



WATER-RIGHT DOCKET

Florissant Fossil Beds National Monument

Docket No: 4

WELL #4

Preliminary Docket Information

00-00-0000: water right record

WATER RIGHT RECORD

Park: FLFO

Docket Number:

Federal #4

IDENTIFICATION NO: FLFO W 1 9 1 3 7 0 A F O 4

DITCH/WATER SYSTEM: Well #4 (Wells)

SOURCE OF SUPPLY: Well

LOCATION: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 19, T13S, R70W

WATER RIGHT:

Appropriator: United States of America, National Park Service

Application/Permit Number:

Certificate Record Number:

Date of Priority: January 15, 1977

Quantity of Water: .002 c.f.s.

Purpose: Domestic

Irrigated Land Description:

SUMMARY OF STATUS: This is a Federal water right consisting of a 160 ft. well serving an employee residence.



United States Department of the Interior

NATIONAL PARK SERVICE

WATER RESOURCES DIVISION
301 SOUTH HOWES ST., ROOM 335
FT. COLLINS, COLORADO 80521



IN REPLY REFER TO:

October 17, 1990

L54(479)

FLFO/Water Rights

Memorandum

To: Superintendent, Florissant Fossil Bed National Monument

From: Chief, Water Rights Branch

Subject: Dismissal Order - Wells Cabin Well (FLFO Well #4)

Please find enclosed a copy of the Dismissal Order concerning Case No. W8798-77, Water Division No. 1, for Wells Cabin Well (FLFO Well #4).

Please note the order requires that the well be plugged and abandoned.

If you have any questions concerning the Dismissal Order please contact Bill Hansen of my staff at (303) 221-8333.

cc: RMR - Hermance (w/o attachments)
FLFO Docket #4 (w/attachments)



U.S. Department of Justice

Land and Natural Resources Division

WMC:LAJohnson
90-1-2-892

Denver Field Office
Federal Bldg., 1961 Stout Street
Drawer 3607
Denver, Colorado 80294

Commercial Number
(303) 844-3627
FTS/564-3627

October 1, 1990

Mr. Owen Williams
Assistant Chief, Water Resources Division
National Park Service
Federal Building, 301 S. Howes Street
Fort Collins, Colorado 80521



Re: Water Division No. 1 - Case No. W-8798-77

Dear Owen:

Enclosed please find a copy of the last page of FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT in the above-captioned case indicating the dismissal decree was entered September 25, 1990.

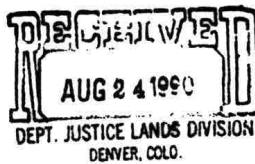
We will now consider this file inactive. If you have any questions or I can be of further help, please call.

Sincerely,

Deirdre Hills

Deirdre Hills
Legal Technician
General Litigation Section

cc: John Kunz, Esq.
Attorney, Office of the Regional Solicitor
Department of the Interior
Post Office Box 25007
Denver Federal Center
Denver, Colorado 80225



DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

CASE NO. W-8798-77

FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF
UNITED STATES OF AMERICA, FLORISSANT FOSSIL BEDS NATIONAL MONUMENT, IN
TELLER COUNTY

THIS CLAIM was filed with the Water Clerk, Water Division 1,
on December 29, 1977, and the Referee being fully advised in the
premises, does hereby find:

All notices required by law of the filing of this application
were fulfilled, and the Referee has jurisdiction of this application.

Numerous Statements of Opposition and Entries of Appearance
were filed in all the USA cases. Upon agreement of all counsel, this
case is to be ruled on as if no opposition had been filed.

All matters contained in the application were reviewed, and
testimony was taken where such testimony was necessary and such
corrections made as are indicated by the evidence presented.

IT IS HEREBY THE RULING OF THE WATER REFEREE:

1. The name and address of the claimant:

United States of America
Department of Justice
Land and Natural Resources Division
1961 Stout Street
P.O. Drawer 3607
Denver, CO 80294

USA
W-8798-77
Page 2

2. The name of the structure:

USA Florissant Fossil Beds National Monument
Wells Cabin Well

3. The legal description of the structure:

NW1/4NE1/4, Section 19, Township 13 South, Range 70 West,
6th P.M., Teller County, at a point approximately 400 feet from the
North line and 1,400 feet from the East line, Section 19.

4. All parties consenting, this application is DISMISSED.
Well shall be plugged and abandoned.

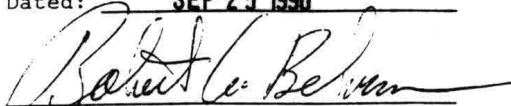
Dated: AUG 23 1990


RAYMOND S. LIESMAN
Water Referee
Water Division No. 1

THE COURT FINDS: NO PROTEST WAS FILED IN THIS MATTER.

THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE
JUDGMENT AND DECREE OF THIS COURT.

Dated: SEP 25 1990


ROBERT A. BEHRMAN
Water Judge
Water Division No. 1
State of Colorado

Four Copies To Be Filed
Two copies of State Engineer well permit or well registration may
be attached.

IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. 1

STATE OF COLORADO

CASE NO. W- 8439-76

IN THE MATTER OF THE
APPLICATION FOR
WATER RIGHTS OF THE UNITED STATES
OF AMERICA IN WATER DIVISION NO. 1

IN THE SOUTH PLATTE
RIVER OR ITS TRIBUTARIES

IN TELLER COUNTY

APPLICATION FOR
UNDERGROUND WATER RIGHT
(Well No. 4)

1. Name of Applicant: United States of America, Dept. of the Interior,
National Park Service, Florissant Fossil Beds National Monument
Mailing Address: Hank Meshorer, Trial Attorney, Dept. of Justice,
Land & Natural Resources Div., P.O. Box 1656, Denver, CO 80201
2. Legal description of well location:
NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 19, T13S, R70W, 6th P.M.
1400 feet from the East section line.
400 feet from the north section line.
3. Depth of well:
160 ft.
4. Date of initiation of appropriation:
January 15, 1977
5. Amount of water claimed in cubic feet per second of time:
.002 c.f.s.
6. Use of water: Historic use or proposed use (indicate which)
Domestic - Ranger Station (Proposed)
7. Number of well as registered in State Engineer's office or,
if a new well, the number on the permit:
8. Land irrigated (description and acreage):

Attorney for Applicant

Address:

Telephone:

WELL INFORMATION DATA

CASE NO. W- 8439-76

Name of applicant: United States of America, Dept. of the Interior, National Park Service
 Mailing Address: Hank Meshorer, Trial Attorney, Dept. of Justice, Land & Natural Resources
 Div., P.O. Box 1656, Denver, CO 80201
 Well Permit or Registration Number _____.

Location of Well :

Section 19, Township 13 South, Range 70 West.

Give bearing and distance from Section corner or distance
 N - S and E - W from section lines.
 1400 feet from the East section line.
 400 feet from the North section line.

DATA: Date of current test: _____.

Depth of well 160 feet.

Depth to Static Water Level 12 feet.

Horsepower of electric motor 1/2.

Diameter - discharge pipe 1 inches.

Pressure at sprinkler head _____ per sq. inch.

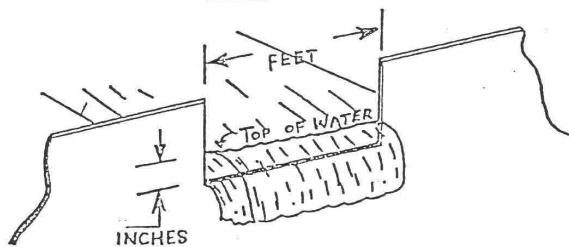
DO NOT USE
 TEST DATA
 FROM WELL
 REGISTRATION
 FORM.

CAPACITY OF WELL:

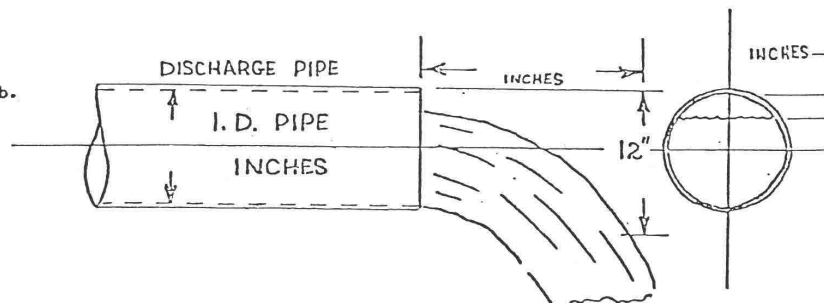
1. Actual measurement 1/2 gpm (do not use pump-test data)
2. Or one of the following measurements:

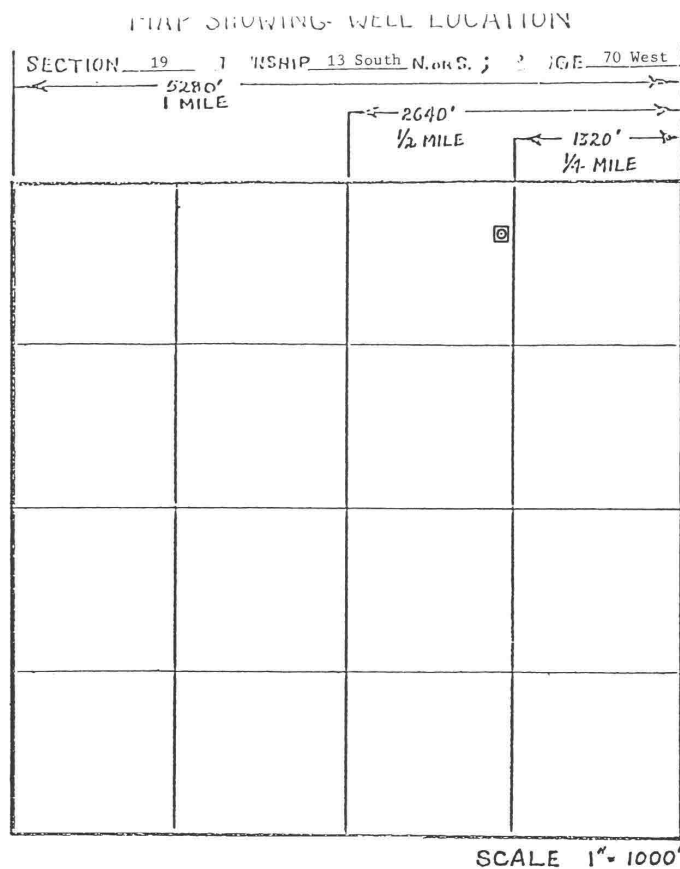
2a.

WEIR



2b.





State of Colorado)
County of) ss.

_____, being first duly sworn upon
oath, deposes and says that he has read the foregoing information, knows
the contents thereof and that the same is true.

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

My commission expires: _____

Notary Public

Other Supporting Information

W-8798-77

September 4, 1990

LS4(479)
RMR/Water Rights

Lynn Johnson, Attorney
U.S. Department of Justice
Federal Building, 1961 Stout Street
Drawer 3607
Denver, Colorado 80294

Re: Case Nos. W-8788-77, W-8789-77, W-8791-77, W-8794-77, W-8797-77, W-8798-77, 84 CW 419, 85 CW 342, 85 CW 343, 85 CW 344, 85 CW 345, 85 CW 346, 85 CW 347, 85 CW 348, 85 CW 349, 85 CW 350, 85 CW 351, 85 CW 376 and 85 CW 384, 85 CW 377, 85 CW 378, 85 CW 379, 85 CW 380, 85 CW 381, 85 CW 382, 85 CW 383, 85 CW 385 (Response to Your Letter of August 22, 1990)

Dear Lynn:

The current status of the above-cited cases follows. In regard to case number W-8788-77, (reserved rights, Rocky Mountain National Park) we have taken initial steps towards the preparation of evidence. Referee Ray Liesman indicated at the March 6, 1990, term day that the court has no intention of addressing other Federal reserved water rights claims until the United States Forest Service reserved right claims are handled.

In regard to W-8789-77, W-8791-77, W-8794-77, 85 CW 342, 85 CW 343, 85 CW 344, 85 CW 345, 85 CW 346, 85 CW 347, 85 CW 348, 85 CW 349, 85 CW 350, 85 CW 351, 85 CW 376 and 85 CW 384, 85 CW 377, 85 CW 378, 85 CW 379, 85 CW 380, 85 CW 381, 85 CW 382, 85 CW 383, 85 CW 385, (appropriative water right claims, Rocky Mountain National Park) Ken Csarnowski of my staff contacted Liesman to discuss our progress on these cases. Csarnowski indicated the National Park Service (NPS) is moving forward on these cases but won't have anything available for this term day. Liesman said he would not dismise the cases so long as NPS was moving forward.

In regard to 84 CW 419, W-8797-77, and W-8798-77, Alice Johns of my staff contacted Liesman to discuss progress on these cases. A summary of the status of these rights, as indicated to Liesman, is attached (Appendix A). Also attached is the following documentation concerning these cases:

Appendix B: Case 84 CW 419:

--Completed change application and supporting documentation.

ONLY APPLICABLE APPENDICES INCLUDED

2

Appendix C: Case W-8797-77:

--Transmittal memorandum, pump test results, and an affidavit from William F. Metrich, indicating a sustained pumping rate of 29.42 gallons per minute after 2 hours. (Liesman just asked that we measure the flow rate.)

Appendix D: Case W-8798-77:

--Memo to the Superintendent recommending that NPS not pursue a water right for that well and that DOJ request dismissal of the case.
--Memo from the Superintendent concurring that NPS not pursue a water right for the well.

In light of the attached information, the National Park Service requests that DOJ seek dismissal of Case Number W-8798-77.

If you have further questions concerning these cases, please contact me, Dan McGlothlin (Rocky Mountain NP Federal reserved water rights), Ken Czarnowski (Rocky Mountain NP appropriative water rights), or Alice Johns (Florissant Fossil Beds NP appropriative water rights) at (303)221-8382.

Owen Williams

Owen R. Williams
Chief, Water Rights Branch

cc: ROMO - Superintendent
FLPO - Superintendent
RNR - Verence, (w/attachments)

FNP:ASJWHS:jtc:(303)221-8304:09/04/90:WANG ID #620

Appendix D
Case W-8798-77



United States Department of the Interior

NATIONAL PARK SERVICE

WATER RESOURCES DIVISION
301 SOUTH HOWES ST., ROOM 335
FT. COLLINS, COLORADO 80521



IN REPLY REFER TO:
LS4(479)
FLFO/Water Rights

August 7, 1990

Memorandum

To: Superintendent, Florissant Fossil Beds National Monument

From: Chief, Water Rights Branch

Subject: Well Number 4 (Case Number W-8798-77), Also Referred to as the Welch Well, Welsh Well, Wells Well and the Wells Cabin Well

The court for Colorado Water Division 1 has requested proof of the use prior to 1972 of the above-cited well, or a well permit. Without this information, a water right cannot be obtained for the well, and thus, the case concerning the well (Number W-8798-77) would be dismissed.

After reviewing the available information concerning this well, we have determined the following:

- The well is in the NW1/4 NE1/4 Section 19, T13S R70W, 6th P.M.
- The well was drilled after December 3, 1976, (United States Department of the Interior Requisition of December 3, 1976) at the site of Wells Cabin to supply water for a National Park Service (NPS) residence.
- The State Engineer's office has no record of any well, well permits or registrations in the NW1/4 NE1/4 of Section 19 (Telephone Communication with Betty Dyce, State Engineer's Office, Records, July 30, 1990).
- The structure that the well served was obliterated within the last decade and the well cap has been removed from the casing. (Inglis, R. 1988, Notes accompanying photos of Wells Cabin Well (NPS#4), FLFO, Wells Cabin Well (NPS#4) File, Water Resources Division, National Park Service).

Because the well was not in use prior to 1972, and the state has no record of permits or registrations for wells in the NW1/4 NE1/4 of Section 19, it does not appear that the NPS established a property interest in the right to use water from the well. This eliminates the opportunity to secure an antedated water right.

If, on the other hand, the NPS were to attempt to secure a current water right, it would be necessary to demonstrate the appropriation and beneficial use of water at this site--both of which are physically infeasible at present. We therefore recommend that the NPS not pursue a water right for the well and that the Department of Justice (DOJ) request dismissal of case W-8798-77.

If you concur, and case W-8798-77 is dismissed, we further recommend that the well be plugged in conformance with state regulations.

Please inform us of your decision as soon as practical so that we may take the necessary actions through DOJ to respond to the court's inquiries.

If we may be of further assistance, please don't hesitate to call me or Alice Johns at (303) 221-8301 and (303) 221-8304, respectively.



cc: RMR - Hermance
DOJ - Hill
479 ~~me~~ Johns, Hansen, Inglis



United States Department of the Interior

NATIONAL PARK SERVICE
Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, Colorado 80816



IN REPLY REFER TO:

L54(479) (FLFO-M)

August 16, 1990



Memorandum

To: Chief, Water Rights Branch
From: Superintendent, Florissant Fossil Beds Natl Monument
Subject: Well Number 4 (Case Number W-8798-77)

Reference you memo dated August 7, 1990, on FLFO Water Rights. I concur with your recommendation that the National Park Service does not pursue a water right for this well. (Known locally as the Wells Cabin Well.) This well is not essential for park operations. It appears that in Fiscal Year 1991 we may receive cyclic funding to properly abandon some of the non-essential wells on the monument. At that time we will file abandonment paperwork with your office for Well Number 4. If you have any questions, please call me at 719/748-3253.

Noel R. Poe

October 17, 1990

L54(479)
FLFO/Water Rights

Memorandum

To: Superintendent, Florissant Fossil Bed National Monument

From: Chief, Water Rights Branch

Subject: Dismissal Order - Wells Cabin Well (FLFO Well #4)

Please find enclosed a copy of the Dismissal Order concerning Case No. W8798-77, Water Division No. 1, for Wells Cabin Well (FLFO Well #4).

Please note the order requires that the well be plugged and abandoned.

If you have any questions concerning the Dismissal Order please contact Bill Hansen of my staff at (303) 221-8333.

Caren Williams

cc: RMR - Hermance (w/o attachments)
FLFO Bucket #4 (w/attachments)

YHP:BEARSEN:jti(303)221-8333:10/17/90:WANG ID #705



U.S. Dep. of Justice

Land and Natural Resources Division

WMC:LAJohnson
90-1-2-892

October 1, 1990

Denver Field Office
Federal Bldg., 1961 Stout Street
Drawer 3607
Denver, Colorado 80294

Commercial Number
(303) 844-3627
FTS/564-3627

Mr. Owen Williams
Assistant Chief, Water Resources Division
National Park Service
Federal Building, 301 S. Howes Street
Fort Collins, Colorado 80521



Re: Water Division No. 1 - Case No. W-8798-77

Dear Owen:

Enclosed please find a copy of the last page of FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT in the above-captioned case indicating the dismissal decree was entered September 25, 1990.

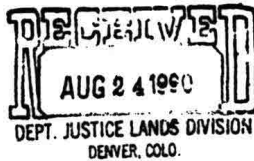
We will now consider this file inactive. If you have any questions or I can be of further help, please call.

Sincerely,

Deirdre Hills

Deirdre Hills
Legal Technician
General Litigation Section

cc: John Kunz, Esq.
Attorney, Office of the Regional Solicitor
Department of the Interior
Post Office Box 25007
Denver Federal Center
Denver, Colorado 80225



DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

CASE NO. W-8798-77

FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF

UNITED STATES OF AMERICA, FLORISSANT FOSSIL BEDS NATIONAL MONUMENT, IN
TELLER COUNTY

THIS CLAIM was filed with the Water Clerk, Water Division 1,
on December 29, 1977, and the Referee being fully advised in the
premises, does hereby find:

All notices required by law of the filing of this application
were fulfilled, and the Referee has jurisdiction of this application.

Numerous Statements of Opposition and Entries of Appearance
were filed in all the USA cases. Upon agreement of all counsel, this
case is to be ruled on as if no opposition had been filed.

All matters contained in the application were reviewed, and
testimony was taken where such testimony was necessary and such
corrections made as are indicated by the evidence presented.

IT IS HEREBY THE RULING OF THE WATER REFEREE:

1. The name and address of the claimant:

United States of America
Department of Justice
Land and Natural Resources Division
1961 Stout Street
P.O. Drawer 3607
Denver, CO 80294

OCT 1 1990

USA
W-8798-77
Page 2

2. The name of the structure:

USA Florissant Fossil Beds National Monument
Wells Cabin Well

3. The legal description of the structure:

NW1/4NE1/4, Section 19, Township 13 South, Range 70 West,
6th P.M., Teller County, at a point approximately 400 feet from the
North line and 1,400 feet from the East line, Section 19.

4. All parties consenting, this application is DISMISSED.
Well shall be plugged and abandoned.

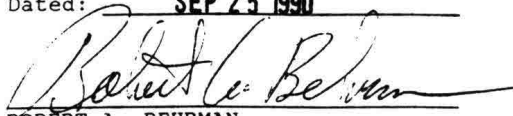
Dated: AUG 23 1990


RAYMOND S. LIESMAN
Water Referee
Water Division No. 1

THE COURT FINDS: NO PROTEST WAS FILED IN THIS MATTER.

THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE
JUDGMENT AND DECREE OF THIS COURT.

Dated: SEP 25 1990


ROBERT A. BEHRMAN
Water Judge
Water Division No. 1
State of Colorado

OCT 1 1990



United States Department of the Interior

NATIONAL PARK SERVICE
Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, Colorado 80816



IN REPLY REFER TO:

L54(479) (FLFO-M)

August 16, 1990



Memorandum

To: Chief, Water Rights Branch
From: Superintendent, Florissant Fossil Beds Natl Monument
Subject: Well Number 4 (Case Number W-8798-77)

Reference you memo dated August 7, 1990, on FLFO Water Rights. I concur with your recommendation that the National Park Service does not pursue a water right for this well. (Known locally as the Wells Cabin Well.) This well is not essential for park operations. It appears that in Fiscal Year 1991 we may receive cyclic funding to properly abandon some of the non-essential wells on the monument. At that time we will file abandonment paperwork with your office for Well Number 4. If you have any questions, please call me at 719/748-3253.

Noel R. Poe



United States Department of the Interior
NATIONAL PARK SERVICE
WATER RESOURCES DIVISION
301 SOUTH HOWES ST., ROOM 335
FT. COLLINS, COLORADO 80521



Johns

IN REPLY REFER TO:

L54(479)

FLFO/Water Rights

August 7, 1990

Memorandum

To: Superintendent, Florissant Fossil Beds National Monument
From: Chief, Water Rights Branch
Subject: Well Number 4 (Case Number W-8798-77), Also Referred to as the Welch Well, Welsh Well, Wells Well and the Wells Cabin Well

The court for Colorado Water Division 1 has requested proof of the use prior to 1972 of the above-cited well, or a well permit. Without this information, a water right cannot be obtained for the well, and thus, the case concerning the well (Number W-8798-77) would be dismissed.

After reviewing the available information concerning this well, we have determined the following:

- The well is in the NW1/4 NE1/4 Section 19, T13S R70W, 6th P.M.
- The well was drilled after December 3, 1976, (United States Department of the Interior Requisition of December 3, 1976) at the site of Wells Cabin to supply water for a National Park Service (NPS) residence.
- The State Engineer's office has no record of any well, well permits or registrations in the NW1/4 NE1/4 of Section 19 (Telephone Communication with Betty Dyce, State Engineer's Office, Records, July 30, 1990).
- The structure that the well served was obliterated within the last decade and the well cap has been removed from the casing. (Inglis, R. 1988, Notes accompanying photos of Wells Cabin Well (NPS#4), FLFO, Wells Cabin Well (NPS#4) File, Water Resources Division, National Park Service).

Because the well was not in use prior to 1972, and the state has no record of permits or registrations for wells in the NW1/4 NE1/4 of Section 19, it does not appear that the NPS established a property interest in the right to use water from the well. This eliminates the opportunity to secure an antedated water right.

If, on the other hand, the NPS were to attempt to secure a current water right, it would be necessary to demonstrate the appropriation and beneficial use of water at this site--both of which are physically infeasible at present. We therefore recommend that the NPS not pursue a water right for the well and that the Department of Justice (DOJ) request dismissal of case W-8798-77.

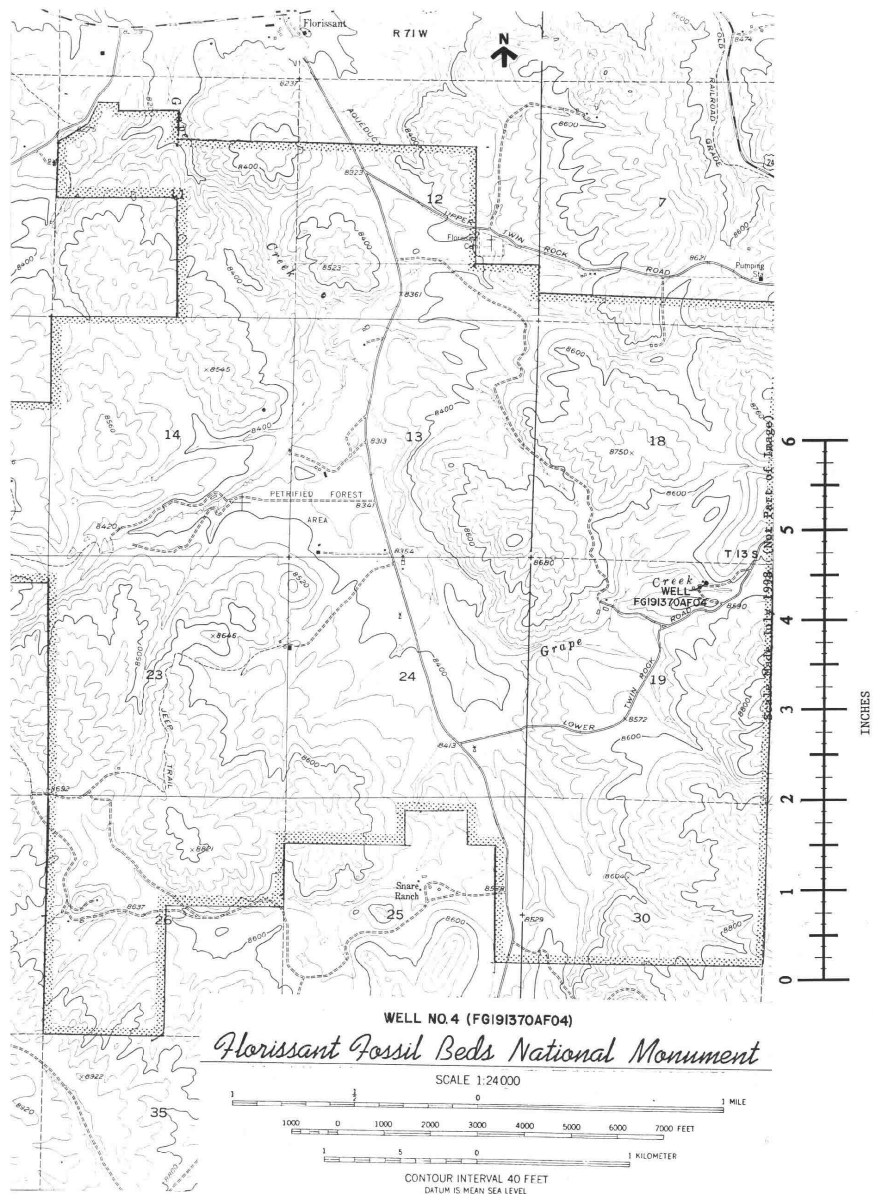
If you concur, and case W-8798-77 is dismissed, we further recommend that the well be plugged in conformance with state regulations.

Please inform us of your decision as soon as practical so that we may take the necessary actions through DOJ to respond to the court's inquiries.

If we may be of further assistance, please don't hesitate to call me or Alice Johns at (303) 221-8301 and (303) 221-8304, respectively.



cc: RMR - Hermance
DOJ - Hill
479 - Johns, Hansen, Inglis



Docket Information

Number of Documents in Docket 22

Documents Dated from 8/7/1990 to 10/17/1990

Docket Compiled: 3/10/2011