of distribution pipe.

18. The cross-section of the diverting channel will be.

~~XX~~ ~~XXXX~~ ~~O~~
(Strike out ones not needed)

19. The nature of the diverting channel will be: ~~BRICK~~ ~~CONCRETE~~ ~~IRON~~ ~~STEEL~~ ~~WOOD~~

(Strike out the ones not needed)

†Strike out written matter not needed.

20. The length of the diverting channel, exclusive of laterals, will be 10,823 feet
(If an existing channel is used give only the length of that part used under this Application)
21. The top width of the diverting channel will be (if a ditch) - feet
22. The bottom width of the diverting channel will be (if a ditch) - feet
23. The depth of water in the diverting channel will be (if a ditch) - feet
24. The width of diverting channel will be (if a flume) - feet
25. The depth of water in the diverting channel will be (if a flume) - feet
26. The diameter of the diverting channel will be (if a pipe) 2", 3", 4" and 6" inches
27. The grade of the diverting channel will be various grades feet per thousand
28. The point at which it is proposed to return the water is situated (See note under 16) -

29. The water is to be used for municipal purposes as water supply at Capitol Reef National Monument for campgrounds, residential area and headquarters area.

Total N.A. acres.

NOTE—If for irrigation, give legal subdivisions of land to be irrigated. If for other purposes, give place and extent of proposed use. If for power give number, size and make of wheels, head under which they will operate, total H. P. to be developed and place where power will be used.

30. The character of the soil to be irrigated is - subsoil -

NOTE—Number 30 is to be filled in only when proposed change is for irrigation.

EXPLANATORY

NOTE—Paragraph 13 on page 1 must not be used except when storage is contemplated; in such case Paragraph 14 should indicate the time in each year during which the water will be released and used. The lands to be inundated by the reservoir must be described in the space below this note as nearly as may be and by government subdivisions if upon surveyed land, and the area of the reservoir when at full stage should be given in acres; the height of the impounding dam must also be specified.

The following additional facts are set forth in order to define more clearly the full purpose of the proposed change:

On July 23, 1942 Judge Tillman D. Johnson of the United States District Court, District of Utah, handed down a "Final Judgment on Condemnation" and in so doing passed title to 5 parcels of land at Capitol Reef National Monument totaling 66 acres and 148 square rods, and .66 cfs of water rights to the U.S.A. from Alma Chesnut. This was the result of a condemnation suit and "Declaration of Taking" initiated by the U.S.A. The .66 cfs of water rights were the rights obtained by Alma Chesnut in an action entitled "Hanksville Canal Company, a corporation, vs. Torrey Irrigation Company, a corporation et al.," which confirmed said rights to Alma Chesnut by decree of July 15, 1935. Based on a later interpretation of the rights by the owners that each acre of irrigated land was entitled to .0442 cfs of water the U.S.A. acquired 14.97 acres of irrigable land with appurtenant water rights included in the 66+ acres.

The U.S.A. now proposes to change the point of diversion of 0.0557 cfs of this .66 cfs and use it for municipal purposes for Capitol Reef National Monument. We will dry up 1.26 acres of irrigated land in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 14, T. 29 S., R. 6 E., S. 14 W. Our diversion will be made at point described in item 16 of this application with a 25 gpm river intake pump, alum solution feeders, a 750-gallon flocculation tank, 6,000-gallon sedimentation tank, 12 $\frac{1}{2}$ square feet of filters, water treatment plant building with hypochlorinators, 1200-gallon clear well sump, 50 gpm two-stage centrifugal pump, 100,000-gallon storage reservoir, and 12,583 feet of C.I. distribution lines. This system will pipe water to campgrounds, residential area and headquarters area for Capitol Reef National Monument. NOTHING HEREIN SHALL CONSTITUTE A WAIVER OF ANY OTHER RIGHTS WHICH THE UNITED STATES MAY HAVE TO THE SAME WATER.

By [Signature]
Signature of Applicant.
Glenn W. [Signature] Regional Director
The United States of America
National Park Service, Department
of the Interior

(This page is not to be filled in by applicant)

State Engineer's Endorsements

1. Oct 22, 1962 Change Application received over counter in State Engineer's office by LE
by mail
2. Priority of right to make change brought down to, on account of
3. Oct 22, 1962 Fee for filing Application, \$ 30.00 received by W. M. Receipt No. 05752
4. Nov 26, 1962 Application copied in Change Book No. 6826, page 676, and indexed by W. M.
5. Dec 26, 1962 Application plotted by W. M.
6. Jan 16, 1963 Application examined by W. M.
7. Application returned, with letter, to for correction
8. Corrected application resubmitted over counter by mail to State Engineer's office.
9. Copy brought up to date (red inked) and placed in record book by
10. Fee for publishing notice requested.
11. Fee for publishing notice \$ Received by Receipt No.
12. Jan 15, 1963 Application approved for advertisement by W. M.
13. Jan 15, 1963 Notice to water users prepared by W. M.
14. Jan 24, 1963 Publication began; was completed. Feb 7, 1963
Notice published in Highfield Property, Richfield, Utah
15. Jan 24, 1963 Proof slips checked by W. M.
16. Mar 11, 1963 Change Application protested by
17. Mar 11, 1963 Publisher paid Mar 2, 1963
18. 3-12-63 Application designated for approval by W. M.
19. Fee for approving Application requested
20. Fee for approving application, \$ 2.00 received by Receipt No.
21. Mar. 20, 1963 Change Application proof read by W. M.
22. Mar. 20, 1963 Change Application approved and returned to applicant

This Application is approved on the following conditions:

1. Actual construction work necessitated by proposed change shall be diligently prosecuted to completion.
2. Proof of change shall be submitted to the State Engineer's office by January 31, 1965
3. Subject to prior rights whether diverting directly from the source hereof or from other sources to which this water is tributary (including rights junior to the original application or rights which might be impaired by the change or changes) for diversion and use as herein described.

Wayne D. Criddle
Wayne D. Criddle, State Engineer.

21. Time for making proof of change extended to
22. Proof of change submitted.
23. Fee for filing proof of change, \$1.00, received by Receipt No.
24. Fee for examining maps, profiles and drawings, \$3.00, received by Receipt No.
25. Fee for issuing certificate of change, \$1.00, received by Receipt No.
26. Certificate of change, No. issued.

I hereby certify that the foregoing is a true copy of the Application by to change the point of diversion, place and nature of use of water as shown, with endorsements thereon, on the records of my office on the date given below.

Salt Lake City, Utah, 1963 State Engineer.

Change Application No. 2-4187

02/17/94 08:57

☎ 801 425 3791

CAPITOL REEF NP

001

U. S. D. L., NPS

CAPITOL REEF NATIONAL PARK, TORREY, UT 84775

FAX OPERATOR WILL COMPLETE BELOW

TO: Jeff Albright

DATE DISPATCHED: 2/17/94

FROM: Sandy Barthwick

TIME DISPATCHED: 9:00

SUBJECT: Well location

NUMBER OF PAGES TO FOLLOW: 1

TRANSMITTED BY: _____

FTS: 700-328-4127

OUR FACSIMILE MACHINE NUMBER IS: COMMERCIAL: (801) 425-3791 a receptionist will put you through to the fax machine.

IN CASE YOU HAVE PROBLEMS TRANSMITTING TO US PLEASE CALL: 801-425-3791

REMARKS/SPECIAL INSTRUCTIONS: _____

Jeff,
Here's what Jennifer came up with. Let
her or me know if you have any questions!

WELL LOCATION AT CAPITOL REEF

The well location was calculated in the fall of 1993 with a Trimble Basic Plus GPS unit. The following coordinates are the average of the post-processed point locations (using Trimble software). The base station was located near the campgrounds at either survey marker TA3 or TA4. Arc/Info software was used to convert State Plane coordinates to and from UTM values. An approximate elevation was obtained from digital contours. (Two-foot contours were generated from stereo-pairs of the Fruita Valley.)

Coordinate System: UTM, zone 12
Datum: Nad27
Spheroid: Clarke 1866
Units: meters
Coordinates: 477574 E, 4236557 N

Coordinate System: State Plane, zone 5501
Datum: Nad27
Spheroid: Clarke 1866
Units: feet
Coordinates: 2069934 E, 587044 N

Elevation: 5487 feet

Coordinates for the nearest PLSS section corner in Fruita (between sections 14, 15, 22, and 23) were obtained from the Geographic Coordinate Data Base (GCDB) maintained by the state BLM office in Salt Lake City. The coordinates in this database are NOT the official record of survey but are graphical representations of the record of survey. A GPS location has not been calculated for the monument location, although the level of accuracy of our resource grade GPS unit is perhaps similar to that of the GCDB coordinates.

Coordinate System: UTM, zone 12
Datum: Nad27
Spheroid: Clarke 1866
Units: meters
Coordinates: 478343 E, 4237104 N

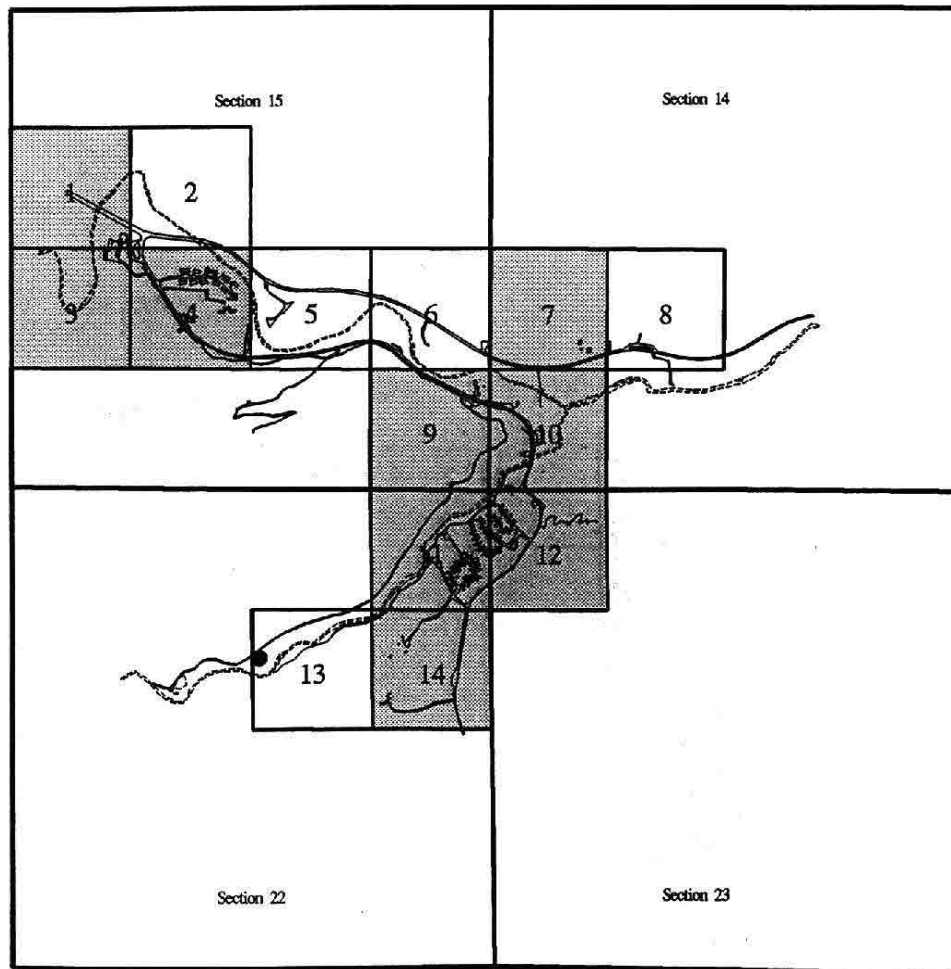
Coordinate System: State Plane, zone 5501
Datum: Nad27
Spheroid: Clarke 1866
Units: feet
Coordinates: 2069934 E, 587044 N

Elevation: 5424 feet

Distance and bearing from the well location to the section monument described above were calculated with Arc/Info software in State Plane coordinates. A Magellan 5000 Pro was also used to determine distance and bearing based solely on the UTM coordinates listed above.

Arc/Info Distance: 3098.8 feet
Arc/Info Bearing: 54 degrees, 13 minutes, 1 second
Magellan Distance: 3092 feet (0.59 miles)
Magellan Bearing: 54 degrees

AREA OF USE: CARE MUNICIPAL/DOMESTIC USE ~~RIGHT~~
LEGAL DESCRIPTIONS OF 40 ACRE TRACTS IN FRUITA



■ Culinary Water Being Used
● Well Location

Developed by CARE staff
(Jennifer Norton) Jan 1994

LEGAL DESCRIPTIONS OF 40 ACRE TRACTS IN FRUITA

- * 1. SW1/4, NW1/4 of Section 15, Township 29 South, Range 6 East, Salt Lake B&M
- 2. SE1/4, NW1/4 of Section 15, Township 29 South, Range 6 East, Salt Lake B&M
- * 3. NW1/4, SW1/4 of Section 15, Township 29 South, Range 6 East, Salt Lake B&M
- * 4. NE1/4, SW1/4 of Section 15, Township 29 South, Range 6 East, Salt Lake B&M
- 5. NW1/4, SE1/4 of Section 15, Township 29 South, Range 6 East, Salt Lake B&M
- 6. NE1/4, SE1/4 of Section 15, Township 29 South, Range 6 East, Salt Lake B&M
- * 7. NW1/4, SW1/4 of Section 14, Township 29 South, Range 6 East, Salt Lake B&M
- 8. NE1/4, SW1/4 of Section 14, Township 29 South, Range 6 East, Salt Lake B&M
- * 9. SE1/4, SE1/4 of Section 15, Township 29 South, Range 6 East, Salt Lake B&M
- * 10. SW1/4, SW1/4 of Section 14, Township 29 South, Range 6 East, Salt Lake B&M
- * 11. NE1/4, NE1/4 of Section 22, Township 29 South, Range 6 East, Salt Lake B&M
- * 12. NW1/4, NW1/4 of Section 23, Township 29 South, Range 6 East, Salt Lake B&M
- 13. SW1/4, NE1/4 of Section 22, Township 29 South, Range 6 East, Salt Lake B&M
- * 14. SE1/4, NE1/4 of Section 22, Township 29 South, Range 6 East, Salt Lake B&M

* Tracts where culinary water is currently being used.

10/19/93 08:21

☎ 801 425 3791

CAPITOL REEF NP

001

U. S. D. I., NPS

CAPITOL REEF NATIONAL PARK, TORREY, UT 84775

FAX OPERATOR WILL COMPLETE BELOW

TO: Jeff Albright

DATE DISPATCHED: _____

FROM: Jennifer Norton

TIME DISPATCHED: _____

SUBJECT: well location

NUMBER OF PAGES TO FOLLOW: 2

TRANSMITTED BY: _____

FIS: 700-328-4127

OUR FACSIMILE MACHINE NUMBER IS: COMMERCIAL: (801) 425-3791 a receptionist will put you through to the fax machine

IN CASE YOU HAVE PROBLEMS TRANSMITTING TO US PLEASE CALL: 801-425-3791

REMARKS/SPECIAL INSTRUCTIONS: _____

Jeff - Let me know what illustrations
- you need. We have a functional
- laser printer after 3 weeks of
- problems...

Sorry for the delay.

- Jennifer

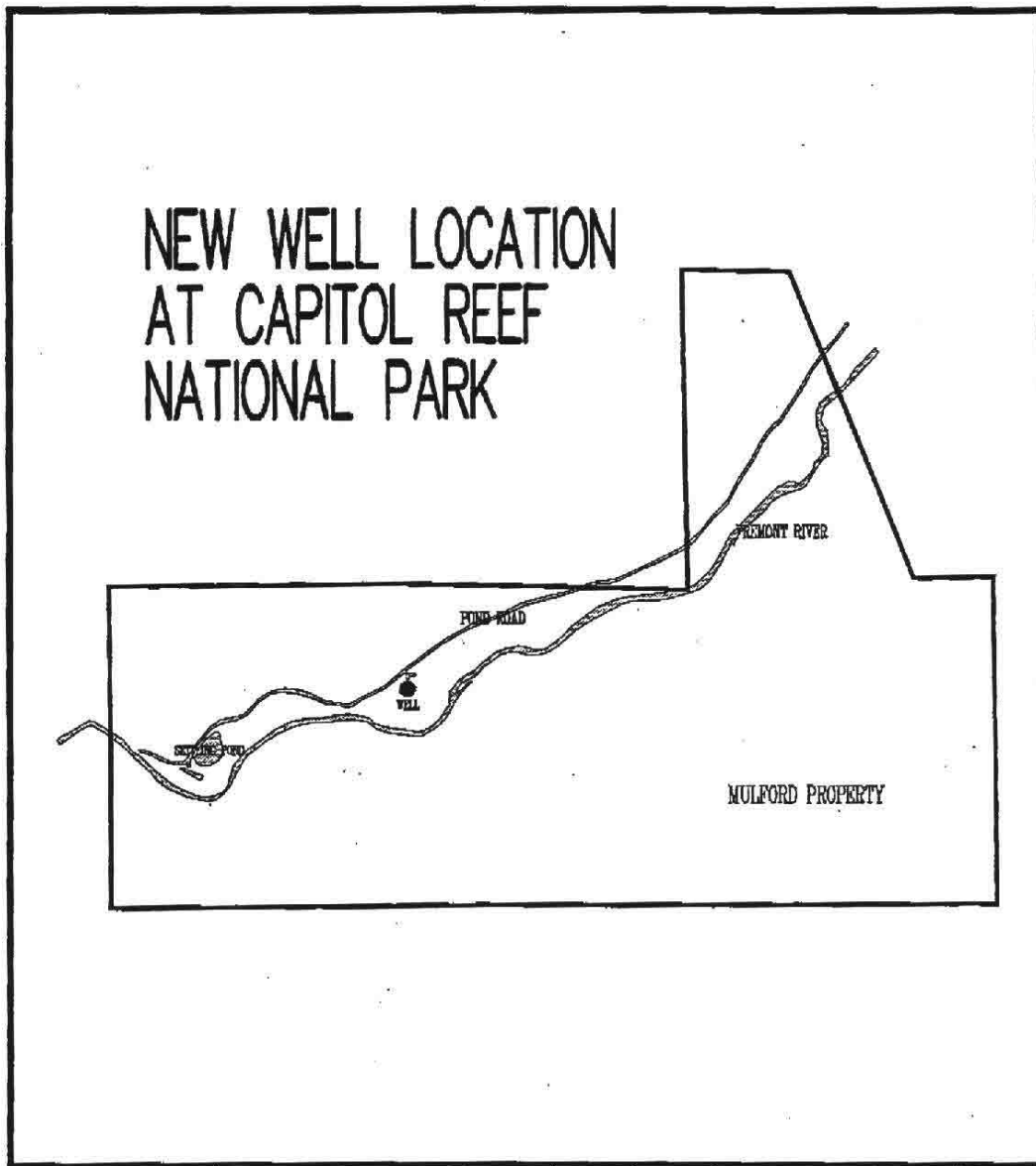
10/19/93

06:21

1 801 425 3791

CAPITOL REEF NP

002



10/19/93 08:21

☎ 1 801 425 3791

CAPITOL REEF NP

003



Other Supporting Information



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor
Ted Stewart
Executive Director
Robert L. Morgan
State Engineer

1636 West North Temple, Suite 220
Salt Lake City, UT 84116-3156
801-538-7240
801-538-7467 (Fax)

DATE: February 22, 1996

RECEIPT No. 96-00516

>>>>>>OFFICIAL RECEIPT<<<<<<<

RECEIVED FROM:
USA National Park Service
CHIEF WATER RIGHTS BRANCH
1201 Oak Ridge Drive
Fort Collins, CO 80525

NATURE OF SERVICE:		FEE:
Change Application	95-544 (a19741)	75.00
	TOTAL:	\$75.00

METHOD OF PAYMENT: CHECK 001372

RECEIVED BY: ET

Jeffrey Albright *ja*
Charles W. Pettee *CP*
Owen Williams *OW*

March 22, 1995

L54(479)
RMR/CARE (Water Rights)

Memorandum

To: Superintendent, Capitol Reef National Park
From: Owen Williams, Chief, Water Rights Branch, Water Resources Division
Subject: Renewal of Temporary Change Application for Water Supply System at Capitol Reef National Park

Enclosed find a Temporary Change Application to be signed by you and then submitted to the State of Utah Engineer's Office. This will allow continued use of the 1993-developed well to provide domestic/municipal water supply at Capitol Reef National Park. Also enclosed is a check for \$75 (and a receipt acknowledgement form) to accompany the change application.

This temporary change application will cover water use from the well for the March 1995 to March 1996 period. During this period the Water Rights Branch will prepare a permanent change application to support water use from the well. When ready, we will send a draft copy for your review.

If you have any questions please contact Jeff Albright of my staff at (303)225-3528.

Attachments

cc: RMR - Wise
SOL - Loveless

FNP:J.ALBRIGHT:st:03/21/95:S:\WRB\JSA\TMPCHNG

APPLICATION FOR TEMPORARY CHANGE OF WATER

STATE OF UTAH

Rec. by _____

Fee Paid \$ _____

Receipt # _____

Microfilmed _____

Roll # _____

For the purpose of obtaining permission to make a temporary change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

CHANGE APPLICATION NUMBER:**WATER RIGHT NUMBER:** -

 This Change Application proposes to change the POINT(S) OF DIVERSION.

* Maintain existing source and add an
 additional (ground water) source

1. OWNERSHIP INFORMATION.

A. NAME: National Park Service
 c/o Jeff Albright Chief, Water Rights Branch
 ADDRESS: 1201 Oak Ridge Drive, Fort Collins, CO 80525

INTEREST: 100%**B. PRIORITY OF CHANGE:****FILING DATE:****C. EVIDENCED BY:** 95-544, (a4187), Cert. a462

 * DESCRIPTION OF CURRENT WATER RIGHT: *

2. SOURCE INFORMATION.**A. QUANTITY OF WATER:** 0.0557 cfs**B. SOURCE:** Fremont River**COUNTY:** Wayne**C. POINT OF DIVERSION -- SURFACE:**

(1) N 406 feet E 504 feet from SW corner, Section 14, T 29S, R 6E, SLBM
 DIVERT WORKS: intake box with pump

3. WATER USE INFORMATION.**MUNICIPAL:** from Jan 1 to Dec 31. Capitol Reef National Park.


 Temporary Change
 

CHANGE APPLICATION NUMBER

for Water Right:

continued***** Page: 2

4. EXPLANATORY.

This right was originally to Alma Chesnut for 0.66 cfs in the decree of Hanksville Canal vs Torrey Irrigation. This 0.0557 cfs was acquired by the Park Service through condemnation on July 23, 1942.

* THE FOLLOWING CHANGES ARE PROPOSED: *

5. SOURCE INFORMATION.

A. QUANTITY OF WATER: 0.0557 cfs REMAINING WATER: Same as HERETOFORE

B. SOURCE: Underground Water Well COUNTY: Wayne

C. POINT OF DIVERSION -- UNDERGROUND: Changed as Follows:
(1) S 1812 feet W 2514 feet from NE corner, Section 22, T 29S, R 6E, SLBM
WELL DIAMETER: 6 inches WELL DEPTH: 78 feet

D. COMMON DESCRIPTION: Capitol Reef National Park

6. WATER USE INFORMATION. Same as HERETOFORE.

7. PLACE OF USE. Same as HERETOFORE.**8. SIGNATURE OF APPLICANT(S).**

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application, through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

X _____
Signature of Applicant(s)



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525-5596

March 21, 1995

L54(479)
RMR/ Water Rights

State of Utah
Department of Natural Resources
Division of Water Rights
P.O. Box 563
Richfield, Utah 84701-0563

Re: Payment for filing fees on behalf of Capitol Reef National Park

Dear Sir or Madam:

Enclosed please find check number 341 for \$75.00 to cover filing fees for a Temporary Change Application being submitted on behalf of Capitol Reef National Park.

Please acknowledge receipt of payment by completing the following information and returning it to this office in the envelope provided for you.

Received payment on _____
Check Number _____

Payment acknowledged by _____
Signature

If you have any questions, please contact me at (303) 225-3525.

Sincerely,

Denise Newberry
Water Rights Specialist

Enclosure

DENISE NEWBERRY 11-91		82-7026/3070	341
~~1201 Oak Ridge Dr. W. Oak~~ Suite 250		March 22, 1995	
FT. COLLINS, CO ~~80521-1570~~ 80525			
PAY TO THE ORDER OF <u>Utah Dept. of Natural Resources</u>		\$ 75.00	
<u>Seventy five</u>		DOLLARS	
	Key Bank of Colorado 300 W. Oak Fort Collins, Colorado 80522 (303) 482-3216		
MEMO	<u>CARE filing fees</u>	<u>Denise Newberry</u>	
⑆307070267⑆0010250353⑆0341			

March 9, 1994

L54(479)
RMR/CARE (Water Rights)

Memorandum

To: Superintendent, Capitol Reef National Park
From: Chief, Water Rights Branch, Water Resources Division
Subject: Temporary Change Application to Support Use of Water
from a New Well at Capitol Reef National Park

The Water Rights Branch (WRB) has been in communication with the Solicitor's Office (SOL) regarding water rights for the new water-supply well that was drilled in 1993. At the present time we are uncertain as to whether water rights for this well should be secured through a new water right application, or alternatively, if an existing right should be modified by filing a change application.

This uncertainty is because the state appears to have a policy that treats the Utah portion of the Colorado River Basin as "effectively closed" with respect to new applications that involve more than 3.75 acre-feet/year water use (such as the case with your proposed diversion of up to 50 gallons per minute from the well). The SOL will determine if this policy actually exists and assess the implications for obtaining water rights for the new well.

Because of this delay we have attached a Temporary Change application that will allow use of water from the well for a one-year period. The temporary change, which is based on the existing diversion right from the Freemont River (Cert. No. a-462, Change App. a-4187), will add the well as an additional source of supply. This will allow the park to divert 25 gallons per minute for municipal and domestic uses: the source of supply during this one-year period can be the well, the river, or a combination of the two.

The Superintendent must sign the attached form as the "Applicant". This form can then be submitted to the State Engineer's Field Office in Richfield, along with a \$75.00 filing fee.

2

If you have any questions, please contact Jeff Albright of my staff
at (303) 225-3528.

Owen Williams

Attachment

cc: RMR - Wise
CARE - Borthwick

FNP:JALBRIGHT:ms:(303)225-3506:03/09/94:S:\WRB\JSA\CHNG-APP

APPLICATION FOR TEMPORARY CHANGE OF WATER

STATE OF UTAH

Rec. by _____
 Fee Paid \$ _____
 Receipt # _____
 Microfilmed _____
 Roll # _____

For the purpose of obtaining permission to make a temporary change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. _____ *APPLICATION NO. t _____

Changes are proposed in (check those applicable)

☒ point of diversion. _____ place of use. _____ nature of use. _____ period of use.

1. **OWNER INFORMATION**

Name: The United States of America, c/o Superintendent, Capitol Reef National Park Interest: _____ %

Address: _____

City: Torrey. State: UT Zip Code: 84775-0001

2. *PRIORITY OF CHANGE: _____ *FILING DATE: _____

*Is this change amendatory? (Yes/No): _____

3. **RIGHT EVIDENCED BY:** Cert. No. a-462. Change Applic. a-4187

Prior Approved Temporary Change Applications for this right: _____

***** HERETOFORE *****

QUANTITY OF WATER: 0.0557 cfs and/or _____ ac-ft.

SOURCE: Freemont River

6. **COUNTY:** Wayne

7. **POINT(S) OF DIVERSION:** North 51°09' East 646.84 feet from the SW Corner,
Section 14, T29S, R6E, SLB&M

Description of Diverting Works: Intake box on river with pump to water treatment plant

8. **POINT(S) OF REDIVERSION**

The water has been rediverted from _____ at a point: _____

Description of Diverting Works: _____

9. **POINT(S) OF RETURN**

The amount of water consumed is _____ cfs or _____ ac-ft.

The amount of water returned is _____ cfs or _____ ac-ft.

The water has been returned to the natural stream/source at a point(s): _____

These items are to be completed by the Division of Water Rights.

Temporary Change

10. NATURE AND PERIOD OF USE

Irrigation: From _____ to _____
 Stockwatering: From _____ to _____
 Domestic: From Jan 1 to Dec 31
 Municipal: From Jan 1 to Dec 31
 Mining: From _____ to _____
 Power: From _____ to _____
 Other: From _____ to _____

11. PURPOSE AND EXTENT OF USE

Irrigation: _____ acres. Sole supply of _____ acres.
 Stockwatering (number and kind): _____
 Domestic: 21 Families and/or _____ Persons.
 Municipal (name): Water supply at Capitol Reef National Park for campgrounds, residential area, headquarters area
 Mining: _____ Mining District in the _____ Mine.
 Ores mined: _____
 Power: Plant name: _____ Type: _____ Capacity: _____
 Other (describe): _____

12. PLACE OF USE

Legal description of place of use by 40 acre tract(s): All in Township 29S, R6E, SLB&M:
NW1/4, SW1/4 Sec 14; SW1/4, SW1/4 Sec 14; SW1/4 NW1/4 Sec 15; NW1/4 SW1/4 Sec 15;
NE 1/4 SW1/4 Sec 15; SE1/4, SE1/4 Sec 15; NE1/4 NE1/4 Sec 22; SE1/4, NE1/4 Sec 22;
NW 1/4, NW1/4 Sec 23

13. STORAGE

Reservoir Name: _____ Storage Period: from _____ to _____
 Capacity: _____ ac-ft. Inundated Area: _____ acres.
 Height of dam: _____ feet.
 Legal description of inundated area by 40 tract(s): _____

***** **THE FOLLOWING CHANGES ARE PROPOSED** *******14. QUANTITY OF WATER:** _____ cfs and/or _____ ac-ft.**15. SOURCE:** Maintain existing source and add an additional (groundwater) source

Balance of the water will be abandoned: _____, or will be used as heretofore: _____

16. COUNTY: Wayne**17. POINT(S) OF DIVERSION:** Groundwater source located South 54°13' West 3099 feet from the SW Corner, Section 14, T29S, R6E, SLB&M

Description of Diverting Works: 78 foot deep, 6 inch diameter well equipped with pump, pipeline
 *COMMON DESCRIPTION: connection to existing municipal/domestic use distribution syst

18. POINT(S) OF REDIVERSION

The water will be rediverted from _____ at a point: _____

Description of Diverting Works: _____

19. POINT(S) OF RETURN

The amount of water to be consumed is _____ cfs or _____ ac-ft.

The amount of water to be returned is _____ cfs or _____ ac-ft.

The water will be returned to the natural stream/source at a point(s): _____

20. NATURE AND PERIOD OF USE

Irrigation: From ___/___/___ to ___/___/___
 Stockwatering: From ___/___/___ to ___/___/___
 Domestic: From ___/___/___ to ___/___/___
 Municipal: From ___/___/___ to ___/___/___
 Mining: From ___/___/___ to ___/___/___
 Power: From ___/___/___ to ___/___/___
 Other: From ___/___/___ to ___/___/___

21. PURPOSE AND EXTENT OF USE

Irrigation: _____ acres. Sole supply of _____ acres.
 Stockwatering (number and kind): _____
 Domestic: _____ Families and/or _____ Persons.
 Municipal (name): _____
 Mining: _____ Mining District at the _____ Mine.
 Ores mined: _____
 Power: Plant name: _____ Type: _____ Capacity: _____
 Other (describe): _____

22. PLACE OF USE

Legal description of place of use by 40 acre tract(s): _____

STORAGE

Reservoir Name: _____ Storage Period: from _____ to _____
 Capacity: _____ ac-ft. Inundated Area: _____ acres.
 Height of dam: _____ feet.
 Legal description of inundated area by 40 tract(s): _____

24. EXPLANATORY

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): _____

 The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

 Signature of Applicant(s)



United States Department of the Interior

OFFICE OF THE SOLICITOR
SUITE 6201, FEDERAL BUILDING
125 SOUTH STATE STREET
SALT LAKE CITY, UTAH 84138

February 4, 1994



Memorandum

To: Chief, Water Resources Division
From: Regional Solicitor, Intermountain Region
Subject: Water Right Application for New Water-Supply Source
at Capitol Reef National Park

By memorandum of November 1, 1993, you have asked for our recommendations on how to proceed in protecting a new well drilled on acquired lands within the park as a water supply for various park facilities. As discussed below, we see three options on which you might proceed: one, to file a statement of water user's claim asserting a federal reserved right to the water for park administration purposes; two, to file an application with the State Engineer for a new appropriation; and three, to do both, by filing a state appropriation application, with a notation that you are also asserting a right to this water under the reserved rights doctrine, and simultaneously filing a Statement of Water User's Claim asserting the federal reserved right and quantity with an appropriate priority date. As discussed below, we recommend the latter option as the safest course. We do not recommend filing a change of use application to convert the park's old irrigation right to the new uses.

BACKGROUND

Capitol Reef National Park was established on December 18, 1971, when Congress abolished Capitol Reef National Monument which had been in place since August 2, 1937. Presidential Proclamation No. 2246 of August 2, 1937, 50 Stat. 1856. The original 1937 Monument contained approximately 39,000 acres, but this was expanded by President Johnson's proclamation of January 20, 1969, to include some 250,000 acres. When Congress created the park in 1971, the acreage was reduced to its present size of 241,000 acres.

The land on which the well in question is located was a private inholding within the boundaries of the original national monument, and was acquired by the federal government in 1962 in keeping with the government's policy of eliminating inholdings in national parks and monuments when possible by voluntary purchase. 16 U.S.C. § 452a.

*residences appear to be
on acquired lands. Same for campground*

The park has completed a well to service the headquarters offices, employee residences and visitor center in the summer of 1993. Most if not all of these facilities are located on public domain land that was contained in the original withdrawal for Capitol Reef National Monument in 1937. A water line from the well has been brought to the facilities and is almost ready for connection so as to allow use of the water for the intended purposes. Your questions relate to the legal steps necessary to secure water rights protection for this water, and particularly whether the "acquired lands" status of this parcel affects the availability of a claim for a federal reserved water right to this water. In other words, does the fact that the well is located on acquired land somehow render a claim of reserved water right impotent? For the reasons set forth below, we conclude that the well being located on acquired lands has no bearing on the park's potential to claim a federal reserved water right for this water. Furthermore, as a federal reserved right it was secured and protected when the monument was first established in 1937. To secure protection under state law, you must comply with the application procedures of the State of Utah.

*probably
not true
most may
be on
acquired
land*

ANALYSIS

The Act of August 8, 1953, codified at 16 U.S.C. § 1c(a), specifies that the "national park system" is to include "any area of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes." Inholdings within the national park system that are later acquired become part of the national park system when acquired and placed under the administration of the National Park Service. 16 U.S.C. § 452a. This section authorizes expenditures of appropriated and donated funds "in order to consolidate Federal land ownership within the existing boundaries of any National Park." This reference, despite ostensibly being limited to "any National Park," must be read to include any unit of the national park system by virtue of 16 U.S.C. § 1c(b), which provides in relevant part:

[T]he various authorities relating to the administration and protection of areas under the administration of the Secretary of the Interior through the National Park Service, including but not limited to . . . the Act of August 31, 1954 (68 Stat. 1037), as amended (section 452a of this title), relating to acquisitions of inholdings, . . . shall, to the extent such provisions are not in conflict with any [statute made specifically applicable to the area], be applicable to all areas within the national park system and any reference in such Act to national parks, monuments, recreation areas, historic monuments, or parkways shall hereinafter not be construed as limiting such Acts to those areas.

This language in §1c(b) was added by an amendment in 1970, but replaced an earlier similar provision enacted in 1953, which was in place when the inholdings in question were acquired.¹ Accordingly, the inholdings became part of the monument upon acquisition. We perceive no problem posed by these facts for the existence of a federal reserved right having either a point of diversion (well) on such a parcel of acquired land or a place of use on such a parcel, or both.

Similarly, the Act of December 18, 1971, by which Congress established Capitol Reef National Park, placed all federal lands within defined boundaries in the new park. "Subject to valid existing rights, the lands, waters, and interests therein within the boundary generally depicted on [a specific map] are hereby established as the Capitol Reef National Park." 16 U.S.C. § 273. Since the parcel containing the well in question was acquired in 1962, it was part of the national monument and was made part of the park in 1971. It became part of the national monument upon acquisition in 1962.

We therefore see no conceivable argument that could be successfully mounted against the existence of a federal reserved water right for the manifest park purposes of maintaining park offices and a visitor center. The only real question presented here is the priority date of the water right. There is no question that we could claim a priority date of December 18, 1971, the date the park was established; the parcels where the well is located and the parcels on which the park office and visitor facilities were built were all in federal ownership by that time. The other real option is to assert a 1937 priority date, the date the monument was first created by proclamation of President Roosevelt. The inholding had not yet been acquired for well in 1937, but arguably that was the date the water right was reserved under the Winters doctrine, with the actual source to be determined later, when it was needed for the purposes of the reservation.

As far as which alternative to pursue, we would suggest the following. Although it appears that the park has a valid claim to a federal reserved water right, with a priority date of possibly 1937 and certainly no later than 1971, until that right is formally adjudicated and a decree is entered there is a degree of uncertainty in the claim. One can never guarantee the outcome of litigation. We therefore suggest that you file an application for a new appropriation of water with the Office of the State Engineer, complying with all of the state procedural requirements to the point when the State Engineer issues a water right certificate. Your priority date for that right will be the date the application is filed with the State Engineer. To properly comply with state law, the water should not be used until the application is

¹ See "Historical Note" to 16 U.S.C. § 1c.

approved. Following hook-up and use, you will need to obtain a survey location of the well from a state-licensed surveyor and file your proof of appropriation in order to receive a water right certificate.

Simultaneously, you should file with the State Engineer a Statement of Water User's Claim asserting a claim to the appropriated amount as a matter of federal reserved right, priority date 1937. The application for appropriation should contain a statement to the effect that a federal reserved right is also being asserted for the necessary water, and that at such time as the federal reserved right is adjudicated and a decree entered, the Park will abandon the state appropriation in favor of the earlier priority date of the federal reserved right. This manner of proceeding should provide the greatest possible protection for the right to the use of this water. We would be pleased to assist you with the drafting and preparation of the Statement of Water User's Claim, should you so desire.

In earlier conversations on this subject, your staff have mentioned that one potential option would be to file a change of use application on the park's old direct diversion water rights in the Fremont River. We do not recommend this course simply because it is far more complicated, with many other water users above and below the park with both senior and junior priority dates. The groundwater appropriation should be much cleaner, simpler, and provide no less secure a water right than the change of use route.

We hope that this answers your questions. If we can provide any further guidance or assistance in any way, please contact the undersigned at (801) 524-5677.

LYNN R. COLLINS
Regional Solicitor

By


A. SCOTT LOVELESS
Attorney-Advisor

cc: Superintendent, CARE

ASL:d11:02/03/94:Lovelessdisc\Opinions\Capreef.wtr

November 1, 1993

L54(479)
RMR/CARE (Water Rights)

Memorandum

To: Regional Solicitor, Salt Lake City, Utah
From: Dan B Kimball, Chief, Water Resources Division
Subject: Water Right Application for New Water-Supply Source at
Capitol Reef National Park

The Water Resources Division (WRD) requests your evaluation of a water rights issue at Capitol Reef National Park (CARE). CARE is planning a change in the location and source of diversion for the principal water-supply system at the park. It is unclear whether the park should secure water rights for the new diversion by amending an existing water right, or whether a new groundwater right application should be filed for the new source. Given Utah water law and the circumstances outlined below, we would like your recommendation on the best way to proceed with this issue. CARE and WRD staff have already had preliminary communication with Scott Loveless of your staff on this issue.

In 1962, the National Park Service submitted a change application to convert 0.0557 cubic feet per second (cfs), equivalent to 25 gallons per minute (gpm), of an original water right to municipal purposes at CARE campgrounds, residential area, and headquarters area (see Attachment 1). In 1966, Utah issued a certificate for this change (see Attachment 2). The water-supply system presently in use at CARE is the same as described in the 1962 change application. The water source for this right is a surface diversion from the Fremont River. The location of the diversion, and the entire area of water use, is on acquired lands (Attachment 3).

CARE recently drilled a well and is now planning to use it as the primary water source for the water-supply system referenced above. The well, also located on acquired land, is adjacent to the Fremont River, 1/2 to 3/4 of a mile upstream of the present diversion point. Geologic and hydraulic data collected during well drilling and testing suggests that the well taps a confined aquifer as opposed to river valley alluvium.

CARE would like to change the water-supply source to the well because of water quality concerns associated with the river. Once the well is online, CARE would like to keep the surface diversion as a backup water-supply source. As WRD understands the situation, both the well and the present surface diversion would be connected to the existing water treatment and distribution system. CARE would like to be able to draw water from either source, or as a mix of water from both sources. CARE has indicated that their present and immediate future needs at headquarters, residences, and campgrounds in this immediate area can be met with the current 25 gpm water right.

CARE plans to use a solar powered pump at the new well. The pump is designed to operate during daylight hours only, at a rate proportional to the intensity of sunlight. On sunny days, the pump may exceed the 25 gpm limitation of the existing right (pumping at a rate of approximately 35 gpm), but should not exceed 25 gpm on a daily-average basis. During heavy water use periods, the pump may be operated with a conventional power source under nighttime or cloudy weather conditions.

- ✓ Based on this information, would you advise that the existing right be modified to support the new well, or that a new groundwater right application be filed? Also, CARE would like to begin using the well as the primary water-supply source in the very near future
- ✓ (possibly by December, 1993). Accordingly, the park would like to know if they can begin to use the well once construction of the new system is complete, or must they wait until the water right application process has proceeded to the point where the state grants them a permit to use the well?

- On a related issue, it appears that the state may have been in error when they listed the right as having a 1935 priority date (see Attachment 2). This right was included in a judgement rendered by a Utah District Court in 1935 (the "Bates Decree"). A brief review of circumstances surrounding this right, a copy of the Bates Decree, and other pertinent documents are included as Attachment 4. This right appears to have been established well before 1935. Please examine Attachment 4 and advise us as to whether or not a claim to an earlier priority date can be
- ✓ successfully made. What additional documentation will be necessary to assert an earlier priority? If a change application is filed for the new well, should this issue be raised at this time?

- As you are aware, the Fremont River basin is currently being adjudicated as part of Utah Civil No. 435. Since both diversion locations and all areas of use for this water occur on acquired lands, we are expecting that this will need to be resolved through use of state-appropriative rather than federal reserved water
- ✓ rights. Please inform us if this interpretation is incorrect.

3

If you have any questions, please contact Chuck Pettee or Jeff Albright of my staff at (303) 225-3535 or 225-3528, respectively.

Dan B. Kimball

Attachments (4)

cc: (all w/o attachments)
RMR - Wise
CARE - Superintendent, Henderson

FNP:JALBRIGHT:ms:(303)225-3506:11/01/93\WRB\SALACOM.LTR

07/01/93
JSA

- Re: CARE needs to file a change application for an existing water right--CARE would like to add a newly drilled well near the Fremont River as an additional diversion source for an existing municipal-use right from the Fremont River.
- The municipal-use water right originally derives from a 0.66 cfs irrigation right (Alma Chestnut right) which was decreed by a Utah State District Court ("1935 Bates Decree", resulting from litigation of "Hanksville Canal vs. Torrey Irrigation Co."); this may be a diligence right having a 1902 priority date [need to obtain copy of Bates Decree]
 - NPS gained title to the water right in 1942 through a land condemnation and "Declaration of Taking" action; 0.0557 cfs (25 gpm) of the Chestnut right was later converted by NPS to "municipal" use through Change Application a-4187 (filed w/state on 10/22/62, finalized by a state certificate a-462 issued on 03/17/66); the change applic. indicates changes in diversion location, place of use, and purpose of use
 - Change Application a-4187 changes 0.0557 cfs for municipal use at CARE campgrounds, and residential and headquarters areas; the state certificate also lists purpose of use as municipal, and lists place of use as "In Capitol Reef National Monument in Sections 14, 15, 22, and 23, T29S, R6E, SLB&M"
 - A water right claim in the NPS docket files (signed and dated in 1983, probably submitted as part of the general adjudication ongoing for this area) references the 0.66 cfs Alma Chestnut right as Claim No. 95-3995
 - During Spring 1993, CARE drilled a shallow well near the river and approx. 1/2-3/4 miles upstream of the existing surface diversion from the Fremont River; CARE would like to use the new well as the primary source of water for visitation/administration purposes, and use the Fremont River only as a backup water-supply source; the state has suggested that CARE file a change application to the existing right, to allow multiple water-supply sources
 - CARE believes that 0.0557 cfs (25 gpm), which is the capacity of the present water-supply system, will continue to be adequate for immediate future needs (06/93 phone convers. w/Norm Henderson); CARE is interested in pursuing the course of action being recommended by the state, pending NPS-WRD review
 - It appears that the diversion and most (if not all) use is on acquired lands; if the Alma Chestnut right is a 1902 diligence right, then it greatly supercedes any of the reservation dates

for CARE (1937, 1958, 1969, additional?) [the effect of the "priority of change" as being 10/22/62 needs to be evaluated]; there will be opportunity during the course of the adjudication to better define CARE's future water-use needs, and to determine whether those should be met through federal reserved water rights or through changes in terms of the existing federally-owned state rights; therefore, the state recommended course of action seems reasonable, with the provision that the change application include verbage to the effect that nothing in the application shall constitute a waiver of any other water rights which the United States may have to the same water (i.e., same waiver typed on 10/22/62 change application, or other language as recommended by Solicitor's Office)

Station No. 1- Lower Ditch North Side
 Station No. 2- Lower Ditch South Side (Lower Ditch)
 Station No. 3- Upper Ditch North Side (Pipe Ditch)
 Station No. 4- Upper Ditch South Side (Upper Ditch)

CAPITOL REEF NATIONAL MONUMENT ANALYSIS OF FLUME READINGS

Covering The Period: 4/1 19 65 To 11/30 19 65

MONTH	STATION No. 1 Aver. Acre Feet	STATION No. 2 Aver. Acre Feet	STATION No. 3 Aver. Acre Feet	STATION No. 4 Aver. Acre Feet	REMARKS
April	28.58	7.62	69.02	15.95	
May	86.08	101.45	219.73	58.08	
June	101.16	152.93	316.56	69.02	
July	82.39	121.13	270.46	73.79	
August	72.56	87.93	296.98	45.22	
September	69.62	76.17	238.61	59.98	
October	113.14	92.23	187.54	76.36	
November	20.03	16.26	27.47		

Southwest Region
Santa Fe, New Mexico

LS4
CARE

11/30/62

Wayne D. Griddle
Office of State Engineer
State of Utah
Salt Lake City, Utah

RE: Application No. a-4187

Attention: Jack A. Barnett
Application Engineer

Dear Sir:

Reference is made to your letter of November 21, 1962, wherein you state the above-numbered application has been reviewed by your office and that you are ready to proceed with the advertising of the application.

There did seem to be a question as to the ownership of the water rights which we propose to transfer.

Enclosed is a copy of the Findings of Fact and Judgment of Civil Suit No. 376 in the District Court of the United States for the District of Utah, Central Division, signed by Tillman D. Johnson, Judge of the U. S. District Court and filed on June 3, 1943, said Findings of Fact and Judgment being the result of a judgment of Declaration of Taking filed July 23, 1942 in the matter of condemnation of the Emma and Alma Chesnut property.

This particular condemnation suit placed the title of the land and water rights in the name of the United States of America. Any additional information which you might need has been recorded in the office of the Recorder, Wayne County, Utah, and if you will let us know what additional information is needed (if any) we can supply you with book and page numbers of recorded instruments.

Sincerely yours,

Thomas J. Allen
Regional Director

Enclosure

WJF:ldw 11/30/62

LSH
Chesnut

Region Three
Santa Fe, New Mexico
June 18, 1962

W O D C
JUN 25 1962
CHF
ADM
HABBS
ACTION TAKEN - DATE

Memorandum

To: Assistant Regional Director Carpenter

From: Civil Engineer

Subject: Lie to Section Corner for Water Diversion, Clarence
Chesnut Property, Capitol Reef National Monument

On June 1, 1962 I submitted to the Regional Director through you a trip report wherein I outlined the chronological sequence of work which was done by Cartographic Draftsmen Clyde Arquero and Lawrence Sando and myself on our trip to Arches and Capitol Reef National Monuments from May 22 to May 27. Since that trip report listed each survey by name only, and since there is a possibility that some court action is forthcoming concerning lands at Capitol Reef where some of these surveys will be used as evidence, it is felt that a step by step procedure of work accomplished should be written down. For filing purposes I will submit a separate memorandum for each tract of land involved.

It must first be noted that all section corners, 1/16 corners and G.L.O. markers which are mentioned in this report are in T. 29 S., R. 6 E., S14E.

The water supply at Capitol Reef will be supplied directly from the Fremont River. This proposed diversion will be by means of a filtration gallery tentatively selected to be on the Chesnut property west of the Fremont River and roughly near the center of the SW1/4 of Section 14. In order to obtain permission to utilize our water rights in this manner we must make an application to the State Engineer of Utah for a water diversion for culinary purposes. This application will include a tie from the point of diversion to a section corner. Our first project consisted of making this tie. The work was done on the afternoon of May 24.

With the help of Superintendent Krueger we readily found the section corner (a brass cap) common to Sections 14, 15, 22 and 23 marked U.S.G.L.O. 1917. This corner is located about 40 feet west of the west bank of the Fremont River and about 12 feet east of an old narrow road which runs roughly parallel to the

river from the highway to a point just south of the section corner. Because of the intense brush and tree growth along the river we could not see directly from the corner to the point of diversion; therefore we ran a random line from the point of diversion to the corner along an old road. This random line included seven angles and seven distances. Subsequently I have calculated the direct tie. It is - N.51°09'E., 646.84' from the section corner to the point of diversion.

The above calculated tie was to the west stream bank at the proposed point of diversion selected by representatives of the Western Office of Design and Construction. While Mr. Kell was at Salt Lake City on May 25 he discussed the proposed application to divert water from the Fremont with Mr. Francis T. Mayo, Chief, Water Resources Section, Salt Lake City. Mr. Mayo informed Mr. Kell that the point of diversion, as interpreted by the State Engineer, is the center of the sump or point of pickup, rather than the edge of the stream. When plans have been completed by WODC the actual point of diversion can be calculated when the size and location of the sump or collection point is known.

We are preparing a map showing the random traverse line and the final plan for the point of diversion for filing with the State Engineer when all of the data is available. This map will need to be of the size required by the State Engineer and will need to show not only the point of diversion but the storage and distribution lines as well.

William E. Fields
Civil Engineer

Copy to: Regional Director
Assistant Regional Director Miller
Supt, Capitol Reef
Chief, WODC (2)
Regional Chief of Lands Kell

Capitol Reef National Monument
Torrey, Utah

December 14, 1961

Memorandum

To: Regional Director
From: Superintendent, Capitol Reef
Subject: Application for Water Use for Domestic Purposes
Capitol Reef

Recently we submitted reports of chemical analyses for four samples of water received from the Utah State Department of Health. These samples were from each of two test galleries dug adjacent to the Fremont River and one each from the river adjacent to each gallery. Our letter of November 27 outlined our recommendation to use water from the galleries. Our second choice would be to divert directly from the Fremont River. These possibilities are preferred over risking the chances involved in the drilling of a deep well. We favor treatment of the water in the galleries, if the engineers determine such treatment practical and possible. The turbidity of the waters of the Fremont River, particularly during the summer flood season of July and August is the reason for our second choice of direct use of the river water.

When agreement is reached on the source of the water supply for Capitol Reef an application for change of use and location of the water should be filed with the State Engineer, State of Utah as soon as possible for this project for construction of the water system is programmed for the 1963 FY. The State Engineer may take 30 days to reply to applications with statements of changes, corrections or amendments required. A total of 60 days is allowed for filing. If approved the effective date is the date of receipt of the application by the Engineer. It appears that a minimum of 90 days may pass before we would be aware of the disposition of the case. Charges may be made for advertising, to appropriate for storage, for application filing, for application examining, for permanent changes in point of diversion and for application approval. These charges are outlined in the Water Laws of Utah as Amended May 10, 1955, supplement thereto.

At this time we are recommending the use of Gallery No. 2 which is located near the bank of the Fremont River on the old Sprang property approximately 50' from the south bank of the Fremont River at a point approximately 200' south and 150' west of the section corner common to sections 14, 15, 22, 23, Township 29 South Range 6 East, 11M.

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none

Gallery No. 1 will be located on the Clarence Chesnut property now under option to the government, title to which should pass to the United States before July 1, 1962. The site may be described as located approximately 50 feet from the north bank of the Fremont River at a point approximately 725' east and 550' north of the section corner common to sections 14, 15, 22, 23 Township 29 South Range 6 East, SIM.

If direct diversion of water from the Fremont River is selected as the source for the water system the point of diversion will be on the north bank of the Fremont River on the old Sprang property at a point approximately 300' west and 100' south of the corner common to section 14, 15, 22, 23 Township 29 South Range 6 East, SIM.

The above location are not from actual surveys of the proposed sites but are taken as scaled from property map, drawing Number NM-CR-7106. If more accurate information is desired a survey of the sites must be conducted.

The predominant use of water from the Fremont River of rights held or acquired by the government has been for irrigation purposes. Small amounts of water have been diverted by previous owners for culinary use. Not including the Clarence Chesnut property now under option the government now has in excess of 5 cfs of water. The amount of water estimated for use for domestic purposes is about 30,000 gallons per day and is in excess of the limits of 6.73 gpm for publication of application specified in the Utah Water Laws.

As soon as the source is determined we suggest that steps be taken as necessary for proper application to the State Engineer of Utah. We will want to have a contract for construction of the system ready for acceptance and beginning of work by July 1, 1962. In the interest of time we have submitted this preliminary information at this time.

William T. Krueger
Superintendent

cc: WODC ✓

Docket Information

Number of Documents in Docket 60

Documents Dated from 12/14/1961 to 3/28/2002

Docket Compiled: 3/9/2012