



WATER-RIGHT DOCKET

Florissant Fossil Beds National Monument

Docket No: 9

WELL #9, NELSON DOMESTIC

Preliminary Docket Information

00-00-0000: water right record, well #9, description and location.

WATER RIGHT RECORD

Park: FLFO

Docket Number:

Federal #9

IDENTIFICATION NO: FLFO W 2 6 1 3 7 1 A F 0 9

DITCH/WATER SYSTEM:

SOURCE OF SUPPLY: Well #9

LOCATION: NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 26 T13S R71W

WATER RIGHT:

Appropriator: United States of America, National Park Service

Application/Permit Number:

Certificate Record Number:

Date of Priority: June 1950

Quantity of Water: .01 c.f.s.

Purpose: Domestic (historic)

Irrigated Land Description:

SUMMARY OF STATUS:

52 ft. well



U.S. Department of Justice

Land and Natural Resources Division

Denver Field Office

Federal Bldg., 1961 Stout Street

Drawer 3607

Denver, Colorado 80294

Commercial Number

(303) 844-3627

FTS/564-3627

January 3, 1989

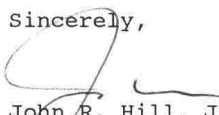
Mr. Owen R. Williams
Chief, Water Resources Division
National Park Service
Federal Building, 301 S. Howes Street
Fort Collins, Colorado 80521

Re: Water Division No. 1 - Case No. W-8801-77

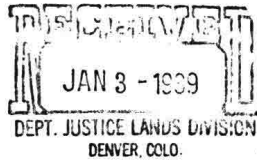
Dear Owen:

Enclosed please find a copy of FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT in the above-captioned case. Please let us know by January 12, 1989, whether this Ruling is acceptable to your agency. We look forward to hearing from you.

Sincerely,


John R. Hill, Jr.
Attorney
General Litigation Section

cc: Ralph O. Canaday, Esq.
Regional Solicitor's Office
Department of the Interior
Denver, Colorado



8 DEC 23 2:47

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

1ST DISTRICT COURT
TULLY COUNTY COLO.

CASE NO. W-8801-77

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 notice required by law of the filing of this
application have been fulfilled, and the Referee has
jurisdiction of this application.

Numerous Statements of Opposition and Entries of
Appearance were filed to 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

2. The name of the structure:

USA Florissant Fossil Beds National Monument
Nelson Domestic Well No. 9

W-8801-77
Page 3

3. The legal description of the structure:

NE1/4SW1/4 Section 26, Township 13 South, Range 71
West, 6th P.M., Teller County, at a point approximately 2,500
feet from the South line and 800 feet from the West line,
Section 26.

4. The source of water:

Groundwater

5. The date of appropriation:

June 30, 1950

6. The amount of water:

0.01 cubic feet per second (4.5 gpm)

7. The use of the water:

Domestic in a single family dwelling.

8. This water right, so long as uses are limited to
those decreed herein, is exempt from administration by the State
Engineer pursuant to CRS 37-92-602.

Dated: December 29, 1988


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: _____

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

11/22/84

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

Case No. W-8439-76 (W-8798-77 through W-8803-77)

AMENDED APPLICATION FOR UNDERGROUND WATER RIGHTS

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

1. Name and address of Applicant:

United States of America
c/o John E. Lindskold
Attorney, Department of Justice
Land and Natural Resources Division
1961 Stout Street, Drawer 3607
Denver, Colorado 80294

2. The United States of America claims a total of 10 water rights including underground water rights situated on lands acquired for and located in Florissant Fossil Beds National Monument in Teller County.
3. The use of the water claimed in this amended application is domestic water for use in picnic areas, campgrounds, ranger stations, cabins under permit from the National Park Service in Florissant Fossil Beds National Monument.
4. Legal descriptions and data pertaining to each well or diversion (all descriptions refer to 6th P.M.):

Teller County

Name of Structure: NPS FLFO Well No. 1
Legal description: SW 1/4 SW 1/4, Section 13, T. 13 S., R. 71 W.
Source: South Platte River
Depth of Well: 100 feet
Date of appropriation: October 1951
How appropriation was initiated: Drilling well
Amount claimed: 0.04 cfs
Use: Domestic, recreation, fire fighting

*Original filed
Dec. 1977
Amended Dec. 1984
Status -
cases before the
water court with
no hearing settled
at present time.*

Name of Structure: NPS FLFO Well No. 2
Legal description: SW 1/4 SW 1/4, Section 12, T. 13 S., R. 71 W.
Source: South Platte River
Depth of Well: 12 feet
Date of appropriation: 1890
How appropriation was initiated: Drilling of well
Amount claimed: 0.011 cfs
Use: Domestic, recreation, fire fighting

Name of Structure: NPS FLFO Well No. 3
Legal Description: SE 1/4 NE 1/4, Section 14, T. 13 S., R. 71 W.
Source: South Platte River
Depth of Well: 72 feet
Date of appropriation: May 1, 1955
How appropriation was initiated: Drilling of well
Amount claimed: 0.111 cfs
Use: Domestic, recreation, fire fighting

Name of Structure: NPS FLFO Well No. 4
Legal Description: NW1/4 NE 1/4, Section 19, T. 13 S., R. 70 W.
Source: South Platte River
Depth of Well: 160 feet
Date of appropriation: January 15, 1977
How appropriation was initiated: Drilling of well
Amount claimed: 0.002 cfs
Use: Domestic, recreation, fire fighting

Name of Structure: NPS FLFO Well No. 6
Legal Description: NE 1/4 NW 1/4, Section 24, T. 13 S., R. 71 W.
Source: South Platte River
Depth of Well: 59' 6"
Date of appropriation: April 30, 1960
How appropriation was initiated: Developing well
Amount claimed: 0.01 cfs
Use: Domestic, recreation, fire fighting

Name of Structure: NPS FLFO Well No. 8
Legal description: NE 1/4 NW 1/4, Section 24, T. 13 S., R. 71 W.
Source: South Platte River
Depth of Well: 26' 6"
Date of appropriation: April 1960
How appropriation was initiated: Drilling of well
Amount claimed: 0.01 cfs
Use: Domestic, recreation, fire fighting

Name of Structure: NPS FLFO Well No. 9
Legal description: NE 1/4 SW 1/4, Section 26, T. 13 S., R. 71 W.
Source: South Platte River
Depth of well: 52 feet
Date of initiation of appropriation: June 1950
How appropriation was initiated: Drilling of well
Amount claimed: 0.01 cfs
Use: Domestic, recreation, fire fighting

Name of Structure: NPS FLFO Well No. 10
Legal description: SE 1/4 NE 1/4, Section 23, T. 13 S., R. 71 W.
Source: South Platte River
Depth of well: 200 feet
Date of appropriation: November 1955
How appropriation was initiated: Drilling of well
Amount claimed: 0.04 cfs
Use: Domestic, recreation, fire fighting

Name of Structure: NPS FLFO Well No. 11
Legal description: SE 1/4 NE 1/4, Section 23, T. 13 S., R. 71 W.
Source: South Platte River
Depth of well: 50 feet
Date of appropriation: July 1961
How appropriation was initiated: Drilling of well
Amount claimed: 40 gpm
Use: Domestic, recreation, fire fighting

Name of Structure: NPS Visitor Center Well
Legal description: NW 1/4 NW 1/4, Section 24, T. 13 S., R. 71 W.
Source: South Platte River
Depth of well: 500 feet
Date of appropriation: August 1984
How appropriation was initiated: Drilling of Well
Amount claimed: 10 gpm
Use: Domestic, recreation, fire fighting

5. This is a partial amendment of the application filed by the United States of America in Case No. W-8439-76, as amended W-8789-77 through W-8794-77. This amendment is in lieu of the amendment filed on September 4, 1984.
6. The United States of America seeks to antedate the adjudication dates of earlier decrees insofar as they, in conjunction with applicable statutes, appear or purport to preclude this Court from awarding to the United States its water rights bearing their true priority date.

ROBERT N. MILLER
UNITED STATES ATTORNEY

By JOHN E. LINDSKOLD
Attorney, Dept. of Justice
Land and Natural Resources Div.
1961 Stout Street, Drawer 3607
Denver, Colorado 80294

Telephone: (303) 844-3627

STATE OF COLORADO)
) ss:
CITY AND COUNTY OF Denver)

I, Stanley L. Ponce, state under oath that I have read this amended application, and verify its content.

Stanley L. Ponce
STANLEY L. PONCE

Subscribed and sworn to before me this ____ day of _____, 1984.

My commission expires:

NOTARY PUBLIC

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

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:
Northeast quarter of the southwest quarter of Section 26, Township 13 South,
Range 71 West
3. Depth of well: 52 feet
4. Date of initiation of appropriation:
June 1950
5. Amount of water claimed in cubic feet per second of time:
.01 cfs
6. Use of water: Historic use or proposed use (indicate which)
Domestic (Historic)
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

CALL 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 26, Township 12 South, Range 71 West.Give bearing and distance from Section corner or distance
N - S and E - W from section lines.

DATA: Date of current test: _____.

Depth of well 52' feet.Depth to Static Water Level 11'6" feet.Horsepower of electric motor 1 HP.Diameter - discharge pipe 1 1/4" inches.

Pressure at sprinkler head _____ per sq. inch.

DO NOT USE
TEST DATA
FROM WELL
REGISTRATION
FORM.

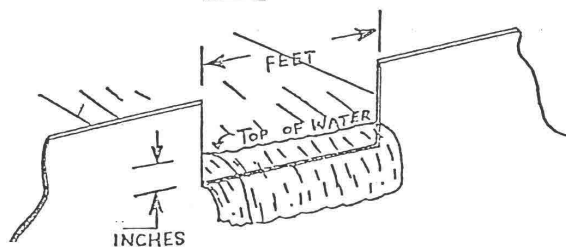
CAPACITY OF WELL:

1. Actual measurement _____ gpm (do not use pump-test data)

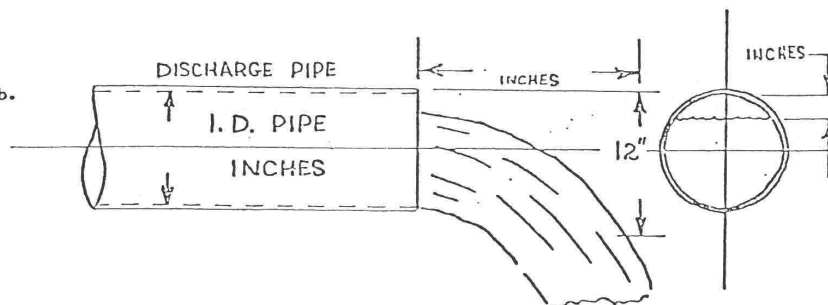
2. Or one of the following measurements:

2a.

WEIR

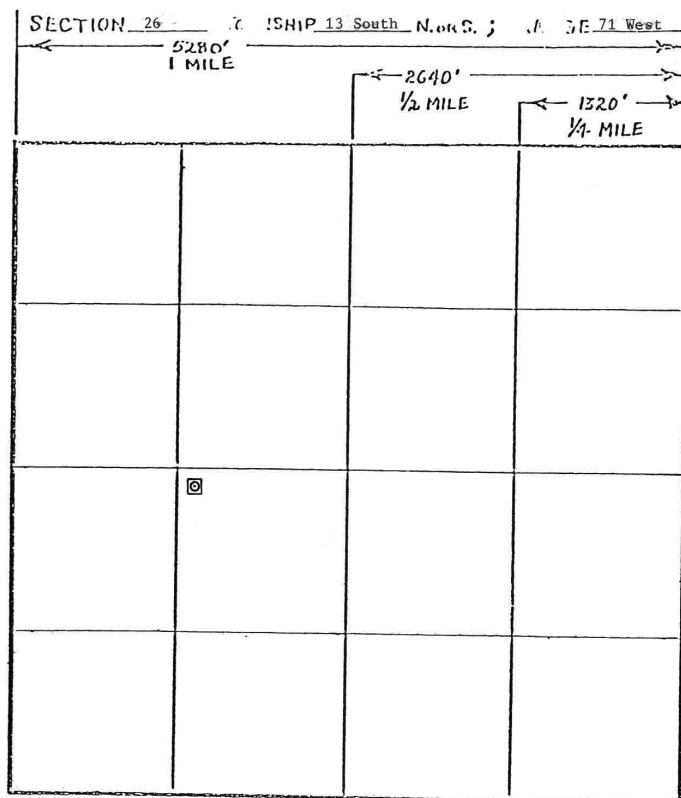


2b.



MAP SHOWING WELL LOCATION

WELL #9



SCALE 1" = 1000'

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

WELL DRILLER OR ANYONE HAVING LEGAL POSSESSION OF HIS RECORDS

STATE OF COLORADO

County of _____

)
) ss.
)

AFFIDAVIT

COMES NOW the undersigned _____
and being first duly sworn states as follows:

1. That he has legal access to the records of _____
2. That these same records show that on the _____ day of _____, said _____ did drill a well located on property now owned by _____ which location is legally described as: _____

(Signature) _____

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

Witness my hand and official seal.

My commission expires _____.

Notary Public

FOR USE BY PROPERTY OWNER OR ANYONE HAVING PERSONAL KNOWLEDGE

STATE OF COLORADO

County of _____

)
) ss.
)

AFFIDAVIT

COMES NOW the undersigned Mathilda Nelson
and being first duly sworn states as follows:

1. That she is, and has been, a resident of Teller County for 30 years.
2. That she is well acquainted with that certain well, on property legally described follows:
NE $\frac{1}{4}$, SE $\frac{1}{4}$, Section 26, Township 13 South Range 71 West

3. That she states, of her own personal knowledge, that said well was drilled and to beneficial use on or about the 1st day of June, 1988.

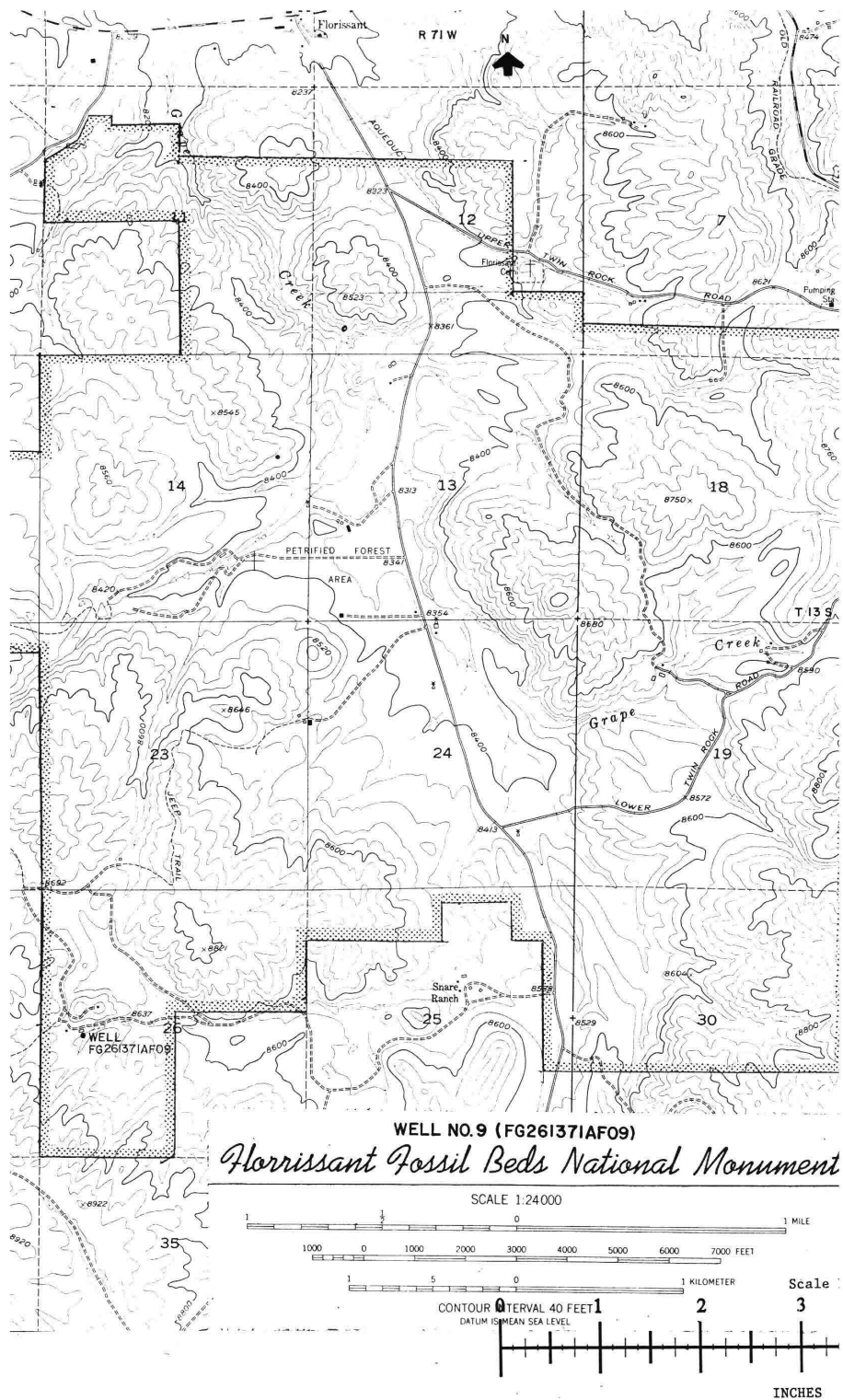
(Signature) Mrs Mathilde Nelson

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

WITNESS my hand and official seal.

My commission expires _____.

Notary Public



Other Supporting Information

**CONFIRMATION OF WD-1 ADJUDICATION INFORMATION
FOR FLORISSANT FOSSIL BEDS NATIONAL MONUMENT
AND ROCKY MOUNTAIN NATIONAL MONUMENT**

Water Rights Branch
Water Resources Division
National Park Service
301 S. Howes Street
Fort Collins, Colorado 80521

Prepared By:

Wm. R. Olsen
Hydrologist

2/1/89
Date

Approved By:

O. R. Wilkin
Branch Chief

2/2/89
Date

ACTION PLANConfirmation of WD-1 Adjudication
Information for FLFO and ROMO

BACKGROUND - Amended applications were filed for adjudication procedures in District Court, Water Division No. 1, Colorado in 1984 for Florissant Fossil Beds National Monument (FLFO) and Rocky Mountain National Park (ROMO). The Findings and Ruling of the Referee and Decree of the Water Court were received from the Department of Justice (DOJ) on January 6, 1989. The DOJ asked the NPS to review and confirm acceptance of the Courts Decree. The case numbers reviewed were:

<u>Case Number</u>	<u>Name of Structure</u>
W-8795-77	FLFO - Visitors Center Well No. 1
W-8796-77	FLFO - Hornbuck Well No. 2
W-8799-77	FLFO - Maytag Red Barn Well No. 6
W-8800-77	FLFO - Maytag Domestic Well No. 8
W-8801-77	FLFO - Nelson Domestic Well No. 9
W-8802-77	FLFO - Ghist Domestic Well No. 10
W-8803-77	FLFO - A-Frame Domestic Well No. 11
W-8790-77	ROMO - Aspenglen CG Well No. 23820
W-8792-77	ROMO - Hallowell Park Well No. 23819
85 CW 374	ROMO - Hallowell Park Pipeline No. 3
85 CW 375	ROMO - Hallowell Park Ditch No. 2
	Mill Creek Minimum Flow

Each Ruling was reviewed for accuracy and compared with the Service filings filed in 1984. Each review considered name of structure, location, source, date of appropriation, amount of water and use (see attached summary sheets for FLFO and ROMO).

An initial review revealed that the Court's Findings were acceptable with the exception of conflicting legal locations for FLFO - W-8799-77, and ROMO - W-8792-77. A letter dated 1/11/89 was sent to John Hill (DOJ) confirming such (attached).

After further file review it was determined that the Court's Findings for FLFO - W-8799-77 were accurate. Review revealed that location conflicts occurred on case numbers ROMO - W-8792-77, ROMO - 85 CW 374, FLFO - W-8796-77. This results in a need to accurately identify legal locations for these cases.

Discussions with Rick Inglis concerning FLFO - Hornbuck Well No. 2 (W-8796-77) confirmed the Court's Findings. Rick conducted a intensive field reconnaissance of the water developments in FLFO and specifically remembered the conflict in question. He is positive that the correct legal location is NE1/4, NW1/4, Section 13, T13S, R71W. Based upon Rick's field review, FLFO - W-8796-77 will be dropped from further review. Location changes in FLFO-Docket #2 were made on 1/19/89.

After a file review and discussions with Rick Inglis, there continues to be a need to confirm the legal locations for ROMO-W-8792-77 and ROMO - 85 CW 374. The following actions items are required to complete this review of the Court's Findings:

ACTION ITEMS

- 1) Field review the legal locations for the point of diversion for Hallowell Pipeline No. 3 and for Percival Well (85 CW 374). Utilize and investigate the Deed survey from the Singer property.
- 2) Field review the legal location for the Hallowell Park Well No. 23819 (W-8792-77). Utilize land acquisition survey drawing no. 2759.
- 3) Confirm legal locations and submit State forms for correcting clerical errors.
- 4) Update docket information.

Review of Court's Findings and Decree
in Water District No. 1

Florissant Fossil Beds National Monument

- * Visitors Center Well No. 1 (W-8795-77) - Location, source, date, and amount were correct. Court granted use for drinking and sanitation facilities at Visitor Center. Our amended claim (1984) requested use for domestic, recreation, and fire fighting (see below).
- * Hornbuck Well No. 2 (W-8796-77) - Source, date, and amount were correct. A conflict in location was noted between the Court's Findings and the Water Right Record. Discussions with Rick Inglis who conducted an intensive field review indicate that the correct location is the NE, NW, Sec. 13, T13S, R71W. Docket #2 data is incorrect and has been changed. Court granted use for domestic and stockwater. Our amended claim (1984) requested use for domestic, recreation and fire fighting (see below).
- * Maytag Red Barn Well No. 6 (W-8799-77) - Location, source, date and amount were correct. Court granted use for stockwater. Our amended claim (1984) requested use for domestic, recreation and fire fighting (see below).
- * Maytag Domestic Well No. 8 (W-8800-77) - Location, source, date and amount were correct. Court granted use for domestic and stockwater. Our amended claim (1984) requested use for domestic, recreation and fire fighting (see below).
- * Nelson Domestic Well No. 9 (W-8801-77) - Location, source, date and amount were correct. Court granted use for domestic. Our amended claim (1984) requested use for domestic, recreation and fire fighting (see below).
- * Ghist Domestic Well No. 10 (W-8802-77) - Location, source, date and amount were correct. Court granted use for domestic. Our amended claim (1984) requested use for domestic, recreation and fire fighting (see below).
- * A-Frame Domestic Well No. 11 (W-8803-77) - Location, source, date and amount were correct. Court granted use for domestic. Our amended claim (1984) requested use for domestic, recreation and fire fighting (see below).

Conflicts in Use - The Court granted our domestic use in all cases except the Maytag Red Barn Well No. 6. Well No. 6 has historically been used as a livestock and wildlife water. Because the well has a windmill and has not been used for domestic purposes the Court's Findings are acceptable. Recreational uses can be met through domestic water supplies and fire fighting uses will be met during any emergency situation using domestic water. Therefore, the Court's Findings on use are acceptable to the NPS.

Summary prepared by Wm. R. Hansen on 1/19/89

Review of Court's Findings and Decree
in Water District No. 1

Rocky Mountain National Park

- * Hallowell Park Ditch No. 2 (85 CW 375) - Location, source, date, amount and use were correct. Abandonment of 0.7 cfs correct.

- * Hallowell Park Pipeline No. 3 (85 CW 374) - Source, date, and amount were correct. Court granted use for domestic in 2 seasonable residences for government purposes. Our amended request (1984) requested use for domestic and fire fighting (see below). Conflicts in location of point of diversion (Pipeline No. 3) and location of new use at Percival Well were found.

Conflict - Point of diversion Pipeline No. 3
- Amendment (1984) - NW,SW, Sec. 5, T4N, R73W
- Court Finding (1989) - SW,NW, Sec. 5, T4N, R73W

Conflict - Location of Percival Well
- Amendment (1984) - NE,SE, Sec. 27, T5N, R73W
- Court Finding (1989) - SE,SE, Sec. 28, T5N, R73W
- Deed survey suggests location in SW,SE, Sec. 28, T5N, R73W.

- * Hallowell Park Well No. 23819 (W-8792-77) - Source, date, and amount were correct. Court granted use for drinking and sanitary facilities for Job Corps Camp. Our amended request (1984) requested use for domestic, recreation, and fire fighting (see below). Conflicts in legal location.

Conflict
- Water Right Record - NE,SW, Sec. 6, T4N, R73W
- Court Finding (1989) - SE,NW, Sec. 6, T4N, R73W
- Water Quality Report - SW,NE, Sec. 6, T4N, R73W
- Survey confirms SW,NW, Sec. 6, T4N, R73W - Drawing No. 2759.

- *Aspenglenn Campground Well No. 23820 (W-8790-77) - Source, date, location were correct. Court granted use for drinking and sanitary facilities in campground with 61 camp sites. Our amended request (1984) requested use for domestic, recreation, and fire fighting (see below). There were differences in amounts claimed and amounts granted by the Court.

Conflict

- Amendment dated 9/28/84 - Claimed 55 gpm (Appropriative).
- Amendment for W-8788-77 - Claimed 30 gpm (Reserved).
- Court Finding - 30 gpm limited to 1 ac-ft/yr.
- O. Williams confirmed that 30 gpm was acceptable.

Conflicts in Use - In all cases our primary need for domestic use was met. Recreational uses can and will be met with domestic water and fire fighting uses will be met during any emergency situation using domestic water. Therefore, the Court's Findings on use are acceptable to the NPS.

Summary prepared by Wm. R. Hansen on 1/19/89

January 11, 1989

LS4(479)
RCHO/Water Rights
X FLFO/Water Rights

Mr. John Hill, Jr.
Attorney, General Litigation Section
U.S. Department of Justice
Land and Natural Resources Division
Denver Field Office
Federal Building, 1961 Stout Street
Drawer 3607
Denver, Colorado 80294

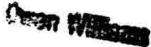
Re: Water Division No. 1 - Case Numbers 85CW374; 85CW375; W-8792-77;
W-8790-77; W-8795-77; W-8796-77; W-8799-77; W-8800-77; W-8801-77;
W-8802-77; W-8803-77 - Your letter of January 3, 1989.

Dear Mr. Hill:

We have reviewed the copies of FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT in the above captioned cases. We have verified our claims and the courts findings and find the Rulings to be acceptable. During our review we identified conflicting legal locations for W-8792-77 and W-8799-77. We will investigate these conflicts and if found to be in error in the Ruling, will make the appropriate changes in legal location at a later date.

If you have any questions, please call me.

Sincerely,



Owen E. Williams
Chief, Water Rights Branch

cc: RMR - Rouse, Hermanne
RCHO - Superintendent
FLFO - Superintendent
RGOLEMR - Connaday
WRD - Ponce

FHP:WHansen:scp:1/11/89:221-8302:WANG#496

Docket Information

Number of Documents in Docket 22

Documents Dated from 1/3/1989 to 2/1/1989

Docket Compiled: 3/10/2011