



WATER-RIGHT DOCKET

Great Basin National Park

Docket No: 3

LEHMAN DITCH (INACTIVE)

Preliminary Docket Information

05-29-1996: explanation/summary for docket

NOTES TO THE FILE GRBA 001 and 003

May 29, 1996

In 1986 Lehman Caves National Monument was included within the boundaries of Great Basin National Park

GRBA Docket 001 contains documentation pertaining to a water right for Cave Springs. GRBA Docket 003 contains documentation pertaining to Lehman Ditch. The material in Docket 003 had previously been filed in Docket 001. Docket 003 is inactive; there is no water right for the Lehman Ditch because the claim was withdrawn from the adjudication of Lehman and Baker Creeks.

A handwritten signature in black ink, appearing to read "Alice Johns", with a stylized flourish at the end.

Alice Johns
Hydrologist
Water Rights Branch
Water Resources Division
National Park Service

APPLICATION FOR PERMIT Serial No.

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

Date of first receipt and filing in State Engineer's office _____
 Returned to applicant for correction _____
 Corrected application filed _____

The undersigned The United States of America, Department of the Interior,
National Park Service, by Guy D. Edwards, Supervisor, Boulder
San National Recreational Area,
 of Boulder City, County of Clark,
 State of Nevada, hereby make application for
 permission to appropriate the public waters of the State of Nevada, as
 hereinafter stated. (If applicant is a corporation, give date and place
 of incorporation.) _____

1. The source of the proposed appropriation is Lehman Creek
Name of stream, lake, or other source
2. The amount of water applied for is 0.5 second-feet.
One second-foot equals 40 minims' inches
3. The water to be used for recreational purposes.
Irrigation, power, mining, manufacturing, domestic, or other use
4. The water is to be diverted from its source at the following point:
Near center of east line of SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9, T. 13 N., R. 69 E., M.D.B. & M.
Describe as being within a 40-acre subdivision of public survey, or by course and distance to a section corner. If an unsurveyed land, it should be so stated.

IF THE WATER IS TO BE USED FOR IRRIGATION, SUPPLY THE FOLLOWING INFORMATION:

- (a) Number of acres to be irrigated is _____
- (b) Description of land to be irrigated _____
Describe by legal subdivision, or if on unsurveyed land it should be so stated and a description provided in accordance with special instruction from the State Engineer when application is returned for correction.
- (c) Use will begin about _____ and end about _____, of each year.
Month Month

IF WATER IS TO BE USED FOR POWER, MINING, STOCK WATERING, OR OTHER USE, SUPPLY THE FOLLOWING INFORMATION:

- (d) Power to be developed is _____ horsepower.
- (e) Works to be located at pond in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, T. 13 N., R. 69 E., M.D.B. & M.
Give 40-acre subdivision on which works will be located, or locate by course and distance to a section corner.
- (f) Point of return of water to stream in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11, T. 13 N., R. 69 E.,
M.D.B. & M.
Describe in same manner as point of diversion.
- (g) State number and kinds of animals to be watered. --
- (h) Use will begin about Jan. 1 and end about Dec. 31, of each year.
Month Month
- (i) Remarks The appropriation is non-consumptive, the water being diverted to a
tributary of Lehman Creek, thence through pond covered by decreed proof of appropriation
No. 01065, and returned to Lehman Creek all on land of the United States and above other
vested rights. This diversion has been made since before _____ without

protest or apparent injury to the owners of other rights. The pond was built and first used in the 90's for stockwatering, ice manufacture, and as a fish-pond, and its storage could not be maintained by the present flow of the Cave Springs outlet, suggesting that the Lehman Creek diversion was probably in use during, and many years before, the adjudication. The township plat of 1878 survey shows the precedent of such inter-channel diversions at that time, but Section 9 and the NW $\frac{1}{4}$ of Section 10 were not surveyed at that time. There is also a possibility that the Cave Springs outlet was at one time the natural channel for Lehman Creek, but the last date of such conditions is not known.

INSTRUCTIONS TO APPLICANTS

Application should be made out in detail on the form prescribed by the State Engineer.

Applications should be typewritten or filled out with ink.

An application is not a permit to appropriate water until after its approval by the State Engineer. Upon approval (or rejection) of any application, a copy of the original application with such approval or rejection endorsed thereon, will be returned to the applicant. The terms of the permit will show on the endorsement, and be a guide for the applicant.

The following rules should be complied with in making application:

Under Question No. 1—Where the source of the water desired is from more than one stream, lake, spring or other body of water, separate applications must be made out for each source; provided, however, that when the numerous sources have their confluence above the point of diversion one application will serve to appropriate the water, by giving the name of the main stream at the point of diversion. The application should state the name of the stream, including its tributaries.

Under Question No. 2—The amount of water applied for should be limited to the amount that can be put to beneficial use. The State provides that this amount shall not exceed three acre feet per annum in districts where irrigation is carried on for the six months beginning April 15 and ending October 15 of each year; and where irrigation is carried on for a longer period each year, one-half of one acre foot per month for each additional month is the maximum quantity allowed. Therefore, there shall be allowed a continuous flow of one second foot of water for each one hundred acres of land irrigated. The amount should be stated in cubic feet per second instead of in miners' inches. (One cubic foot per second equals forty miners' inches.) (One acre foot of water is equal to 43,560 cubic feet, or the amount of water necessary to cover an acre of ground one foot deep.)

Under Question No. 3—Ordinarily only one use of water can be named in each application. If domestic purposes is included, however, two uses can be named. For instance, if the application stated "For Irrigation and Domestic Purposes" it shall be allowed; but if "Power and Irrigation" are named in one application it shall not be allowed, but the application will be returned for correction.

Under Question No. 4—The point of diversion is one of vital importance in the application, as upon the location of the point of diversion depend the question of interference with prior rights. The point of diversion must be stated as being within the forty-acre legal subdivision, or, if on unsurveyed land, it must be tied by the course and distance to the nearest corner of a legal subdivision; if such corner is within six miles. If no corner is found within six miles, the point of diversion should be tied to some definite and fixed monument or object.

Except under special conditions, there shall be accepted only one point of diversion in each application, for the reason that an entire stream could be covered by one application if more than one point of diversion were permitted to be named in each filing. In cases where the diversions, if there be more than one, are on the same forty-acre tract, and are required to economically handle the water, the application for more than one point of diversion will be considered.

Under Question (a)—The total number of acres of land should be stated with reasonable accuracy. The quantity of water allowed in the application, endorsed thereon by the State Engineer, is determined by the number of acres to be irrigated as well as the amount of unappropriated water in the stream.

Under Question (b)—There should be given a description of the land to be irrigated by legal subdivisions. In the event that the land proposed to be irrigated is unsurveyed, then give the approximate location of such land, together with the township and range wherein such land is situated.

Under Question (c)—Give the time when the use of water for irrigation purposes will begin, and also when it will end.

Under Question (d)—If the application is for power purposes, give the theoretical horsepower to be developed, and the vertical head under which the power is to be developed.

Under Question (e)—If application for power or stock watering purposes, give a description of the location of the proposed works, by legal subdivisions, or tie by course and distance to a section corner, as required in answer to Question 4 above.

Under Question (f)—Where water applied for is to be returned to the stream, give a description of the proposed point of return, as described in answer to Question 4 above.

Under Question (g)—State number and kinds of animals to be watered at place of use.

Under Question (h)—Give time when use of water for stock watering purposes will begin and when it will end.

Under Description of Proposed Works—Under description of proposed works, state by what means the water is to be diverted from the stream, whether by dams, ditches, pipe lines or other conduit. Give the size of such ditches, pipe lines, etc., and the proposed grade that each will have from the point of diversion, to enable this office to determine the capacity of each. The size of the ditch should be consistent with the amount of water applied for under Question No. 2.

If the water is to be stored in a reservoir, give its location with reference to the legal subdivision or subdivisions. If the reservoir is to be located on unsurveyed lands, the rules and regulations of the Department of the Interior should be followed precisely. Such rules and regulations are embodied in a pamphlet furnished by the Department of the Interior, called "Regulations Concerning Right of Way Over Public Lands and Reservations for Canals, Ditches, and Reservoirs," approved by the Secretary of the Interior, June 6, 1908. The maps and field notes of such reservoir should conform strictly with these regulations and a copy filed with the office of the State Engineer.

Applications for permit to store water shall conform with the above rules, except that the description of the lands to be irrigated shall not be required. If, however, the description of the lands is known and can be listed, the number of acres and location should be given.

The application shall bear the signature of the applicant, his agent or attorney.

FEES

The following fees shall be collected by the State Engineer in advance, and shall be accounted for and paid by him into the General Fund of the State Treasury, on or before the 10th day of each month; provided, however, that the fees named in subdivision (c) of this list shall not apply to permits for underground waters:

(a) For examining and filing an application for permit to appropriate water, twenty dollars (\$20), which shall include the cost of publication, which publication fee is hereby fixed at twelve dollars and fifty cents (\$12.50).

(b) For examining and filing an application for permit to change the point of diversion, manner of use, or place of use, twenty-five dollars (\$25), which shall include the cost of permit should the same issue thereunder, and the cost of publication of such application.

(c) For issuing and recording a permit to appropriate water for irrigation purposes, ten cents per acre for each acre to be irrigated, up to and including one hundred acres; and five cents for each acre in excess of one hundred acres, up to and including one thousand acres; and three cents for each acre in excess of one thousand acres.

(d) For issuing and recording permit for power purposes, five cents for each theoretical horsepower to be developed; and for issuing final certificate under permit for power purposes, twenty-five cents for each theoretical horsepower to be developed up to and including one hundred horsepower; and twenty cents for each horsepower in excess of one hundred horsepower up to and including one thousand horsepower; and fifteen cents for each horsepower in excess of one thousand.

(e) For issuing and recording permit to store water, twenty-five dollars (\$25), and for issuing final certificate under permit to store water, five cents for each acre foot of water stored up to and including one thousand acre feet; and three cents for each acre foot in excess of one thousand.

(f) For issuing and recording permit to appropriate water for any other purpose, \$10 for each second foot of water applied for, or fraction thereof.

(g) For filing secondary permit under reservoir permit, \$5; for approving and recording permit under reservoir permit, \$5.

(h) For filing proof of commencement of work, \$1.

(i) For filing proof of completion of work, under any permit, \$1.

(j) For filing any protest, affidavit, or any other water right instrument or paper, \$1.

(k) For making copy of any document recorded or filed in his office, \$1 for the first hundred words, and 20 cents for each additional one hundred words or fraction thereof; where the amount exceeds \$5, then only the actual cost in excess of that amount shall be charged.

(l) For certifying to copies of documents, records or maps, \$1 for each certificate.

(m) For blue print copy of any drawing or map, 15 cents per square foot.

(n) For such other work as may be required of his office, actual cost of the work.

No instrument will be received for filing in the State Engineer's office unless the fee for recording the same, as above provided, shall accompany such instrument. In cases where no fee accompanies the instrument tendered for filing, such instrument shall be returned to the sender forthwith.

Where copies of any instrument of record in the office of the State Engineer is desired, a sufficient amount to cover the approximate cost of the same must be forwarded with the application for such copies. When such copies are prepared, any surplus over and above the statutory cost for copying such instrument or instruments shall be returned to the party requesting such copies.

Remittances should be made by draft or postal or express money order payable to the order of the State Engineer, Carson City, Nevada. Where personal checks are sent, certification by the bank upon which they are drawn is required. Foreign checks, in addition to certification, must include the exchange charge of the local bank.

The State Engineer reserves the right to hold all applications, accompanied by uncertified checks for filing fees, without filing, until collection is made on such checks.

DESCRIPTION OF PROPOSED WORKS

The water is diverted by a ditch with $b=2'$; $t=3'$; $d=1'$; $s=0.01$; n at least 0.035; and
State manner in which water is to be diverted, whether by dam or other works, whether through pipes, ditches, flumes, or other conduits. If water
length 500 feet from Lehman Creek to natural channel at Cave Springs Area whence it flows
is to be stored in reservoirs, it should be so stated and the location of the reservoir should be given with reference to the legal subdivisions.
in said natural channel to point of redirection described in application for change of
right covered by Proof No. 01065. The control gate is of timber.

5. Estimated cost of works \$100.
6. Estimated time required to construct works 1 week.
7. Remarks This application is submitted as proof of appropriation to record a
For use of applicant
vested right.

_____, Applicant.

By _____

Compared _____

This sheet inspected _____

_____, Engineer.

OF STATE ENGINEER

This is to certify that I have examined the foregoing application,
and do hereby grant the same, subject to the following limitations and
conditions:

The amount of water to be appropriated shall be limited to the amount
which can be applied to beneficial use, and not to exceed _____
cubic feet per second.

Actual construction work shall begin on or before _____

Proof of commencement of work shall be filed before _____

Work must be prosecuted with reasonable diligence and be completed on or
before _____

Proof of completion of work shall be filed before _____

Application of water to beneficial use shall be made on or before _____

_____. Proof of the application of water to beneficial
use must be filed with State Engineer on or before _____

WITNESS MY HAND AND SEAL this _____ day

of _____, _____

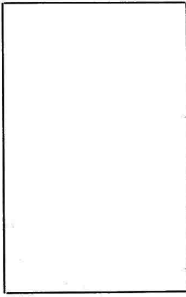
State Engineer.

No.

Application for
Permit to Appropriate Water

STATE OF NEVADA
ENGINEER'S OFFICE

Filed



Applicant

P. O. Address

APPLICATION FOR PERMIT Serial No.
TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF NEVADA

Date of first receipt and filing in State Engineer's office _____
Returned to applicant for correction _____
Corrected application filed _____

The undersigned The United States of America, Department of the Interior,
National Park Service, by Guy D. Edwards, Superintendent
Name of applicant Dean National Recreational Area,
of Boulder City, County of Clark,
State of Nevada, hereby make application for
permission to appropriate the public waters of the State of Nevada, as
hereinafter stated. (If applicant is a corporation, give date and place
of incorporation.) _____

1. The source of the proposed appropriation is Lehman Creek
Name of stream, lake, or other source

2. The amount of water applied for is 0.5 second-feet.
One-second-foot equals 40 miners' inches

3. The water to be used for recreational purposes.
Irrigation, power, mining, manufacturing, domestic, or other use

4. The water is to be diverted from its source at the following point:

Near center of east line of SW 1/4 Section 9, T. 13 N., R. 69 E., M.D.B. & M., as surveyed at point
Describe as being within a 40-acre subdivision of public survey, or by course and distance to a section corner. If on unsurveyed land, it should be so stated.
where SE corner of Section 10, T. 13 N., R. 69 E., M.D.B. & M. bears S 68° 15' E 968.5 feet.

IF THE WATER IS TO BE USED FOR IRRIGATION, SUPPLY THE FOLLOWING INFORMATION:

(a) Number of acres to be irrigated is _____

(b) Description of land to be irrigated _____
Describe by legal subdivision, or if on unsurveyed land it should be so stated and a description provided in accordance with special instruction from the State Engineer when application is returned for correction.
see remarks under (c)

(c) Use will begin about _____ and end about _____, of each year.
Month Month

IF WATER IS TO BE USED FOR POWER, MINING, STOCK WATERING, OR OTHER USE, SUPPLY THE FOLLOWING INFORMATION:

(d) Power to be developed is _____ horsepower. Sections 9, 10, 15 & 16
Lehman Cave National Monument in parts of

(e) Works to be located on east line of Section 9, T. 13 N., R. 69 E., M.D.B. & M.
Give 40-acre subdivision on which works will be located, or locate by course and distance to a section corner.
as shown on accompanying map

(f) Point of return of water to stream in SW 1/4 Section 11, T. 13 N., R. 69 E.,
M.D.B. & M.
Describe in same manner as point of diversion.

(g) State number and kinds of animals to be watered _____

(h) Use will begin about Jan. 1 and end about Dec. 31, of each year.
Month Month

(i) Remarks The appropriation is non-consumptive, the water being diverted to a
tributary of Lehman Creek, thence through pond covered by decreed proof of appropriation
No. 01065, and returned to Lehman Creek all on land of the United States and above other
vested rights. This diversion has been made since before 1886 without
protest or any rent injury to the owners of other rights. The pond was built and first
used in the 90's for stockwatering, ice manufacture, and as a fish-pond, and its storage
could not be maintained by the present flow of the Cave Springs outlet, suggesting that
the Lehman Creek diversion was probably in use during, and many years before, the
adjudication. The township plat of 1878 survey shows the precedent of such inter-
channel diversions at that time, but Section 9 and the NW 1/4 of Section 10 were not sur-
veyed at that time. There is also a possibility that the Cave Springs outlet was at one
time the natural channel for Lehman Creek, but the last date of such conditions is not
known. See attached testimony by _____ who helped to survey
the site of the pond in 1886.

protest or any rent injury to the owners of other rights. The pond was built and first
used in the 90's for stockwatering, ice manufacture, and as a fish-pond, and its storage
could not be maintained by the present flow of the Cave Springs outlet, suggesting that
the Lehman Creek diversion was probably in use during, and many years before, the
adjudication. The township plat of 1878 survey shows the precedent of such inter-
channel diversions at that time, but Section 9 and the NW 1/4 of Section 10 were not sur-
veyed at that time. There is also a possibility that the Cave Springs outlet was at one
time the natural channel for Lehman Creek, but the last date of such conditions is not
known. See attached testimony by _____ who helped to survey
the site of the pond in 1886.

INSTRUCTIONS TO APPLICANTS

Application should be made out in detail on the form prescribed by the State Engineer.
Applications should be typewritten or filled out with ink.

An application is not a permit to appropriate water until after its approval by the State Engineer. Upon approval (or rejection) of any application, a copy of the original application with such approval or rejection endorsed thereon, will be returned to the applicant. The terms of the permit will show on the endorsement, and be a guide for the applicant.

The following rules should be complied with in making application:

Under Question No. 1—Where the source of the water desired is from more than one stream, lake, spring or other body of water, separate applications must be made out for each source; provided, however, that when the numerous sources have their confluence above the point of diversion one application will serve to appropriate the water, by giving the name of the main stream at the point of diversion. The application should state the name of the stream, including its tributaries.

Under Question No. 2—The amount of water applied for should be limited to the amount that can be put to beneficial use. The Statute provides that this amount shall not exceed three acre feet per annum in districts where irrigation is carried on for the six months beginning April 15 and ending October 15 of each year; and where irrigation is carried on for a longer period each year, one-half of one acre foot per month for each additional month is the maximum quantity allowed. Therefore, there shall be allowed a continuous flow of one second foot of water for each one hundred acres of land irrigated. The amount should be stated in cubic feet per second instead of in miners' inches. (One cubic foot per second equals forty miners' inches.) (One acre foot of water is equal to 43,560 cubic feet, or the amount of water necessary to cover an acre of ground one foot deep.)

Under Question No. 3—Ordinarily only one use of water can be named in each application. If domestic purposes are included, however, two uses can be named. For instance, if the application stated "For Irrigation and Domestic Purposes" it shall be allowed; but if "Power and Irrigation" are named in one application it shall not be allowed, but the application will be returned for correction.

Under Question No. 4—The point of diversion is one of vital importance in the application, as upon the location of the point of diversion depends the question of interference with prior rights. The point of diversion must be stated as being within the forty-acre legal subdivision, or, if on unsurveyed land, it must be tied by the course and distance to the nearest corner of a legal subdivision, if such corner is within six miles. If no corner is found within six miles, the point of diversion should be tied to some definite and fixed monument or object.

Except under special conditions, there shall be accepted only one point of diversion in each application, for the reason that an entire stream could be covered by one application if more than one point of diversion were permitted to be named in each filing. In cases where the diversions, if there be more than one, are on the same forty-acre tract, and are required to economically handle the water, the application for more than one point of diversion will be considered.

Under Question (a)—The total number of acres of land should be stated with reasonable accuracy. The quantity of water allowed in the application, endorsed thereon by the State Engineer, is determined by the number of acres to be irrigated as well as the amount of unappropriated water in the stream.

Under Question (b)—There should be given a description of the land to be irrigated by legal subdivisions. In the event that the land proposed to be irrigated is unsurveyed, then give the approximate location of such land, together with the township and range wherein such land is situated.

Under Question (c)—Give the time when the use of water for irrigation purposes will begin, and also when it will end.

Under Question (d)—If the application is for power purposes, give the theoretical horsepower to be developed, and the vertical head under which the power is to be developed.

Under Question (e)—If application for power or stock watering purposes, give a description of the location of the proposed works, by legal subdivisions, or tie by course and distance to a section corner, as required in answer to Question 4 above.

Under Question (f)—Where water applied for is to be returned to the stream, give a description of the proposed point of return, as described in answer to Question 4 above.

Under Question (g)—State number and kinds of animals to be watered at place of use.

Under Question (h)—Give time when use of water for stock watering purposes will begin and when it will end.

Under Description of Proposed Works—Under description of proposed works, state by what means the water is to be diverted from the stream, whether by dams, ditches, pipe lines or other conduit. Give the size of such ditches, pipe lines, etc., and the proposed grade that each will have from the point of diversion, to enable this office to determine the capacity of each. The size of the ditch should be constant with the amount of water applied for under Question No. 2.

If the water is to be stored in a reservoir, give its location with reference to the legal subdivision or subdivisions. If the reservoir is to be located on unsurveyed lands, the rules and regulations of the Department of the Interior should be followed, precisely. Such rules and regulations are embodied in a pamphlet furnished by the Department of the Interior, called "Regulations Concerning Right of Way Over Public Lands and Reservations for Canals, Ditches, and Reservoirs," approved by the Secretary of the Interior, June 6, 1908. The maps and field notes of such reservoir should conform strictly with these regulations and a copy filed with the office of the State Engineer.

Applications for permit to store water shall conform with the above rules, except that the description of the lands to be irrigated shall not be required. If, however, the description of the lands is known and can be listed, the number of acres and location should be given.

The application shall bear the signature of the applicant, his agent or attorney.

FEES

The following fees shall be collected by the State Engineer in advance, and shall be accounted for and paid by him into the General Fund of the State Treasury, on or before the 10th day of each month; provided, however, that the fees named in subdivision (c) of this list shall not apply to permits for underground waters:

(a) For examining and filing an application for permit to appropriate water, twenty dollars (\$20), which shall include the cost of publication, which publication fee is hereby fixed at twelve dollars and fifty cents (\$12.50).

(b) For examining and filing an application for permit to change the point of diversion, manner of use, or place of use, twenty-five dollars (\$25), which shall include the cost of permit should the same issue thereunder, and the cost of publication of such application.

(c) For issuing and recording a permit to appropriate water for irrigation purposes, ten cents per acre for each acre to be irrigated, up to and including one hundred acres; and five cents for each acre in excess of one hundred acres, up to and including one thousand acres; and three cents for each acre in excess of one thousand acres.

(d) For issuing and recording permit for power purposes, five cents for each theoretical horsepower to be developed; and for issuing final certificate under permit for power purposes, twenty-five cents for each theoretical horsepower to be developed up to and including one hundred horsepower; and twenty cents for each horsepower in excess of one hundred horsepower up to and including one thousand horsepower; and fifteen cents for each horsepower in excess of one thousand.

(e) For issuing and recording permit to store water, twenty-five dollars (\$25), and for issuing final certificate under permit to store water, five cents for each acre foot of water stored up to and including one thousand acre feet; and three cents for each acre foot in excess of one thousand.

(f) For issuing and recording permit to appropriate water for any other purpose, \$10 for each second foot of water applied for, or fraction thereof.

(g) For filing secondary permit under reservoir permit, \$5; for approving and recording permit under reservoir permit, \$5.

(h) For filing proof of commencement of work, \$1.

(i) For filing proof of completion of work, under any permit, \$1.

(j) For filing any protest, affidavit, or any other water right instrument or paper, \$1.

(k) For making copy of any document recorded or filed in his office, \$1 for the first hundred words, and 20 cents for each additional one hundred words or fraction thereof; where the amount exceeds \$5, then only the actual cost in excess of that amount shall be charged.

(l) For certifying to copies of documents, records or maps, \$1 for each certificate.

(m) For blue print copy of any drawing or map, 15 cents per square foot.

(n) For such other work as may be required of his office, actual cost of the work.

No instrument will be received for filing in the State Engineer's office unless the fee for recording the same, as above provided, shall accompany such instrument. In cases where no fee accompanies the instrument tendered for filing, such instrument shall be returned to the sender forthwith.

Where copies of any instrument of record in the office of the State Engineer is desired, a sufficient amount to cover the approximate cost of the same must be forwarded with the application for such copies. When such copies are prepared, any surplus over and above the statutory cost for copying such instrument or instruments shall be returned to the party requesting such copies.

Remittances should be made by draft or postal or express money order payable to the order of the State Engineer, Carson City, Nevada. Where personal checks are sent, certification by the bank upon which they are drawn is required. Foreign checks, in addition to certification, must include the exchange charge of the local bank.

The State Engineer reserves the right to hold all applications, accompanied by uncertified checks for filing fees, without filing, until collection is made on such checks.

DESCRIPTION OF PROPOSED WORKS

~~The water is diverted by a ditch with b=21; t=3'; d=1'; s=0.01; n=at least 0.035; and~~
 State manner in which water is to be diverted, whether by dam or other works, whether through pipes, ditches, flumes, or other conduits. If water
~~length 500 feet from Lehman Creek to natural channel at Cave Springs Area whence it flows~~
 is to be stored in reservoirs, it should be so stated and the location of the reservoir should be given with reference to the legal subdivisions.
~~in said natural channel to point of redirection described in application for change of~~
~~right covered by Proof No. 01065. The control gate is of timber.~~

5. Estimated cost of works \$100.

6. Estimated time required to construct works 2 week. Completed in 1887

7. Remarks This application is submitted as proof of appropriation to record a

For use of applicant

~~vested right.~~

See rider

United States of America
Dept of the Interior.
National Park Service

, Applicant.

By Guy D. Edwards

Guy D. Edwards, Superintendent

Boulder Canyon National Recreation Area

Compared _____

This sheet inspected _____

_____, Engineer.

 OF STATE ENGINEER

This is to certify that I have examined the foregoing application,
 and do hereby grant the same, subject to the following limitations and
 conditions:

The amount of water to be appropriated shall be limited to the amount
 which can be applied to beneficial use, and not to exceed _____
 cubic feet per second.

Actual construction work shall begin on or before _____

Proof of commencement of work shall be filed before _____

Work must be prosecuted with reasonable diligence and be completed on or
 before _____

Proof of completion of work shall be filed before _____

Application of water to beneficial use shall be made on or before _____

_____. Proof of the application of water to beneficial
 use must be filed with State Engineer on or before _____

WITNESS MY HAND AND SEAL this _____ day

of _____, _____

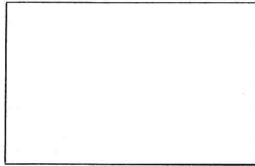
 State Engineer.

No.

Application for
Permit to Appropriate Water

STATE OF NEVADA
ENGINEER'S OFFICE

Filed



Applicant

P. O. Address

1 STATE OF NEVADA,)
 : ss
 2 COUNTY OF WHITE PINE.)

3
 4 E. B. ROBISON, being first duly sworn, deposes and says:
 5 That he is a citizen of the United States and a resident of
 6 White Pine County, Nevada, and of the age of approximately
 7 seventy years; that during the month of May, 1887, this affiant
 8 and one, Absolem Lehman, were employed upon, constructed and
 9 completed a certain ditch for the purpose of the diversion of
 10 waters of Lehman Creek in White Pine County, Nevada, to over and
 11 across the premises now known as the Lehman Cave National
 12 Monument, which was the property of the aforesaid Absolem Lehman,
 13 at the time that said ditch was constructed, that said ditch
 14 was completed prior to July 1st, 1887, and water turned in and
 15 transported thereby to the aforesaid described premises, and
 16 that said ditch has been continuously used as a means of
 17 transportation of water from said Lehman Creek to the aforesaid
 18 premises, from July 1st, 1887, to the present date.

19
 20 *E. B. Robison*

21
 22 Subscribed and Sworn to before me this 22nd day of
 23 January, 1942.

24 *O. J. Crawford*
 25 Notary Public, in and for said County and State.
 26 My Commission Expires, Jan 5-1942
 27
 28
 29
 30

C O P Y

Robert A. Allen
State Engineer

STATE OF NEVADA
OFFICE OF STATE ENGINEER
Carson City

John V. Mueller
Assistant State Engineer

July 23, 1931.

Mr. C. T. Rhodes
White Pine County,
Baker, Nevada

Dear Mr. Rhodes:

In accordance with stipulation in the Baker and
Lehman Creeks adjudication, we have listed your Proof of
Appropriation No. 01874, as withdrawn by you.

Yours very truly,

GEO. W. MALONE - STATE ENGINEER

BY:

Assistant State Engineer.

HWR:LS

C O P Y

IN THE OFFICE OF THE STATE ENGINEER OF THE STATE OF NEVADA

IN THE MATTER OF THE DETERMINATION
OF THE RELATIVE RIGHTS IN AND TO THE
WATERS OF BAKER AND LEHMAN CREEKS
AND THEIR TRIBUTARIES

}
}
}
STIPULATION

IT IS STIPULATED by and between the parties undersigned that the hearing held at Ely, White Pine County, State of Nevada, on the 3rd day of March, 1931, shall be deemed to be and is hereby declared to be a final hearing and further notice thereof is hereby expressly waived.

IT IS FURTHER STIPULATED that the State Engineer shall make his determination of the vested rights of Philip M. Baker, sometimes known as P. M. Baker, in accordance with his proofs, Numbers 01064, 01065, 01066, which proofs are now on file in the State Engineer's Office and which shall be considered as the limit of his vested rights initiated prior to 1905.

IT IS FURTHER STIPULATED that the State Engineer shall issue and file his order of determination within the Seventh Judicial District Court of the State of Nevada, in and for the County of White Pine, to Philip M. Baker and his successors in interest.

IT IS FURTHER STIPULATED that the State Engineer may make his order of determination in typewritten form if the same shall be deemed more expedient to him.

IT IS FURTHER STIPULATED that all other proofs filed in this proceeding conflicting with the above mentioned proofs of Philip M. Baker can be withdrawn and they are hereby considered as withdrawn.

Beatrice I. Rhodes
C. T. Rhodes
United Securities Corp.

By V. H. Vargas, Duly Authorized Agent)
Mrs. Esther Smith
George T. Baker
J. F. and Kitty Christopherson)
B. P. Hockman)
Glen A. Bellander)

By J. M. Lockhart
Their Attorney and Agent.

C O P Y

Baker, Nev.
May 16, 1925

Mr. Robt Allen
State Engineer,

Dear Sir,

Am sending today (insured mail) the questionnaire. Had no trouble in getting signers. I took the liberty of adding a few more questions as I know the conditions here so well & I know you could not possibly come out as busy as you are & it might save later difficulties. They have turned our water off on average of 3 times a wk. during last month, the last time filling our ditch up completely with huge boulders, & completely shutting off water supply. It took boy 2 hrs. to get the rocks at head of ditch so water could flow in.

Hoping the matter mailed under separate cover will be to your approval

With kind personal regards,

I am

Very Truly Yours

C. T. Rhodes.

OFFICE
STATE ENGINEER
APR 20 '25
RECEIVED
ANS. _____

C O P Y

Robert A. Allen
State Engineer

STATE OF NEVADA
OFFICE OF STATE ENGINEER
Carson City

John V. Mueller
Assistant State Engineer

April 25, 1925

Mr. V. H. Vargas
Attorney at Law
Ely, Nevada

Dear Mr. Vargas:

I am just in receipt of a letter from C. T. Rhodes of Baker, in which he complains that your client Mr. Meek is turning the water out of the Lehman Creek ditch leading to the Lehman Cave ranch on an average of about three times each week during the present month. Such a course, I think, is entirely unwarranted inasmuch as Mr. Rhodes has filed a proof of appropriation in this office showing the diversion of water from Lehman Creek to the Cave ranch for a great many years prior to 1905 and each and every year since that time. This proof is supported by affidavits of people in the Baker district who have been there for as long as 30 years. The water diverted was of small moment; the only irrigation that has been carried on during all of these years and which will be carried on in the future is for something like 12 acres. I think it advisable for you to instruct your client to allow the water to go unmolested, as it has in the past, pending the final settlement of the rights on Baker and Lehman Creeks which we intend shall be sometime this summer inasmuch as we are going to start adjudication proceedings on those creeks immediately. If, ultimately, the rights of the Meeks people are found by this office and the court to be paramount to those of Mr. Rhodes, then the water will necessarily have to be stopped from going to the Lehman Cave land. If the rights of Rhodes are found to be equal in priority to those of Meek, his rights will necessarily be affirmed and the amount of water which he will be allowed to divert will be measured and only that amount permitted to flow to him. Neither the rights of Mr. Meek or Mr. Rhodes will be jeopardized by instructing Mr. Meek to proceed as outlined above.

Yours very truly,

RAA:EF
cc. to Mr. C. T. Rhodes, Baker, Nevada

STATE ENGINEER

C O P Y

STATE OF NEVADA
OFFICE OF STATE ENGINEER
CARSON CITY

Robert A. Allen
State Engineer

John V. Mueller
Assistant State Engineer

March 10, 1925.

Subject: Lehman Creek.

In replying, refer to No. 01874.

Mr. C. T. Rhodes
Baker, Nev.

Dear Sir:

Proof of appropriation was

received and filed in this office under the above-mentioned serial number
on March 7, 1925.

Official receipt covering filing fee is enclosed herewith.

No. 16285.

Very truly yours,

ER

State Engineer.

C O P Y

FILED
MAR 7 1925
STATE ENGINEER'S OFFICE

Filing Serial No. 01874

THE STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

From Lehman Creek Name of natural water source
Through Lehman Ditch Name of ditch, flume, or pipe line
C. T. Rhodes, the undersigned, being first
duly sworn, deposes and says that the facts relative to the appropriation of
water by A. S. Lehman are full and correct to the best of his knowledge
and belief.

If proof is not made by claimant, deponent should state on this line by virtue
of what authority he represents the claimant.

- (1) Name of claimant C. T. Rhodes
Address Baker, County of White Pine
State of Nevada
- (2) The means of diversion employed Rock dam and ditch
Dam and ditch, pipe line, flume, etc.
- (3) The date of the survey of ditch, canal, or pipe line was Prior to 1905
- (4) The construction of the ditch or other works was begun About 1887
and completed About 1887
- (5) The dimensions of the ditch or canal as originally constructed were:
Width on bottom feet, width on top 1 1/2 feet, depth 1 ft. - feet,
on a ~~grade of~~ ^{very steep} feet-per-thousand-feet.
- (6) The conduit has ~~has not~~ been enlarged by natural erosion in cleaning ditch.
NOTE--If enlargement or extension of ditch was made, supply information
under (7) and (8)
- (7) The work of enlargement of the ditch or canal was begun
and completed
- (8) The dimensions of the ditch or canal as enlarged are: Width on bottom 2
feet, width on top 3 feet, depth 1 feet, on a grade of feet
per thousand feet.
- (9) The claimant is ~~(has not)~~ an owner in the above-described conduit.
Claimant is entire owner
If claimant is an owner in the conduit, state interest held on this line

- (10) The nature of the title to the land for which the water right is claimed is By squatter's right until Dec. 13, 1919, when Homestead Patent #724063 was issued to Ernest C. Adams, successor to A. S. Lehman.
- (11) Crops of Hay, grain and vegetables and fruit have been grown upon the land irrigated.
- (12) The water has been used for irrigation from April 15th to Oct. 15th
Day of month Day of month
of each year.
- (13) The water was first used for irrigation by claimant's/^{grantors} in the year 1887
when 14.0 acres were irrigated in the SE 1/4 SW 1/4 of sec. 10
T. 13 N., R. 69 E., and the NE 1/4 NW 1/4 Sec. 15, T. 13 N., R. 69 E.
- (14) The additional number of acres first irrigated in subsequent years was as follows:
Year, _____ acres in the _____ of Sec. _____, T. _____, R. _____ E.
_____, _____ acres in the _____ of Sec. _____, T. _____, R. _____ E.
_____, _____ acres in the _____ of Sec. _____, T. _____, R. _____ E.
Remarks: _____
Append a sheet if necessary
- (15) The maximum acreage irrigated in any year was about 14 acres.
as described in answer to question 13.
- (16) The water claimed ~~has~~ ^(has-not) been used for irrigation each and every
~~year~~ ^{Strike out one not wanted} since the right was initiated.
- (17) The years during which no water was used for irrigation or during which the full water right was not used were None
If water was not used, or used in
reduced quantity at any time, full information as to causes and duration
of non-use should be given, appending a sheet if necessary

- (18) The claimant's water right was (~~was-not~~) recorded in the office of the
County Recorder of White Pine County, May 7, 1887, at 40 min.past 2p.m.
said record being at page _____
of Book _____ of _____, and being a claim for 100 inches
from Lehman Creek and 25 inches from Cave Spring of water for the irrigation
of _____ acres of land in the following legal subdivisions:

NOTE--Failure to record in the county in no way invalidates a water right,
but if ditch or right was so recorded, supply full information
under (19).

- (19) The map provided by the State Engineer and attached hereto as a part of
this proof is hereby accepted as correctly showing the ditch lines or
irrigation works diverting or conveying the water claimed and the lands
irrigated.
- (20) Water from the source given and through the works described is also used
for the following purposes other than irrigation: Stockwatering and
domestic
- (21) The character of the soil is Sandy gravel. The soil needs 4 acre-feet
per annum to properly irrigate the crops. A continuous flow of 1½ cubic
feet of water per second, during the irrigation season of 6 months, is
needed to irrigate each 100 acres of land.
- (22) Remarks: _____

This right was initiated by A. S. Lehman in about 1887 and used by him
until it was sold to Philip M. Baker who in turn disposed of it to Ernest
C. Adams. Adams made a homestead entry and acquired title to the land by
virtue of patent from the U. S. government. Adams sold to Nathan Kiger
and C. T. Rhodes on November 6, 1920. Patent is recorded in Book 82,
pages 168-169, records of White Pine County.

C. T. Rhodes

Subscribed and sworn to before me this 7th day of March, 19 25

Ethel L. Fletcher

Notary Public in and for the County of Ormsby

My commission expires March 31, 1927

This part of form to be left blank by claimant

Filing Serial No. 01874

STATE OF NEVADA

PROOF OF APPROPRIATION OF
WATER FOR IRRIGATION

Water Source Lehman Creek

Through Lehman Ditch

Claimant C. T. Rhodes

Baker, Nev.

Filed in the office of the State
Engineer on

March 7, 1925., 19

Robert A. Allen
State Engineer.

Certificate No. issued
hereunder

 , 19

OFFICE
STATE ENGINEER
MAR 7 1925
RECEIVED
ANS.

230

Notice of Location
of a Water Right
By
A. D. Lehman

(Copy) 24-230

Notice

This is to certify that A. D. Lehman whose residence is in Snake Valley, White Pine County, Nevada, and whose P.O. address is Oserola, White Pine County, Nevada, claims all right, title and interest, in and to five hundred (500) inches of water, under a four fourth preference, for agricultural and grazing purposes, to be taken from a Spring situated a mile or more or less, above and west of the said A. D. Lehman's house. Said Spring is named "The Barry Spring", and the water furnished by it flows in a general easterly direction, through the claimant's lands into Snake Valley. The principal place of diversion from natural channel of the water furnished by said spring is situated immediately at the spring on the south side; the means of diversion is a dam of rocks and earth and thence the water is carried in a ditch two and one half (2 1/2) feet wide and one foot deep to the lands cultivated and used for pasturage by said A. D. Lehman. The second place of diversion is situated one half (1/2) mile below and east of said spring; the means of diversion is a dam, similar to that at the spring, where the natural channel and thence is carried in a ditch of same capacity and size as the first described, to lands owned and cultivated by claimant. Said A. D. Lehman claims exclusive right to the use of, and ownership in, all water furnished by said spring being as near as may be five hundred (500) inches as above claimed; and the ditches used and made by him in carrying the water to his lands. Said A. D. Lehman has used the right water continuously since 1867. The land to which the said water has been, and will be carried, is situated in T. 12 N. R. 17 E. M. D. B. & M. This notice is posted at Barry Spring aforesaid, at first place of diversion, Snake Valley.

White Pine County Nevada

May 2, 1887

Recorded at request of Willard Burkank May 7th 1887 at
in minutes page 2 P.M.

A. D. Campbell
Recorder

Other Supporting Information



UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D.C.

RECEIVED	
NPS REGION FOUR OFFICE	
APR 19 '62	
SURNAME: DAVE	
REG. DIR.	
ASST. DIR.	
OPERATIONS	☒
ADMIN.	
RECREATION	
INTERP.	
RANGER	

IN REPLY REFER TO:

L54-AL

April 17, 1962

Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Branch

Subject: Amendment of Decreed Water Rights Under Serial No. 01065,
by Amendment Serial No. 10959, Lehman Caves

Hydraulic Engineer Manuel Morris' report of April 5 on his discussion of April 3 with the Superintendent, and of April 4 with Hydraulic Engineer Thomas Smales, Office of the State Engineer of Nevada, appears to have been quite beneficial. However, the suggested procedure merits careful consideration.

The decreed right to 0.15 c.f.s. under original serial number 01065 is to water of Cave Spring with no supplemental supply from Lehman Creek by the former ditch across the narrow ridge above the spring. The records of the adjudication in the docket or correspondence file show that the Court disallowed the ditch diversion, and one of my early reports indicates that the State Engineer, or his Deputy told me that the Court order had been unjustified but could not now be corrected. A new application for diversion from the Creek would certainly be protested, whether the application was for a new appropriation or a change in point of diversion under the subject decreed right.

The Superintendents, particularly Mr. Steele, appear to have supplemented the spring flow since 1943 by tunneling farther into the ridge. In all probability they have recovered a partial supplemental supply from Lehman Creek by accelerated seepage through less of the ridge, in lieu of that by the disallowed ditch. Having succeeded without protest, by other water claimants that is fine, but the less said about the matter, in Nevada, the better it will be. The extent of "tunnel" extension should probably be evident in any proof map, but it need not be stressed by too much detail of the adjacent creek alignment. The creek should be shown in map such as Drawing 6979, but not in large scale detail of spring area.

Having developed a spring flow of 0.15 c.f.s., if true, it is not now necessary to provide a supplemental diversion from South Spring, as provided in Application Serial No. 10959 for amendment. If the 0.15 c.f.s. can now be diverted at Cave Spring, but not conveyed to

area of use, I should put valve in the line near the spring, with a "tee" and shut-off valve above it, and measure flows of 0.15 c.f.s. through the "tee" in as many months of the year as possible, with records of the dates of measurement. These records of adequacy of the supply may be needed.

Mr. Smales appears to have suggested that Application No. 10959 be withdrawn, and that a new similar application be filed with the omission of claims to water from South Spring-Application No. 10959- and the new one would be nominally the same except that the new one would have no major change in decreed point of diversion, and will probably claim no water for a lodge or swimming pool (pond). Both applications would become fundamentally for change in method of conveyance and purpose of use, and the change from predominant irrigation to "preferred" domestic type and sanitary public use would be the most important to other water claimants.

From 1943 to date, it has been possible and proper to make proof under Application No. 10959 in accordance with revised plans now contemplated by merely indicating the changes and omissions in the proof. We have also had the privilege to file a revised plan under the same application if we so chose, but it has been necessary to make proof of full beneficial use for the new purposes within 20 years from June 3, 1943, which is prior to the October date for any one year extension which would be granted on application for another extension of time.

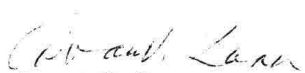
Mr. Smales has merely suggested that Application No. 10959 be withdrawn, and a new application be filed, in order that the statutory 20 year limitation can start anew from the date the State Engineer prescribes when approving the new application. Of course, it will be necessary to advertise the new application, and it may be protested by other water claimants. Those claimants could cause at least embarrassment by asking if proof was formerly made under Application No. 10959, or by challenging the continuous availability and use of the full quantity under Decreed Serial 01065 during the past 20 years if Application No. 10959 was needed in 1943 because of inadequate flow from Cave Spring.

Mr. Smales is apparently willing to overlook these debatable matters. Other claimants to waters of Baker and Lehman Creek might take the opposite view since they have been inconvenienced by questions as to their own rights, particularly to access over Federal land, during the past year.

I think the availability of the 0.15 c.f.s. from Cave Spring should be determined by measurement at once. It is also very important to

try to use all of the 0.15 c.f.s. for irrigation, in accordance with the decreed rights under Serial No. 01065 which are not exercised in accordance with either the 1943 amendment or one now to be substituted.

I should also favor filing the new application as soon as possible after the proof of flow is made, but I regret that Mr. Smales has suggested withdrawing Application 10959 until the expiration of the present extension of time, or until the new application is successfully advertised and the permit is granted, whichever is first. I wonder whether Mr. Smales did not have this timing in mind, or whether he was reasonably certain that there would be no protest which could not be eliminated.



A. van V. Dunn
Chief, Water Resources Branch

Copy to: Superintendent, Lehman Caves
Chief, WDC (2)

LEHMAN CAVES NATIONAL MONUMENT

HISTORY OF WATER RIGHTS

Prepared by L. S. Spaulding, Region Four
September, 1960

About the year 1869 A. S. Lehman established a ranch and built a house near a running stream (Lehman Creek) on the eastern alluvial fan of the Snake Range three miles west of the present town of Baker, Nevada and two miles east of a large cave, discovered at a later date by Mr. Lehman. Mr. Lehman made use of water from a big spring a mile above and west of his house and constructed a ditch to convey the water to his land.¹ The spring became known as "Lehman Spring," sometimes called "Lemay Spring" or "Lerray Spring," and now known as "Big Spring." By 1878, during which year a public land survey was made of the Snake Valley, several families were living in the vicinity. Besides the A. S. Lehman house, located in Section 12, T13, R69E, MDM, the B. Lehman and Baker houses were located at the present site of Baker, Nevada and the Gandie house was a mile south.²

About the year 1886 or 1887 the Osceola Placer Mining Company purchased water rights held by ranchers on many of the streams on both the east and west sides of the Snake Range for the purpose of conveying water to the vicinity of Osceola, Nevada townsite for mining purposes. Presumably, rights to Lehman Creek held by Lehman and others were included with the purchases. In 1888 the East Side Ditch, 18-1/4 miles long, diverting water from Lehman Creek and from other streams to the north was constructed. For a period of two or three years the company used water for placer gold mining after which time use of the ditches ceased.³

In May, 1887, one year prior to construction of the East Side Ditch, A. S. Lehman filed on sources of water in the Lehman Creek drainage below the anticipated point of taking by the mining company. One filing, dated May 2, 1887 and recorded in Book 34, page 229 of the records of White Pine County was for twenty-five miner's inches of water from Cave Spring and one hundred inches of leakage water to be taken from Lehman Creek below the proposed Osceola Mining Company ditch.⁴ Another filing, made on the same date and recorded in Book 34 at Page 230, was for five hundred inches of water from "Lerray Spring" (Lehman or Big Spring). The first filing was for water to be used for agricultural purposes on Lehman's "Cave Rancho" in unsurveyed Section 15, a tract of land including the cave. Immediately after filing his notices, Mr. Lehman constructed a ditch (Lehman Ditch) from Lehman Creek starting at a point about 400 yards northwest of Cave Spring running past Cave Springs, the waters of which were added to the ditch, and running to the "Cave Rancho" in Section 15.⁵ The second filing made by Mr. Lehman in 1887 was made to record rights to water of Lehman Spring (Big Spring) which he had been using on his land in Sections 12 and 13 since 1869.¹

During the period 1872 to 1904 Philip M. Baker, or his predecessors, had diverted water from the combined Lehman and Baker Creeks in the vicinity of the Baker townsite for use on the Baker ranch. Presumably, these rights were not acquired by the Mining Company or were initiated after abandonment by the company. By 1911 Baker had acquired the properties of A. S. Lehman, both that land in the vicinity of the cave and the lands in Sections 12 and 13. In October 1911 Baker filed three proofs of appropriation of water for use on the former Lehman lands and on the Baker ranch. Proof No. 01064 covered the diversion from Big Spring (Lehman Spring) for use on the former Lehman land in Sections 10, 12 and 13. Proof No. 01065 covered the diversion from Cave Springs for use on 7.5 acres in Section 15 near the cave. (No claim was made by Mr. Baker for the Osceola ditch leakage claimed in anticipation of such leakage by his predecessor, A. S. Lehman.)⁶ Proof 01066 covered diversions below the confluence of Baker and Lehman Creeks for use on the Baker Ranch.⁸

The properties on which waters under the three proofs were used passed from Philip M. Baker's ownership, the cave property being sold to Ernest C. Adams who acquired Patent No. 724063 from the United States in December, 1919. Adams sold to Nathan Kiger who, in turn, sold to C. T. Rhodes on November 6, 1920.⁷ Rhodes, perhaps unaware of Proof 01065, filed Proof 01874 in 1925 claiming water of both Cave Spring and Lehman Creek. He based his claim to the latter source on evidence that a ditch (Lehman ditch) had been constructed from Lehman Creek to the Cave tract and that continuous use of water had been made since July, 1887. However, following a hearing by the State Engineer at Ely, Nevada on March 3, 1931, C. T. Rhodes stipulated along with other interested parties that Proofs 01064, 01065, and 01066 of Philip M. Baker limited the vested rights initiated prior to 1905 of Philip M. Baker and his successors and that proofs conflicting with the Baker proofs be withdrawn.⁹ By this action Rhodes withdrew his claim to water of Lehman Creek.

In 1934, following a determination by the State Engineer, the Seventh Judicial District Court of the State of Nevada, in and for White Pine County issued a decree dated October 1, 1934 defining rights in the waters of Baker and Lehman Creeks initiated prior to 1905. C. T. Rhodes was decreed rights to 0.15 cubic feet per second from Cave Spring for the irrigation of 7.5 acres in Section 15, T13N, R69E (the Cave property) with a priority dating from 1890. Rights under Proof 01064 carrying the earliest priority date of 1869 were decreed to the United Securities Corporation and rights under Proof 01066 were decreed to a number of parties.⁸

C. T. Rhodes sold his cave property including rights to Cave Spring under Proof 01065 to White Pine County in September, 1933 and the County conveyed the property to the United States.

On June 3, 1943, the United States filed an application (Serial No. 10959) with the State of Nevada for permission to change the point of diversion, manner of use and place of use of water of Cave Spring held under Proof No. 01065. In the application the source of water was changed so as to include the water of South Spring, the use changed from irrigation to domestic and recreational and the description of the place of use changed to agree with a more recent protraction of Section lines. At this date (September, 1960) work to divert or to make full use of the water has not been completed. Each year since 1943, annual requests for extension of time have been granted by the State.

NOTES

1. Water Right Location Notice by A. S. Lehman, May 2, 1887, recorded in Book 34 at page 230 of White Pine County. (Docket 1, Item II - 3)
2. GLO plat of T.13N., R70E., WM approved February 17, 1879. (Docket 1, Item I-2)
3. Statement of Facts Relating to the Water Rights of the Osceola Placer Company or Hydraulic Mining Company, Osceola, Nevada (transmitted with A. Van V. Dunn's memorandum of March 31, 1943 to the Regional Director, Region Three)(Docket 1, Item II-1)
4. Water Right Location Notice by A. S. Lehman, May 2, 1887 recorded in Book 34 at page 229 of White Pine County (Docket 1, Item II-2)
5. Deposition of E. B. Robison, dated January 22, 1942 (Docket 1, Item II-7)
6. Proof No. 01065 dated October 28, 1911 by Philip M. Baker. (Docket 1, Item II-4)
7. Proof No. 01874 dated March 7, 1925 by C. T. Rhodes (Docket 1, Item II-7)
8. Decree of October 1, 1934 in the adjudication of rights in the waters of Lehman and Baker Creeks (Docket 1, Item III-7)
9. Stipulation in the Matter of the Determination of the Relative Rights in and to the Waters of Baker and Lehman Creeks and their Tributaries. (Docket 1, Item III-3)

C O P Y

Report Osceola Ditches

- East and West Side -

STATEMENT OF FACTS RELATING TO THE WATER RIGHTS OF THE OSCEOLA PLACER
COMPANY OR HYDRAULIC MINING COMPANY, OSCEOLA, NEVADA.

On or about the year 1886, the Osceola Placer Mining Company incorporated in the State of New Jersey, for the amount of \$100,000 the name of the directors being W. B. Kunhard, and I. A. Harrison of New York, and Benjamin Hampton of Salt Lake City, Utah, said incorporation being known as the Osceola Placer Mining Company.

The above company acquired and patented in the neighborhood of 422 acres of patented placer land lying in sections 2, 3, 10 and 11, Tp. 14 N., R. 67 E.; lying westerly and adjacent to the townsite of Osceola.

The company constructed the West Side Ditch line, lying to the west of Jeff Davis Peak and extending northerly a distance of $16\frac{1}{4}$ miles and incorporating the waters of several creeks whose sources were in the vicinity of Jeff Davis Peak, beginning at the Southern end of Williams Creek, all of which were diverted into said West Ditch and incorporated into one stream and carried through said ditch to the certain points in Section 12, said point being in S. W. $\frac{1}{4}$ of Sec. 12, T. 14 N., R. 57 E., and there used for hydraulic purposes on said patented placer lands.

The first cost of this ditch amounted to \$85,000, and was constructed in the year 1886 or 1887. At a subsequent period, some year and a half later, or about the summer of 1888, the East Ditch line was constructed for a distance of $18\frac{1}{4}$ miles, which diverted the waters of Lehman Creek, Saw Mill

Creek, Strawberry Creek, Sage Creek, South Fork of Weaver Creek, Middle Fork of Weaver Creek and North Fork of Weaver Creek, all of which were incorporated into one stream and conducted northerly through said ditch to a point in S. W. $\frac{1}{4}$, Sec. 12, Tp. 14 N., R. 57 E., and there used for hydraulic purposes for washing and sluicing of gold gravel.

The first cost of the East Side Ditch was approximately \$107,000.

The existing prior or senior water rights held by the various ranchers owning property adjacent to and below said ditches were obtained by purchase from said ranchers, all of whom relinquished, for a cash consideration, their right, title and interest to the various creeks, whose sources originated above the East and West Side Ditches.

The amount paid by the said company for such prior and vested rights was in the neighborhood of \$40,000.

The entire cost of constructing the East and West Side Ditches, together with the purchase of water rights excluding maintenance charges, was in the neighborhood of \$230,000.

For a period of two or three years the Osceola Placer Mining Company produced placer gold to the amount of \$250,000 to \$300,000 in value.

Subsequent to this period and up to the present date it appears that the ditch company has not made a beneficial or continuous use of their ditches, as the flumes are decayed and destroyed and fallen into the gulches, and the tunnel on the East Side Ditch is partially caved and for some distance is entirely filled, which would show conclusively that no water has flowed through said tunnel for a period of ten or more years.

The above facts were ascertained after a careful and minute examination made personally by this office and accompanied by ten or twelve ranchers, who at the present time applicants for said waters.

This office is in receipt of many applications from parties who desire to appropriate the above creeks for agricultural and mining purposes, and before action is taken in regard to the issuance of these permits, and also as a legal precautionary measure, it is my desire to obtain an option relative to the features and facts of abandonment on the part of said Ditch Company, and if such negligence and non-use of the public waters of the State of Nevada for a period of almost fifteen years does not constitute a legal abandonment of such rights as said company may heretofore have possessed.

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WATER RIGHTS SECTION
SAN FRANCISCO, CALIF.

March 31, 1943.

MEMORANDUM for the Regional Director, Region Three.

On March 18, 1943, I called on State Engineer Alfred Merritt Smith, at Carson City, Nevada, to make further investigation of the status of the ditch from Lehman Creek to the Cave Spring area at Lehman Caves National Monument. The interview permitted a verbal reply to my letter to him of August 4, 1942.

I talked with Mr. Smith; Mr. Muth, Deputy Assistant State Engineer; and Mr. Dondero, Office Engineer. During the rest of the day I reviewed the files covering the adjudication of Baker and Lehman Creeks and their tributaries. I enclose copies of the important records which we did not previously have, as follows:

1. Sketch Map of the Baker and Lehman Creeks Stream System, which shows all claims finally adjudicated.
2. Map to Accompany Proof of Appropriation of Water for Irrigation Purposes by the United Securities Corporation -- 01064-A, an amendment of 01064 with more detail than exists on item No. 1.
3. Statement of Facts Relating to the Water Rights of the Osceola Placer Company or Hydraulic Mining Company, Osceola, Nevada, which merely offers an historical background. No rights accrued.
4. Application No. 01874 by C. T. Rhodes, predecessor of the National Park Service, for diversion of 100 miners inches from Lehman Creek and 25 miners inches from Cave Spring. The Lehman Ditch from Lehman Creek to Cave Spring is the one in which we are interested.
5. State Engineer's acknowledgment of receipt of Proof under Application No. 01874, dated March 10, 1925.
6. Letter from Mr. Rhodes to State Engineer, dated May 16, 1925, but received April 20, 1925, with regard to his local troubles over the Lehman Ditch use. The questionnaires were signed by about five individuals, including E. B. Robison, and gave about the same testimony that was in his sworn statement of January 22, 1942, of which copies are in all interested National Park Service files.

7. State Engineer's letter of April 25, 1925, to V. H. Vargas as result of item No. 6.
8. Stipulation, signed by C. T. & Beatrit I. Rhodes, and others, withdrawing claims under Application No. 01874 and others.
9. Letter from State Engineer to Mr. Rhodes, dated July 23, 1931, acknowledging withdrawal of Proof No. 01874.

All interested offices already have application and Proof Map No. 01065 by C. T. Rhodes for diversions from Cave Spring exclusive of Lehman Creek, and also a copy of the decree awarding a right to 0.15 sec. ft. thereunder.

The State Engineer, Mr. Johnson and I all feel that the Park Service, as successor to C. T. Rhodes, is bound by the withdrawal of claims under Proof No. 01874. The State Engineer and I both agree, however, that the Park Service can claim rights to what I have previously called Spring I under right No. 01065.

As a result I shall prepare a revised application for amendment of right No. 01065 to claim 0.15 sec. ft. from Cave Spring and Spring I with no reference to the Lehman Ditch.

Mr. Smith further advised me that there have been so many appropriations of Lehman and Baker Creeks near the diversion under decreed proof No. 01066 that it is useless to initiate a new application to cover the Lehman Ditch. Two alternative solutions seem possible:

1. Develop the Cave Spring area to a greater depth so that more water will seep in from Lehman Creek by percolation.
2. Buy rights under proof No. 01066 and transfer them to the Lehman Ditch.

In either case we should close the upper end of the Lehman Ditch at once and observe the effect on the flow of Cave Springs. We should also observe the resulting effect on the water level in the pond below the administration area.

The next step should be to lower the diversion works at the spring area, by digging deeper, to see if the spring flow cannot be increased by seepage under a greater head.

These two tests will take several years in order to obtain reliable knowledge of changing behavior. Now is the time to do it when monument water demand is at a minimum.

Except for the demand to maintain the water level in the pond, I think the above developments should serve monument needs for a long time. If the suggested tests do not bear me out, then we will have to resort to purchase. Mr. Smith thinks we could buy land and appurtenant water rights at about \$40 per acre. We would get a right to 0.15 sec. ft. with 10 acres.

Since Right No. 01066 is all junior to 01064 we might also have to pay damages to the owner of the latter when changing the point of diversion. This should not be much and the amount would depend on the status of that right. You will note on the map that some ditches divert from Lehman Creek but the decree is all to Lehman Spring. This matter will need more study, but first we should determine whether we need to buy.

(Sgd.) A. van V. Dunn

A. van V. Dunn,
Hydraulic Engineer.

Enclosure 2136688.

cc: Director, with enclosures.
Act. Coord. Supt., Lehman Caves,
with enclosures.

