



WATER-RIGHT DOCKET

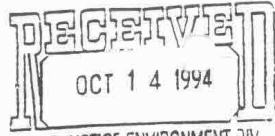
Rocky Mountain National Park

Docket No: 71

FEDERAL RESERVED WATER RIGHTS (WD-1)

State Water Rights Documentation

10-12-1994: Reserved Rights and Claims for ROMO, DECREE



DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO

Case No. W-8439-76 (W-8788-77) (Reserved Rights Claims for Rocky Mountain National Park)

DECREE

IN THE MATTER OF THE APPLICATION OF

THE UNITED STATES OF AMERICA FOR RESERVED WATER RIGHTS IN ROCKY MOUNTAIN NATIONAL PARK

IN BOULDER AND LARIMER COUNTIES.

1. On December 30, 1976, the United States of America ("United States") filed its original general application for federal reserved and other water rights (Case No. W-8439-76) in Water Division No. 1, which was duly published.

2. On December 29, 1977, the United States filed a more specific amended application for federal reserved water rights for Rocky Mountain National Park (Case No. W-8788-77), which was duly published. The application included claims for instream flows and lake levels, as well as claims for present and future administrative uses within the park.

3. On October 4, 1984, the United States filed an amended application in Case No. W-8788-77, setting forth its claims for federal reserved water rights for Rocky Mountain National Park in more detail. That application was duly published.

4. The United States and Objector Northern Colorado Properties, Inc., both filed motions for summary judgment and declaratory judgment concerning various issues in this case. On December 8, 1992, nunc pro tunc November 13, 1992, this Court entered an order determining some of the disputed issues. On December 29, 1993, this Court entered an order on the remaining issues raised by the motions for summary judgment. This decree implements those orders.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

5. The name, address and telephone number of the claimant:

United States of America
c/o Department of Justice
Environment and Natural Resources Division
999 18th Street, Suite 945
Denver, CO 80202
(303) 294-1900

6. The United States has the following reserved water rights for Rocky Mountain National Park:

a. Source of water: tributaries of the South Platte River, including the Cache La Poudre, Big Thompson, and North St. Vrain watersheds situated within Water Division No. 1, including all perennial and intermittent streams and springs, seeps, lakes and ponds, groundwater, and other natural sources of water.

b. Place of Use: Rocky Mountain National Park, as hereinafter defined.

c. Amount of Water: All waters within Rocky Mountain National Park that were unappropriated as of the dates of the reservations hereinafter set forth, including all surface and ground waters, which are to be maintained in their natural condition, subject to present and future administrative and fire fighting uses necessary to fulfill reservation purposes. Such present and future administrative and fire fighting uses are set forth in Schedule A, hereto annexed.

d. Priority date:

i. January 26, 1915, for waters on all federal lands within Water Division No. 1 that have been continuously within the boundaries of Rocky Mountain National Park since they were "reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States" for Rocky Mountain National Park by the Act of January 26, 1915 (38 Stat. 798), the metes and bounds being fully described in that Act, a copy of which is attached to this Decree as Schedule B.

ii. February 14, 1917, for waters on all federal lands within Water Division No. 1 that have been continuously within the boundaries of Rocky Mountain National Park since they were "reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States" for Rocky Mountain National Park by the Act of February 14, 1917 (39 Stat. 916), the metes and bounds being fully described in that Act, a copy of which is attached to this Decree as Schedule C.

iii. December 22, 1980, for waters on all federal lands within Water Division No. 1 that have been continuously within the boundaries of Rocky Mountain National Park since they were added to the Park by Sections 111(a) and 111(c) of the Act of December 22, 1980 (94 Stat. 3265), a copy of which sections is attached to this Decree as Schedule D.

e. Purposes and Uses: As set forth in the Rocky Mountain National Park Act of January 26, 1915, 38 Stat. 798 (16 U.S.C. Section 195), and the National Park Service Act of August 25, 1916, 39 Stat. 535 (16 U.S.C. Section 1). The National Park Service Act provides that the park's purpose is "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

7. The Court makes no ruling at this time with respect to claims of the United States for reserved water rights for national forest purposes under the Forest Service Organic Act of 1897, 16 U.S.C. Section 475 (1988).

8. The United States is entitled to its true dates of priority for the claims granted in this decree, regardless of the provisions of Section 37-92-306, C.R.S.

9. The United States may not obtain a priority for Mirror Lake for park purposes senior to December 22, 1980, and therefore the claim for park purposes on that land added to the park on December 22, 1980, is junior to the conditional decree for Mirror Lake, owned by Northern Colorado Properties, Inc., and decreed in Case No. W-398. Cascade Creek flows from Mirror Lake into the National Park. This Court makes no determination at this time whether the United States has or may make any claim to Mirror Lake or Cascade Creek for national forest purposes or whether the rights granted herein to Rocky Mountain National Park on Cascade Creek affect or are affected by the conditional water right held by Northern Colorado Properties, Inc., Case No. 82-CW-404 (W-398).

10. This decree is subject to the Stipulation between the United States and the Mountain Prairie Girl Scout Council dated August 30, 1993; the Stipulation between the United States and the Town of Estes Park, Colorado, dated October 29, 1992; the Stipulation between the United States and the Water Supply and Storage Company dated October 15, 1992; and the Stipulation between the United States and the City of Longmont, Colorado, dated July 17, 1992, copies of which are attached to this Decree as Schedules E, F, G and H respectively.

11. Except as hereinabove provided in paragraphs 7 and 9, this judgment and decree constitutes the final adjudication of all claims of the United States for reserved rights in Water Division No. 1 for Rocky Mountain National Park pursuant to the Rocky Mountain National Park Act of 1915, 16 U.S.C. Section 191, et seq; the National Park Service Act of 1916, 16 U.S.C. Section 1, et seq; the Act of February 14, 1917, 16 U.S.C. Section 192;

and the Act of December 22, 1980, 16 U.S.C. Section 192b-9; and any act or acts of Congress approved prior to October 4, 1984.

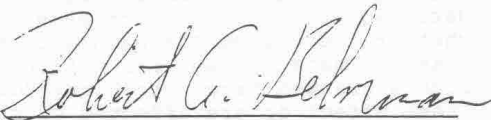
12. The Court determines that there is no just reason for delay and expressly directs that this shall constitute and be entered as a final judgment of this Court, pursuant to Rule 54(b), C.R.C.P.

13. This decree shall be effective so long as such lands remain within Rocky Mountain National Park; provided, however, that in the event that such lands or any portion thereof no longer form part of Rocky Mountain National Park but remain under federal ownership, this Court retains jurisdiction to determine the continued applicability of this decree to the lands no longer forming part of Rocky Mountain National Park. This Court also retains jurisdiction to make the determinations specifically not determined herein as set forth in paragraphs 7 and 9 hereof.

14. The Water Clerk shall serve a copy of this Decree upon the parties, the Division Engineer, Water Division No. 1, and the State Engineer.

DATED this twelfth day of October, 1994.

BY THE COURT:

A handwritten signature in cursive script, reading "Robert G. Lehman". The signature is written in dark ink and is positioned above the printed name and title.

Senior Judge assigned as Water
Judge by authority of the Chief
Justice.

SCHEDULE A

PRESENT AND FUTURE ADMINISTRATIVE USES INCLUDING FIREFIGHTING

I. Present Administrative Uses

Larimer County

(All legal descriptions refer to the 6th P.M.)

- a. Name of Structure: NPS Longs Peak Ranger Station Well.
Legal Description: In the NW 1/4 NW 1/4, Section 34, T4N, R73W.
Source: Alpine Brook, tributary to North Saint Vrain Creek
Depth of Well: 270 feet
Date of Reservation: January 26, 1915
Use of Water: Domestic
Amount Claimed: 10 gpm
- b. Name of Structure: NPS Longs Peak Campground Water System
Legal Description: At a point whence the West 1/16 corner of Sections 27 and 34, T4N, R73W bears N 21° 38' E, 1505.12 ft.
Source: Alpine Brook, tributary to North St. Vrain Creek
Description of Structure: Surface diversion
Date of Reservation: January 26, 1915
Use of Water: Recreation, Fire fighting
Amount claimed: 220 gpm
- c. Name of Structure: NPS Twin Owls Well
Legal Description: In the SW 1/4 NE 1/4, section 13, T5N, R73W.
Source: Black Canyon, Tributary to Big Thompson River
Depth of Well: 171 feet
Date of Reservation: January 26, 1915
Use of Water: Domestic
Amount Claimed: 5 gpm
- d. Name of Structure: NPS Twin Owls Pipeline No. 1
Legal Reservation: At a point whence the SE corner of Section 13, T5N, R73W, bears S 31° 09' E, 4287.5 feet.
Source: Black Canyon, tributary to Big Thompson River
Description of Structure: Surface diversion
Date of Reservation: January 26, 1915
Use of Water: Recreation, Fire fighting
Amount Claimed: 40 gpm

SCHEDULE A (Continued)

PRESENT AND FUTURE ADMINISTRATIVE USES INCLUDING FIREFIGHTING

- e. Name of Structure: NPS Twin Owls Pipeline No. 2
 Legal Description: At a point whence the SE corner of Section 13, T5N, R73W, bears S 32° 16' E 3704.3 feet.
 Source: Black Canyon, tributary to Big Thompson River
 Description of Structure: Surface diversion
 Date of Reservation: January 26, 1915
 Use of Water: Recreation, Fire fighting
 Amount Claimed: 20 gpm
- f. Name of Structure: NPS Fall River Pass Water System
 Legal Description: At a point whence the NE corner of Section 1, T5N, R75W, bears N 21° 48' E. 549 feet.
 Source: Fall River, tributary to the Big Thompson River
 Description of Structure: Surface diversion
 Date of Reservation: January 26, 1915
 Use of Water: Domestic
 Amount Claimed: 50 gpm
- g. Name of Structure: NPS Fall River Entrance Pipeline
 Legal Description: At a point whence the NE corner of Section 17, T5N, R73W bears S 70° 49' E, 1700.47 feet.
 Source: Bighorn Creek, tributary to Big Thompson River
 Description of Structure: Surface diversion
 Date of Reservation: January 26, 1915
 Use of Water: Fire fighting
 Amount Claimed: 56 gpm
- h. Name of Structure: NPS Lower Hidden Valley Well
 Legal Description: At a point whence the SE 1/16 corner of Section 14, T5N, R74W, bears N 54° 58' W, 2498.77 feet.
 Source: Hidden Valley Creek, tributary to Big Thompson River
 Depth of Well: 20 feet
 Description of Structure: Well
 Date of Reservation: January 26, 1915
 Use of Water: Domestic, Fire fighting
 Amount Claimed: 44 gpm

SCHEDULE A (Continued)

PRESENT AND FUTURE ADMINISTRATIVE USES INCLUDING FIREFIGHTING

Boulder County

a. Name of Structure: NPS Wild Basin Pipeline
Legal Description: At a point whence the 1/4 corner
between Sections 21 and 22, T3N,
R73W, bears N 71° 14' E, 2174.79
feet.
Source: Hunters Creek, tributary to North
Street Vrain Creek
Description of Structure: Surface diversion
Date of Reservation: January 26, 1915
Use of Water: Domestic, Recreation, Fire fighting
Amount Claimed: 107 gpm

II. FUTURE CONSUMPTIVE USE CLAIMED BY THE UNITED STATES FOR ROCKY MOUNTAIN NATIONAL PARK

In order to accommodate all unforeseen needs, the United States is entitled to a water right for future diversions and impoundments in an amount equal to twice the total cumulative amounts of water currently used in that portion of the park located within Water Division I. It is estimated that approximately 75 acre-feet of water is consumed at present on the east side of the park.

Visitation to the park has increased by about 3% annually for the last decade. Water must be provided to meet the needs of these and future park visitors as well as additional administrative uses. Nevertheless, use of the park cannot continue to grow unabated. It is reasonable to assume that limitations will be eventually placed on park use and thus, an additional 150 acre-feet of water should be sufficient to meet future needs.

If and before additional future diversions are made on reserved land, the United States will notify the State Engineer and the Water Court in writing regarding the location and type of use, the source of the water and the amount of water required for the particular use.

III. REPORTING

The United States will submit a report to the State Engineer annually, or as reasonably necessary, indicating the amount of water used under Schedule A.

SCHEDULE B.

798

SIXTY-THIRD CONGRESS. Sess. III. CHS. 16, 18, 19. 1915.

January 26, 1915.
[S. 6309.]

[Public. No. 238.]

CHAP. 19.—An Act To establish the Rocky Mountain National Park in the State of Colorado, and for other purposes.

Rocky Mountain
National Park, Colo.,
established.
Description.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the tract of land in the State of Colorado particularly described by and included within metes and bounds as follows, to wit: Beginning at the southeast corner of section thirty-four, township three north, range seventy-three west of the sixth principal meridian, Colorado, thence north along the section lines to the northeast corner of section three, said township; thence west to the northwest corner of said section; thence north along the section lines to the northeast corner of section sixteen, township four north, range seventy-three west; thence west to the northwest corner of said section; thence north to the northeast corner of section eight, said township; thence west along the section lines to the northwest corner of section seven, said township; thence north to the northeast corner of township four north, range seventy-four west; thence west along the first correction line north, to the southeast corner of section thirty-six, township five north, range seventy-four west; thence north along the range line to the north-

CASE NO. W-8439-76 (W-8788-77)
SCHEDULE B

east corner of the southeast quarter of the southeast quarter of section thirteen, said township; thence west to the northwest corner of the southeast quarter of the southeast quarter of section fourteen, said township; thence north to the northwest corner of the northeast quarter of the southeast quarter of section eleven, said township; thence east to the northeast corner of the northeast quarter of the southeast quarter of section twelve, said township; thence south along the range line to the southeast corner of said section; thence east along the section lines to the southeast corner of the southwest quarter of section ten, township five north, range seventy-three west; thence north to the northeast corner of the southwest quarter of said section; thence east to the southeast corner of the northeast quarter of said section; thence north to the northeast corner of said section; thence east to the southeast corner of the southwest quarter of the southwest quarter of section two, said township; thence north to the northeast corner of the southwest quarter of the southwest quarter of said section; thence east to the southeast corner of the northeast quarter of the southwest quarter, said section; thence north to the northeast corner of the northeast quarter of the southwest quarter of said section; thence east to the southeast corner of the northeast quarter of section one, said township; thence north along the range line to the northeast corner of section thirty-six, township seven north, range seventy-three west; thence west along the section lines to the intersection with the west bank of the Big South Cache la Poudre River in township seven north, range seventy-five west; thence southeasterly along the west bank of said river to the mouth of a tributary of said river, probably in section one, township six north, range seventy-five west; said tributary heading at La Poudre Pass in section twenty, township six north, range seventy-five west; thence southwesterly along the west bank of said tributary to its head; thence across the continental divide to the headwaters of the North Fork of the Grand River, which also heads at La Poudre Pass; thence down the west bank of the North Fork of the Grand River to its intersection with the section line between sections twenty-nine and thirty, township six north, range seventy-five west; thence south along the section lines to the southeast corner of section eighteen, township five north, range seventy-five west; thence west along the section line to its intersection with the west bank of the North Fork of the Grand River; thence down the west bank of the North Fork of the Grand River to its intersection with the section line between sections twenty-five and thirty-six, township four north, range seventy-six west; thence east to the northeast corner of section thirty-six, said township; thence south along the range line to the southeast corner of said township; thence east along the township line to the northeast corner of the northwest quarter of section four, township three north, range seventy-five west; thence south to the southwest corner of the northeast quarter of section nine, said township; thence west along the quarter section line to its intersection with a creek in section seven, said township, this creek being an outlet of Grand Lake, and flowing into the North Fork of the Grand River; thence southerly along the said creek to its junction with the North Fork of the Grand River; thence southerly along the west bank of the North Fork of the Grand River to its intersection with the township line between townships two and three north; thence east along the township line to the southeast corner of section thirty-four, township three north, range seventy-three west of the sixth principal meridian, Colorado, the place of beginning, all of said above-described tract now being included within the boundaries of the counties of Grand, Boulder, and Larimer, in the State of Colorado,

Proviso.
Reclamation Service
use allowed.

Existing encumbrances, etc.,
not impaired.

Rights of war.
Vol. 21, p. 790.

Present ownership
not affected.

Regulation of con-
trol, etc.

Leases for accommoda-
tions of visitors, etc.

Proviso.
Limit on appropri-
ations.

is hereby reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States, and said tract is dedicated and set apart as a public park for the benefit and enjoyment of the people of the United States, under the name of the Rocky Mountain National Park: *Provided*, That the United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a Government reclamation project.

SEC. 2. That nothing herein contained shall affect any valid existing claim, location, or entry under the land laws of the United States, whether for homestead, mineral, right of way, or any other purpose whatsoever, or shall affect the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land. Whenever consistent with the primary purposes of the park the Act of February fifteenth, nineteen hundred and one, applicable to the location of rights of way in certain national parks and the national forests for irrigation and other purposes, shall be and remain applicable to the lands included within the park. The Secretary of the Interior may, in his discretion and upon such conditions as he may deem wise, grant easements or rights of way for steam, electric, or similar transportation upon or across the park.

SEC. 3. That no lands located within the park boundaries now held in private, municipal, or State ownership shall be affected by or subject to the provisions of this Act.

SEC. 4. That the said park shall be under the executive control of the Secretary of the Interior, and it shall be the duty of the said executive authority, as soon as practicable, to make and publish such reasonable rules and regulations, not inconsistent with the laws of the United States, as the said authority may deem necessary or proper for the care, protection, management, and improvement of the same, the said regulations being primarily aimed at the freest use of the said park for recreation purposes by the public and for the preservation of the natural conditions and scenic beauties thereof. The said authority may, in his discretion, execute leases to parcels of ground not exceeding twenty acres in extent in any one place to any person or company for not to exceed twenty years whenever such ground is necessary for the erection of establishments for the accommodation of visitors, may grant such other necessary privileges and concessions as he deems wise for the accommodation of visitors, and may likewise arrange for the removal of such mature or dead or down timber as he may deem necessary and advisable for the protection and improvement of the park. The regulations governing the park shall include provisions for the use of automobiles therein: *Provided*, That no appropriation for the maintenance, supervision or improvement of said park in excess of \$10,000 annually shall be made unless the same shall have first been expressly authorized by law.

Approved, January 26, 1915.

SCHEDULE C.

916

SIXTY-FOURTH CONGRESS. Sess. II. CHS. 60, 61. 1917.

February 14, 1917.
[H. R. 10124.]
[Public No. 316.]

CHAP. 61.—An Act To add certain lands to the Rocky Mountain National Park, Colorado.

Rocky Mountain
National Park, Colo.
Boundaries changed,
Vol. 38, p. 800.
amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the eastern boundary line of the Rocky Mountain National Park between the section corner common to sections two and three, township three north, and sections thirty-four and thirty-five, township four north, range seventy-three west, and the township corner common to townships five and six north, ranges seventy-two and seventy-three west, is hereby changed so as to read as follows:

Description.

"Beginning at a point on the present eastern boundary line of the Rocky Mountain National Park, Colorado, which is the northwest corner of section two and the northeast corner of section three, township three north, range seventy-three west of the sixth principal meridian, Colorado, running thence east along the township line to its intersection with the main hydrographic divide east of Cow Creek, between section thirty-one, township four north, and section six, township three north, range seventy-two west; thence northwesterly following along said hydrographic divide, passing over Twin Sisters, The Crag, passing west of Lily Lake, and continuing along said hydrographic divide, now between Aspen Brook and Fish Creek and passing over Lily Mountain and Gianttrack Mountain to a point which is the southeast corner of section thirty-four and the southwest corner of section thirty-five, township five north, range seventy-three west; thence north along the section lines between sections thirty-four and thirty-five, twenty-six and twenty-seven, twenty-two and twenty-three, fourteen and fifteen, to the quarter corner common to sections fourteen and fifteen, all in township five north, range seventy-three west; thence east along quarter-section line, through sections fourteen and thirteen, township five north, range seventy-three west and along the continuation of said quarter-section line through section eighteen to the quarter corner common to sections eighteen and seventeen, township five north, range seventy-two west; thence north along the section line between sections eighteen and seventeen, seven and eight, five and six, all in township five north, range seventy-two west, to that point which is the northeast corner of section six and the northwest corner of section five in said township and range; thence west along the township line to the township corner common to townships five and six north, ranges seventy-two and seventy-three west, which is on the present eastern boundary line of the Rocky Mountain National Park, Colorado."

Lands added to, with-
drawn from settlement,
etc.

And the lands lying between the present existing eastern boundary and the eastern boundary as changed by this Act between said section corner common to sections two and three, township three north, and sections thirty-four and thirty-five, township four north, range seventy-three west, and said township corner common to townships five and six north, ranges seventy-two and seventy-three west, are hereby reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States, and said tracts are hereby made a part of and included in the Rocky Mountain National Park, and all the provisions of the Act to establish the Rocky Mountain National Park in the State of Colorado, and for other purposes, approved January twenty-sixth, nineteen hundred and fifteen, are hereby made applicable to and extended over the lands hereby added to the park.

Approved, February 14, 1917.

CASE NO. W-8439-76 (W-8788-77)
SCHEDULE C

SCHEDULE D.

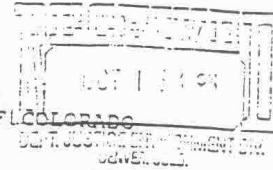
SEC. 111. (a) The boundaries of Rocky Mountain National Park, the Roosevelt National Forest, and the Arapaho National Forest are revised as generally depicted on the map entitled "Boundary Adjustments, Rocky Mountain National Park", numbered 121-80,047, dated October 1, 1979, which shall be on file and available for public inspection in the Office of the Director, National Park Service, Department of the Interior, and the Office of the Chief, Forest Service, Department of Agriculture: *Provided*, That the area shown on such map as E-5 and known as the Twin Sisters area shall remain a part of the Rocky Mountain National Park. All lands added or transferred by this Act to Rocky Mountain National Park, Roosevelt National Forest, and Arapaho National Forest shall be subject to the laws and regulations applicable to the appropriate National Park or National Forest. Lands within the Indian Peaks Wilderness Area as designated by Public Law 95-450 (92 Stat. 1099) that are transferred by this Act to Rocky Mountain National Park shall remain in the National Wilderness Preservation System. Lands within the Rocky Mountain National Park that are adjacent to the Indian Peaks Wilderness and that are transferred by this Act to the Roosevelt National Forest shall be incorporated in and become part of the Indian Peaks Wilderness.

* * *

(c) The Federal lands within the administrative jurisdiction of the Bureau of Land Management and within the areas referred to as E-2 and GL-3 on the map referred to in subsection (a) shall be transferred to Rocky Mountain National Park without transfer of funds.

SCHEDULE E.

DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO
Case Nos. W-8788-77 (W-8439-76) and 90CW132



STIPULATION BETWEEN THE UNITED STATES OF AMERICA AND THE MOUNTAIN
PRAIRIE GIRL SCOUT COUNCIL

CONCERNING THE APPLICATION OF THE UNITED STATES OF AMERICA FOR
RESERVED WATER RIGHTS IN ROCKY MOUNTAIN NATIONAL PARK, IN BOULDER
AND LARIMER COUNTIES, and THE APPLICATION FOR WATER RIGHTS OF
MOUNTAIN PRAIRIE GIRL SCOUT COUNCIL, IN LARIMER COUNTY

The United States of America ("United States") and the
Mountain Prairie Girl Scout Council ("Council") stipulate and
agree as follows:

1. The Council is the owner of a water right on Fox Creek decreed on July 23, 1951, in the District Court of Boulder County, Case No. 11715 ("Dannels Ditch Right"). The Council has been diverting a portion of the Dannels Ditch Right from a spring adjacent to Fox Creek ("Diversion Structure") on lands reserved for Rocky Mountain National Park ("Park") in 1915. Water in the amount of 0.1 c.f.s. has been and is currently being diverted between the months of May through October at the Diversion Structure by means of a two and 1/4-inch pipeline and is used on Council property for the decreed purposes.
2. The United States filed an application in Case No. W-8788-77 (W-8439-76) for reserved water rights in the Park. By Order of the Court, the Council filed its Statement of Opposition in that case on December 22, 1992.
3. The Council filed an application for water rights and approval of plan for augmentation in Case No. 90CW132, for a conditional water right of 10 c.f.s. from a spring tributary to Fox Creek, with the diversion point being the Diversion Structure. The United States filed a Statement of Opposition in that case on September 25, 1990.
4. The United States and the Council desire to enter into a Stipulation in settlement of both cases, W-8788-77 (W-8439-76) and 90CW132.
5. The Council agrees to withdraw its application in Case No. 90CW132 and, in lieu thereof, will file an application for change of water right and approval of plan for augmentation, seeking to add stock watering, domestic and commercial uses for 0.1 c.f.s. of the Dannels Ditch Right diverted at the Diversion Structure.

6. The United States agrees not to oppose entry of a decree entered pursuant to the the Council's application to change 0.1 c.f.s. of the Dannels Ditch Right to add stock watering, domestic and commercial uses, provided the terms of this Stipulation are met.

7. The United States agrees to have any reserved water rights for Fox Creek decreed in W-8788-77 (W-8439-76) administered as if junior to 0.1 c.f.s. of the 2.55 c.f.s. decreed for the Dannels Ditch Right, so long as:

a. Diversion of 0.1 c.f.s. of the Dannels Ditch Right is made only during the months of May through October;

b. Future combined diversions of the Dannels Ditch Right at the Diversion Structure for all beneficial uses, including irrigation, stock watering, domestic and/or commercial uses, do not exceed a total of 0.1 c.f.s. and are made in accordance with the terms and conditions contained in the decree which is entered pursuant to the Council's successful change application; and

c. Diversion of 0.1 c.f.s. of the Dannels Ditch Right and maintenance of the pipeline and Diversion Structure are made in accordance with the Special Use Permit granted by the National Park Service.

8. The Council agrees not to oppose the entry of a decree for the United States in Case No. W-8788-77 (W-8349-76), provided the terms of this Stipulation are met.

9. This Stipulation shall not be effective until a Special Use Permit satisfactory to both parties is issued to the Council by the National Park Service ("Permit").

10. The United States and the Council acknowledge and agree that nothing contained in this Stipulation shall in any way relieve either party of any responsibilities and/or obligations to follow and abide by any and all applicable state and federal laws, rules, regulations, procedures, or permitting requirements with regard to the use of federal land and/or the exercise or change of water rights.

11. Any decree entered in connection with Case No. W-8788-77 (W-8439-76) and the Council's successful change application filed pursuant to paragraph 3 hereof, shall contain a paragraph stating: "This decree is subject to the Stipulation

between the United States and the Mountain Prairie Girl Scout
Council dated August 30, 1993."

Dated: August 30, 1993.

~~MICHAEL J. NORTON~~ JAMES R. ALLISON
UNITED STATES ATTORNEY (ACTING)

By: *Lynn A. Johnson*
LYNN A. JOHNSON (Y5394)
U.S. Department of Justice
Environment and Natural
Resources Division
999 18th Street, Suite 945
Denver, Colorado 80202
(303) 294-1900

ATTORNEYS FOR UNITED STATES

MOUNTAIN PRAIRIE GIRL SCOUT COUNCIL

By: *S.D. Weckerly*
Sue Weckerly
Executive Director

By: *Neil Bassett*
Neil Bassett
President, Board of Directors

1600 Specht Point Dr., Suite A
Ft. Collins, Colorado 80525

APPROVED AS TO FORM AND CONTENT:

DAVIS, GRAHAM & STUBBS

By: *Andjaži E. Pranhasto*
Andjaži E. Pranhasto (20111)
370 Seventeenth St., Suite 4700
Denver, Colorado 80202
P. O. Box 185
Denver, Colorado 80201-0185
(303) 892-9400

ATTORNEYS FOR MOUNTAIN PRAIRIE GIRL SCOUT COUNCIL

SCHEDULE F.

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case Nos. W-8439-76 (W-8788-77)

STIPULATION AND AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
AND THE TOWN OF ESTES PARK, COLORADO

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES OF AMERICA
FOR RESERVED WATER RIGHTS IN ROCKY MOUNTAIN NATIONAL PARK IN
BOULDER AND LARIMER COUNTIES.

WHEREAS, the United States of America, by the United States
National Park Service, ("United States") is the claimant in these
cases of federal reserved water rights in Rocky Mountain National
Park ("Park") in Water Division 1, Colorado; and

WHEREAS, the Town of Estes Park, ("Estes Park") is an
opponent to the claims of the United States in these cases; and

WHEREAS, Estes Park is the owner of certain water rights
whose points of diversion are located within the boundaries of
the Rocky Mountain National Park; and

WHEREAS, based on investigations of the pertinent facts by
the United States and Estes Park, they have determined that the
claims of the United States, if decreed, will not, for the
reasons described herein, adversely affect Estes Park's water
rights within Rocky Mountain National Park; and

WHEREAS, the United States and Estes Park wish to confirm,
without the need for further opposition by Estes Park, that the
claims of the United States in these cases will not adversely
affect Estes Park's water rights diverted within.

NOW THEREFORE, in consideration of the premises and in
compromise and settlement of the disputes which have arisen
between them in these cases, the United States and Estes Park
stipulate and agree as follows:

1. The Town of Estes Park is the owner of the following
described water rights and associated structures which are or
will be diverted from points located within the present
boundaries of Rocky Mountain National Park. Said water rights,
both absolute and conditional are as follows:

A. Town of Estes Park intake line in Black Canyon
with a point of diversion located at the SW1/4NW1/4,
Section 14, Township 5 North, Range 73 West of the 6th
P.M., decreed for 2.0 cubic feet per second under
priority date of September 25, 1905, adjudicated by
decree of November 14, 1939, District Court of Boulder
County, State of Colorado.

B. Town of Estes Park intake line in Black Canyon with a point of diversion located at the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 10, Township 5 North, Range 73 West of the 6th P.M., for 1.73 cubic feet per second under priority date of November 9, 1911, as decreed on November 14, 1939, District Court of Boulder County, State of Colorado.

C. Town of Estes Park Glacier Creek pipeline with a point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 5, Township 4 North, Range 73 West of the 6th P.M., for 2.0 cubic feet per second under priority date of May 20, 1925, as decreed on November 14, 1939, District Court of Boulder County, State of Colorado.

D. The Fall River-Hondius pipeline with a point of diversion located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, Township 5 North, Range 73 West of the 6th P.M., for 13.0 cubic feet per second under priority date of November 10, 1908, as decreed on November 14, 1939, District Court of Boulder County, State of Colorado.

E. The Town of Estes Park Cascade pipeline with a point of diversion located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, Township 5 North, Range 73 West of the 6th P.M., for 22.5 cubic feet per second with a priority date of June 30, 1919, decreed on November 14, 1939, District Court of Boulder County, State of Colorado.

F. Town of Estes Park Cascade Diversion with a point of diversion located in the SW $\frac{1}{4}$, Section 17, Township 5 North, Range 73 West of the 6th P.M., at a point described as commencing at the SW corner of Section 17, and considering the South line of said Section 17 as bearing due East; thence North 28°40'40" East, a distance of 2,800 feet, more or less, for 1.55 cubic feet per second with a priority date of December 31, 1959, decreed on March 23, 1992, District Court, Water Division No. 1, State of Colorado.

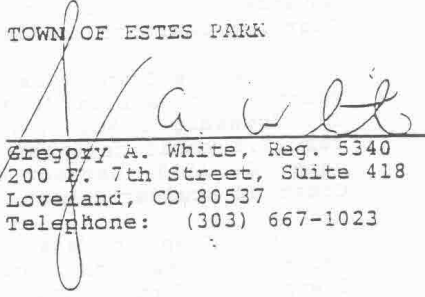
G. Estes Park Cascade Diversion Enlargement with a point of diversion located in the SW $\frac{1}{4}$, Section 17, Township 5 North, Range 73 West of the 6th P.M., at a point described as commencing at the SW corner of Section 17, and considering the South line of said Section 17 as bearing due East; thence North 28°40'40" East, a distance of 2,800 feet, more or less, for 3.45 cubic feet per second with a priority date of December 31, 1985, adjudicated on March 23, 1992, District Court, Water Division No. 1, State of Colorado. Said decree is conditional.

2. There are no reserved lands owned or operated by the United States for Rocky Mountain National Park, which are located downstream of the points of diversion of the aforementioned absolute and conditional water rights and associated structures owned by Estes Park.

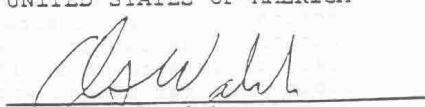
3. The United States does not claim any reserved water rights for Rocky Mountain National Park in any water source or for any purpose or for any location on or downstream of the points of diversion of the water rights and associated structures, both conditional and absolute, owned by Estes Park and specified in Paragraph 1 above. All claims for reserved water rights for Rocky Mountain National Park are located upstream of the points of diversion of all the conditional and absolute water rights and associated structures of Estes Park set forth in Paragraph 1 above.

Dated this 29th day of October, 1992.

TOWN OF ESTES PARK


Gregory A. White, Reg. 5340
200 E. 7th Street, Suite 418
Loveland, CO 80537
Telephone: (303) 667-1023

UNITED STATES OF AMERICA


Andrew F. Walch
Lynn A. Johnson, Reg. 15394
Attorneys
U.S. Department of Justice
Environmental and Natural
Resources Division
999 18th Street, Suite 945
Denver, CO 80202
Telephone: (303) 294-1900

SCHEDULE G.

DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO
Case No. W-8439-76 (W-8788-77)
(Reserved Rights Claims for Rocky Mountain National Park)

STIPULATION BETWEEN THE UNITED STATES OF AMERICA AND THE WATER
SUPPLY AND STORAGE COMPANY

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES OF AMERICA
FOR RESERVED WATER RIGHTS IN ROCKY MOUNTAIN NATIONAL PARK IN
BOULDER AND LARIMER COUNTIES.

The United States of America (United States) and the Water Supply
and Storage Company (Water Supply) stipulate as follows:

1. Water Supply is the owner of the Grand River Ditch and its decreed priority for the diversion of 524.6 cubic feet of water per second of time, with appropriation date of September 1, 1890. The waters diverted by the Ditch are headwaters of the Colorado River (formerly the Grand River) within the Rocky Mountain National Park (Park), in Water Division No. 5.
2. Water Supply is the owner of the Grand River Reservoir, commonly designated as Long Draw Reservoir, and its right of storage of water to a depth of 50 feet above the base of the outlet tube, a capacity estimated at 4201.13 acre feet, with appropriation date of June 5, 1922; and of the right of storage in the Long Draw Reservoir Enlargement of an additional 6,000 acre feet of water under an appropriation with an appropriation date of December 31, 1977.

The Reservoir and its Enlargement store waters captured by the Grand River Ditch which are transported over the Continental Divide at La Poudre Pass. The Long Draw Reservoir and its enlargement also store water tributary to La Poudre Pass Creek, a tributary to the Cache La Poudre River in Water Division No. 1. Water Supply holds a right-of-way for the Grand River Ditch, granted by the Secretary of the Interior on July 12, 1907, under the provisions of the Act of March 3, 1891. On March 21, 1907, Water Supply and Storage entered into stipulations with the United States Forest Service regarding the operation, maintenance and other activities on the right-of-way. The National Park Service is the successor-in-interest of the Forest Service to that agreement. These stipulations remain in full force and effect and are attached as Exhibit A.

3. The Park was reserved as a National Park in 1915, and additional lands were reserved and added in later years. The water right of the Grand River Ditch accordingly precedes the Park's creation as well as the date of any National Forest reservation from which the Park was later created.

4. When the State of Colorado ceded jurisdiction over the Park to the United States, it saved "to the people of Colorado all vested, adjudicated, appropriated, and existing water rights and rights-of-way connected therewith, including all existing domestic or irrigation conduits and ditches;" (CRS 3-1-130; Act approved February 19, 1929). The United States accepted this reservation of rights, stating in 16 U.S.C. Sec. 198:

The provisions of the Act of the Legislature of the State of Colorado approved February 19, 1929, ceding to the United States exclusive jurisdiction over the territory embraced and included within the Rocky Mountain National Park, are hereby accepted, . . . saving to the people of Colorado all vested, appropriated and existing water rights and rights of way connected therewith, including all existing irrigation conduits and ditches. . . .

5. The site of the Grand River Reservoir, or Long Draw Reservoir and its Enlargement, was originally within the boundaries of the park. The parties agree that the following extract from the findings of fact in the decree awarding the original storage right to the Reservoir accurately describes the difficulties encountered and the solutions found for its construction.

There also was difficulty in construction because for a number of years a part of the reservoir site had been within the boundaries of the Rocky Mountain National Park and reservoir construction work or any interference with the survey of the ground within said Park was prohibited by law and by action of the Secretary of the Interior. That it was necessary to have an Act of Congress passed excluding the reservoir site from the boundaries of said National Park, which was done by means of a Bill introduced December 13, 1922, in the House of Representatives, being No. 11,385, and it transferred from said National Park to the Colorado National Forest, Sections 10 and 11 and parts of Sections 15 and 16, Township 6 North, Range 75 West of the 6th P.M., but the Bill finally failed of passage because of a lack of favorable action by the Department of the Interior. In the 1923 Session, another Bill was introduced in the 68th Congress, being House Bill No. 2713, and said Bill was passed by the House of Representatives on April 7, 1924, and by the Senate on May 23, 1924, and in June of that same year was signed by the President and became law. Thereafter in 1927 protests were filed with the General Land Office and after hearings in the summer of 1927, the protests were disallowed and the right of way was granted and following this, the permit was issued by

The then Colorado National Forest Supervisor and work tending toward the construction of said reservoir was carried on continuously since the early part of 1922 in approximately May of that year to the end that the reservoir be constructed.

The purpose of the transfer was to allow the construction of the reservoir. A copy of the transfer Act, and some legislative history concerning it are attached as Exhibit B.

6. The waters diverted by the Grand River Ditch may be either directly carried to the Poudre River by La Poudre Pass Creek, or may, with other waters tributary to the Poudre, be stored in the Grand River or Long Draw Reservoir (including its enlargement) and later be released to La Poudre Pass Creek for delivery to the Poudre River. In either event, La Poudre Pass Creek has always served and continues to serve as a conduit for all of the waters so diverted or stored. La Poudre Pass Creek, except for the lands removed from the Park by the United States Act referred to in the findings of the Decree of the Grand River Reservoir, previously cited, is within the boundaries of the Park.

Based upon the foregoing facts, the parties agree that the rights of Water Supply and those of the United States are not in conflict, and they further agree that:

1. No decree recognizing the reserved rights of the United States on the flowing waters of streams within the Park shall be deemed to prohibit, restrict, or otherwise affect:

a. The diversions of water by the Grand River Ditch under its cited decree or the use of La Poudre Pass Creek as a conduit for the carriage of those waters.

b. The operation of Long Draw Reservoir (including its Enlargement) under its cited decrees, for the storage or release of waters produced by the Grand River Ditch under its cited decree, or under the original decree and the enlargement decree for the reservoir, and the use of La Poudre Pass Creek as a conduit for the carriage of released waters.

c. The rights and responsibilities of the United States or Water Supply with respect to the ownership, use, and maintenance of the Grand River Ditch under its original decree for right-of-way and the stipulations of March 21, 1907.

2. This stipulation and agreement is concerned only with the water rights of the parties. Nothing in this stipulation and agreement affects the ongoing rights and responsibilities of the

"This Decree is subject to a stipulation between the United States and the Water Supply and Storage Company dated _____."

BY:

By:

WILLIAMSON, J. C. 1963. *Proc. U.S. Nat. Acad. Sci.* 49: 110-114.

SCHEDULE H.

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case Nos. W-8439-76 (W-8788-77)

STIPULATION AND AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE
CITY OF LONGMONT, COLORADO

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES OF AMERICA FOR
RESERVED WATER RIGHTS IN ROCKY MOUNTAIN NATIONAL PARK IN BOULDER
AND LARIMER COUNTIES.

WHEREAS, the United States of America, by the United States National Park Service, ("United States") is the claimant in these cases of federal reserved water rights in the North Saint Vrain River and other sources for Rocky Mountain National Park ("Park") in Water Division 1, Colorado, and

WHEREAS, the City of Longmont ("Longmont") is an opponent to the claims of the United States in these cases, and

WHEREAS, Longmont is the owner of Copeland Reservoir, also referred to as Copeland Lake, reservoir located on the eastern edge of the Wild Basin portion of the Park in §§ 14, 15, 22, and 23, T3N, R73W, 6th P.M., Boulder County, Colorado, and

WHEREAS, Longmont is the owner of an absolute water right to store 75.3 acre-feet of water from the North Saint Vrain River in Copeland Reservoir, which water right was decreed by the District Court for Boulder County on June 1, 1926, with an appropriation date of June 30, 1913, and

WHEREAS, Longmont is the owner of a conditional water right to store 1500.4 acre-feet of water from the North Saint Vrain River in Copeland Reservoir, which water right was decreed by the District Court for Boulder County on June 1, 1926, with an appropriation date of June 30, 1913, and

WHEREAS, based on investigations of the pertinent facts by the United States and Longmont, they have determined that the claims of the United States, if decreed, will not, for the reasons described herein, adversely affect Longmont's absolute and conditional water rights for Copeland Reservoir, and

WHEREAS, the United States and Longmont wish to confirm, without the need for further opposition by Longmont, that the claims of the United States in these cases will not adversely affect Longmont's water rights for Copeland Reservoir,

NOW THEREFORE, in consideration of the premises and in compromise and settlement of the disputes which have arisen between them in these cases, the United States and Longmont stipulate and agree as follows:

1. Copeland Reservoir, its point of diversion on the North Saint Vrain River and the inlet canal from the North Saint Vrain River to Copeland Reservoir are all located on private land owned by Longmont, as shown on the attached map identified as Exhibit A to this Stipulation and Agreement.
2. There are no reserved lands owned or operated by the United States for the Park which are located downstream of the private land owned by Longmont and upon which Copeland Reservoir, its point of diversion and its inlet canal are located.
3. The United States does not claim any reserved water right for the Park in any water source for any purpose or for any location on or downstream of the land on which Copeland Reservoir, its diversion point or its inlet canal are located. All claims for reserved water rights for the Park are located upstream of the lands owned by Longmont for the Copeland Reservoir and its associated structures.
4. As a result of the foregoing facts, the reserved water rights claimed by the United States in these cases, if decreed by the Court, will not operate or be operated by the United States to adversely affect the water rights absolutely and conditionally decreed to Longmont's Copeland Reservoir, as described in the third and fourth Whereas clauses above.¹

DATED this 17th day of July, 1992.

UNITED STATES OF AMERICA

By: 
Andrew F. Walch
Lynn A. Johnson, No. 15394
Attorneys
U.S. Department of Justice
Environmental and Natural
Resources Division
999 18th Street, Suite 945
Denver, Colorado 80202
(303) 294-1900

CITY OF LONGMONT

By: 
WHITE & JANKOWSKI
David F. Jankowski, #5787
David C. Frussig, #16606
511 Sixteenth Street, #500
Denver, Colorado 80202
(303) 595-9441

¹ The reserved water rights of the United States Forest Service claimed in cases W-8439-76 (W-9052-77), (W-9064-77), (W-9065-77), (W-8977-77), Water Division 1 and their relation to the water rights for Copeland Reservoir are the subject of a separate stipulation of the United States and Longmont dated January 9, 1990.

Docket Information

Number of Documents in Docket 24

Documents Dated from 10/12/1994 to 10/12/1994

Docket Compiled: 3/2/2012