



WATER-RIGHT DOCKET

Rocky Mountain National Park

Docket No: 10

BEAR LAKE PIPELINE NO. 2

State Water Rights Documentation

06-28-1993: letter to attorney; office of the solicitor from nps regarding nps policy for development and use of water rights on feder



IN REPLY REFER TO:

L54

June 28, 1993

Ralph O. Canaday, Attorney
Office of the Solicitor
Rocky Mountain Region
P.O. Box 25007
Denver Federal Center
Denver, CO 80225

Dear Mr. Canaday:

This is to follow up on your telephone request to Ken Czarnowski of my staff for a clarification of National Park Service policy regarding development and use of water rights on federal reserved lands within a national park.

Direction for park management with respect to water rights is found in Management Policies, U.S. Department of the Interior, National Park Service, 1988. Specifically, Chapter 4:17 of the above referenced document states:

Water Rights

Water for the preservation, management, development and use of the national park system will be obtained and used in accordance with legal authority and with due consideration for the needs of other water users. The National Park Service will generally obtain water rights by assertion of appropriative rights recognized under state law. Essential water rights will be purchased if unappropriated water is not available. The Service will seek negotiated settlements to resolve conflicts among multiple water claimants. The Service will assert claims to reserved federal water rights for water quantities determined to be the minimum amounts needed to protect the primary purposes of a given park.

Recently, the park applied for a permit to install a pump and divert groundwater from a well located on reserved land at Bear Lake. The permit requested was for an exempt well that would allow use of water for drinking and sanitation purposes in the amount of 0.33 acre-feet per year. The quantity allowed is more than sufficient for our needs.



As we understand your question, you asked why would we subject ourselves to the jurisdiction of the State Engineer when we have the authority to drill a well and use water under the Reserved Rights Doctrine and then inform the State as a matter of comity.

Water rights policy in the National Park Service has evolved over time, has changed with various administrations, and contains many grey areas. The issue regarding the Bear Lake well falls within one of the grey areas. However, the following analysis should be helpful in explaining why we chose to work within the confines of State rules and regulations.

Option 1 - Apply for a permit to divert water under existing state regulations.

Advantages

- * This action is in accord with NPS policy.
- * An exempt well is outside the jurisdiction of the State Engineer and has no priority date. Therefore, it would not be subject to a "call on the river."
- * If and when NPS reserved rights are adjudicated and quantified, the amount of water allocated to the well (0.33 acre-feet) will not count against the park's allocation.
- * Our ability to use water under the Reserved Rights Doctrine is retained.
- * This action will help improve our relationship with the State Engineer's Office and the Water Court.

Disadvantages

- * Although exempt wells are outside the jurisdiction of the State Engineer, state law could change.
- * Uses are limited to drinking and sanitary purposes.
- * Use is limited to 0.33 acre-feet per year.

Option 2 - Drill a well, put water to beneficial use and inform the State Engineer of our action as a matter of comity.

Advantages

- * The cost of paperwork and the \$60 filing fee would be avoided.

- * There would be no limit on the purpose of use or the quantity of water used.
- * There would be no delay in putting water to beneficial use.

Disadvantages

- * This action appears to diverge from National Park Service policy.
- * A priority date of 1915 is rather junior in the South Platte Basin and the water right may be subject to a "call on the river".
- * Our relationship with the State Engineer's office and the Water Court would deteriorate.

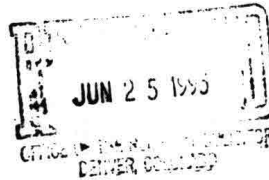
Based on the above analysis, we believe option one is the proper course of action. If you have any questions, please call Ken at 586-3565, ext. 263.

Sincerely,

Homer L. Rouse

Homer L. Rouse
Superintendent

CC:
CRM
CM
Wise-RMR
Williams-WRD



L54
xFWD34

June 23, 1993

Mr. Hal D. Simpson, State Engineer
Office of the State Engineer
Colorado Division of Water Resources
Centennial Building
1313 Sherman Street
Denver, CO 80203

Dear Mr. Simpson:

Enclosed is an application for a permit to use ground water at Bear Lake in Rocky Mountain National Park. The well we wish to put into production was drilled on May 23, 1992 as authorized in well permit No. MH-18992 (copy enclosed). In a letter to the driller from Mr. Fred Loo of your office dated April 8, 1992, we were informed that the well had to be plugged within one year after drilling unless a well permit was obtained from the State Engineer.

We realize that it has been over a year since the well was drilled, but construction at the Bear Lake project was delayed due to weather and lack of funding. We hope to be able to use the well immediately after receiving a permit from your office, as park visitors have been without drinking water at the site since last summer.

If you have any questions regarding this application, please call me at 586-3565, ext. 263.

Thank you for your assistance in this matter.

Sincerely,
Signature

Kenneth Czarnowski
Park Hydrologist

Enc.

cc: Berryman
Brazelton
Wise - RMR
Williams - WRD
Johnson - DOJ
~~Canaday - SOL~~
Liesman

(4) DRILLER

Name Ingram Drilling, Inc.

Street Box 342

City Estes Park CO 80517
(State) (Zip)

Telephone No. _____ Lic. No. 1099

ROY ROMER
Governor



HAROLD (HAL) D. SIMPSON
Acting State Engineer

**OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES**

1313 Sherman Street-Room 818
Denver, Colorado 80203
(303) 866-3581
FAX [303] 866-3589
April 8, 1992

Stephen E. Ingram
Ingram Drilling, Inc.
P.O. Box 342
Estes Park, CO 80517

RE: Monitoring and Observation Hole(s) (BEAR LAKE)

File No. MH- 18922
Owner: Rocky Mountain National Park Service

SW 1/4 NE 1/4
Township 4N

Section 14
Range 74W

Dear Mr. Ingram:

Thank you for your letter of April 8, 1992, notifying this office of your intent to construct the subject monitoring and observation hole(s). The construction of the hole(s) must be completed within three (3) months of the date of this acknowledgement. Testing and/or pumping shall not exceed a total of seven (7) days unless prior written approval is obtained from the State Engineer. The water diverted during testing shall not be used for beneficial purposes. The well owner or his agent shall be responsible for obtaining permits and complying with all rules and regulations pertaining to the discharge of all fluids produced during testing. The hole(s) must be plugged within one (1) year after construction unless a well permit has been obtained from the State Engineer.

A copy of this acknowledgement must accompany the drilling rig. All work must be in compliance with the Water Well and Pump Installation Rules. Construction details, geologic logs, and test data, in the form of well construction and test reports (form GWS-31), must be submitted to this office within sixty (60) days of the completion of the work by the licensed contractor or authorized individual. In addition, the well owner should maintain records of any water quality testing and submit this data to the Division upon plugging of the hole or our request. Please refer to the above file number and owner to identify the documents when submitted. Upon completion of plugging, abandonment reports (form GWS-9) must be submitted affirming the dates the holes were plugged, the intervals and types of materials used, and by whom the holes were plugged.

Acknowledgement of this monitoring and observation hole notice does not indicate that well permits can be approved. If you have any questions, contact this office.

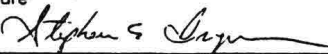
Sincerely,

Fred M. Loo
Water Resources Geologist

FML:cq

cc: Division 1 (with enclosure)

Ingram.FML/FORM MONHOLE

FORM NO. GWS-31 11/90		WELL CONSTRUCTION AND TEST REPORT STATE OF COLORADO, OFFICE OF THE STATE ENGINEER		For Office Use only																										
1. WELL PERMIT NUMBER <u>MH-18922</u> (<u>BEAR LAKE</u>)																														
2. OWNER NAME(S) <u>Rocky Mountain National Park Service</u> Mailing Address <u>1000 HWY 36</u> City, St. Zip <u>Estes Park, Colorado 80517-3327</u> Phone (303) <u>586-3565</u>																														
3. WELL LOCATION AS DRILLED: <u>S4</u> <u>1/4</u> <u>N2</u> <u>1/4</u> , Sec. <u>14</u> Twp. <u>4</u> N, Range <u>74</u> W DISTANCES FROM SEC. LINES: <u>2100</u> ft. from <u>North</u> Sec. line. and <u>2050</u> ft. from <u>East</u> Sec. line. OR (north or south) (east or west) SUBDIVISION: _____ LOT _____ BLOCK _____ FILING(UNIT) _____ STREET ADDRESS AT WELL LOCATION: _____																														
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13. I have read the statements made herein and know the contents thereof, and that they are true to my knowledge. [Pursuant to Section 24-4-104 (13)(a) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.] CONTRACTOR <u>Ingram Drilling, Inc.</u> Phone <u>(303) 586-4542</u> Lic. No. <u>1099</u> Mailing Address <u>P.O. Box 342 Estes Park, Colorado 80517</u>																														
Name/Title (Please type or print) <u>Stephen E. Ingram President</u>		Signature 		Date <u>6-2-92</u>																										

L54
xFWD34

June 23, 1993

Mr. Hal D. Simpson, State Engineer
Office of the State Engineer
Colorado Division of Water Resources
Centennial Building
1313 Sherman Street
Denver, CO 80203

Dear Mr. Simpson:

Enclosed is an application for a permit to use ground water at Bear Lake in Rocky Mountain National Park. The well we wish to put into production was drilled on May 23, 1992 as authorized in well permit No. MH-18992 (copy enclosed). In a letter to the driller from Mr. Fred Loo of your office dated April 8, 1992, we were informed that the well had to be plugged within one year after drilling unless a well permit was obtained from the State Engineer.

We realize that it has been over a year since the well was drilled, but construction at the Bear Lake project was delayed due to weather and lack of funding. We hope to be able to use the well immediately after receiving a permit from your office, as park visitors have been without drinking water at the site since last summer.

If you have any questions regarding this application, please call me at 586-3565, ext. 263.

Thank you for your assistance in this matter.

Sincerely,

Signed

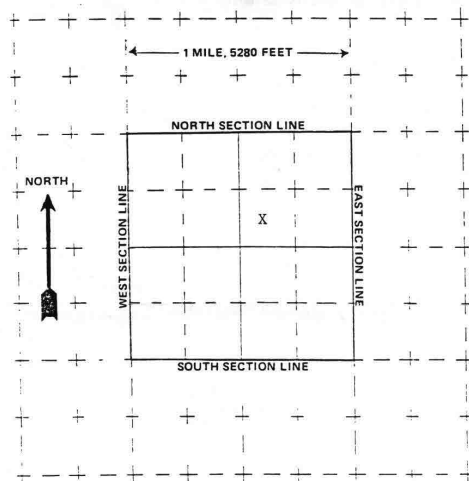
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Park Hydrologist

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cc: Berryman
Brazelton
Wise - RMR
Williams - WRD
Johnson - DOJ
Canaday - SOL
Liesman

Telephone No. _____ Lic. No. 1099

(5) THE LOCATION OF THE PROPOSED WELL and the area on which the water will be used must be indicated on the diagram below. Use the CENTER SECTION (1 section, 640 acres) for the well location.



WATER EQUIVALENTS TABLE (Rounded Figures)
 An acre-foot covers 1 acre of land 1 foot deep
 1 cubic foot per second (cfs) ... 449 gallons per minute (gpm)
 A family of 5 will require approximately 1 acre-foot of water per year.
 1 acre-foot ... 43,560 cubic feet ... 325,900 gallons.
 1,000 gpm pumped continuously for one day produces 4.42 acre-feet.

(6) THE WELL MUST BE LOCATED BELOW by distances from section lines.

2100 ft. from North sec. line
 (north or south)

2050 ft. from East sec. line
 (east or west)

LOT _____ BLOCK _____ FILING # _____

SUBDIVISION _____

(7) TRACT ON WHICH WELL WILL BE LOCATED Owner: USA

No. of acres 160 Will this be the only well on this tract? Yes

(8) PROPOSED CASING PROGRAM

Plain Casing

6-5/8 in. from 0 ft. to 40 ft.

4-1/2 in. from 10 ft. to 205 ft.
 Perforated casing

4-1/2 in. from 205 ft. to 265 ft.

_____ in. from _____ ft. to _____ ft.

(9) FOR REPLACEMENT WELLS give distance and direction from old well and plans for plugging it:

(10) LAND ON WHICH GROUND WATER WILL BE USED:

Owner(s): United States of America No. of acres: 160

Legal description: S14, T4N, R73W, 6th P.M.

(11) DETAILED DESCRIPTION of the use of ground water: Household use and domestic wells must indicate type of disposal system to be used.

Picnic area - Drinking, sanitation with vault toilets, waste water pumped and trucked to Upper Thompson Sanitation District.

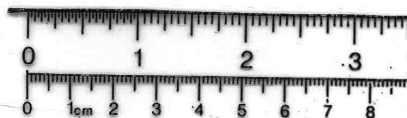
(12) OTHER WATER RIGHTS used on this land, including wells. Give Registration and Water Court Case Numbers.

Type or right	Used for (purpose)	Description of land on which used
None		

(13) THE APPLICANT(S) STATE(S) THAT THE INFORMATION SET FORTH HEREON IS TRUE TO THE BEST OF HIS KNOWLEDGE.

Kenneth Gammah
 SIGNATURE OF APPLICANT(S)

Use additional sheets of paper if more space is required.



ROY ROMER
Governor



HAROLD (HAL) D. SIMPSON
Acting State Engineer

OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

1313 Sherman Street-Room 818
Denver, Colorado 80203
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April 8, 1992

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Acknowledgement of this monitoring and observation hole notice does not indicate that well permits can be approved. If you have any questions, contact this office.

Sincerely,

Fred M. Loo
Water Resources Geologist

FML:cq

cc: Division 1 (with enclosure)

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12. WELL TEST DATA: ☐ Check box if Test Data is submitted on Supplemental Form. TESTING METHOD <u>Air Lift</u> Static Level <u>42</u> ft. Date/Time measured <u>May 23, 1992</u> Production Rate <u>2</u> gpm. Pumping level <u>265</u> ft. Date/Time measured <u>May 23, 1992</u> Test length (hrs.) <u>4</u> Remarks _____																						
13. I have read the statements made herein and know the contents thereof, and that they are true to my knowledge. [Pursuant to Section 24-4-104 (13)(a) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a class 1 misdemeanor.] CONTRACTOR <u>Ingram Drilling, Inc.</u> Phone <u>(303) 586-4542</u> Lic. No. <u>1099</u> Mailing Address <u>P.O. Box 342 Estes Park, Colorado 80517</u> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Name/Title (Please type or print) <u>Stephen E. Ingram President</u></td> <td style="width: 33%;">Signature <u>Stephen E. Ingram</u></td> <td style="width: 33%;">Date <u>6-2-92</u></td> </tr> </table>			Name/Title (Please type or print) <u>Stephen E. Ingram President</u>	Signature <u>Stephen E. Ingram</u>	Date <u>6-2-92</u>																	
Name/Title (Please type or print) <u>Stephen E. Ingram President</u>	Signature <u>Stephen E. Ingram</u>	Date <u>6-2-92</u>																				

Docket #10

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

Case No. W-8439-76 (W-8788-77)

AMENDED APPLICATION FOR SURFACE, UNDERGROUND, AND STORAGE
RESERVED WATER RIGHTS

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. Name and address of Applicant:

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

2. The United States of America claims reserved water rights consisting of the right to (a) secure favorable conditions of water flows and (b) to conserve the scenery and the natural and historic objects and the wildlife 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 and for the benefit and enjoyment of the people of the United States. Specifically, to maintain all streams, springs and seeps, lakes and all ground water at their natural flows, levels, and conditions, except as required for administrative uses, and claims reserved water rights for present and future administrative uses located on Rocky Mountain National Park in Boulder and Larimer counties.
3. The use of water claimed under this amended application is for the present and future needs to fulfill the purposes for which the reservation was created as set forth in paragraph 5(c) of the amended application filed on December 29, 1977.
4. The original application, as amended, is hereby further amended by substituting a new subparagraph 5(a)(1) as follows:
- (a) Source of water:
- (1) Those portions of the South Platte River and waters tributary thereto which are situated within this Water Division and which are located in, on, under, adjacent or otherwise appurtenant to the lands described in the attached Exhibit 1 through 19, which are attached hereto and by the Act of December 22, 1980 (94 Stat. 3265) and Public Land order 6444, dated July 18, 1983 (48

Name of Structure: NPS Bear Lake Pipeline #2
Legal description: From a point whence Thatchtop Mountain bears S 50° 24' E. 10848.94 ft. and Half Mountain bears S 39° 13' E 9121.42 ft.
Source: Tyndall Creek, tributary to Big Thompson River
Description of Structure: Surface diversion
Date of Reservation: January 26, 1915
Use of Water: Domestic, Recreation, Fire Fighting
Amount claimed: 60 gpm

Name of Structure: NPS Endo Valley Campground Pipeline
Legal description: At a point whence the SE corner of Section 11, T. 5 N., R. 74 W. bears S 58° 53' E, 5173.6 ft.
Source: Chiquita Creek, tributary to Big Thompson River
Description of Structure: Surface diversion
Date of Reservation: January 26, 1915
Use of Water: Domestic, Recreation, Fire Fighting
Amount claimed: 58 gpm

Name of Structure: NPS Endo Valley Picnic Area Well
Legal description: In the NW 1/4 of the SW 1/4 of Section 11, T. 5 N., R. 74 W.
Source: Fall River, tributary to Big Thompson River
Depth of Well: 21.5 feet
Description of Structure: Well
Date of Reservation: January 26, 1915
Use of Water: Domestic, Recreation, Fire Fighting
Amount claimed: 20 gpm

Name of Structure: NPS Trail Ridge Road Camp Water System
Legal description: In the NW 1/4 of the SW 1/4, Section 16, T. 5 N., R. 74 W.
Source: Fall River, tributary to Big Thompson River
Description of Structure: Proposed pipeline
Date of Reservation: January 26, 1915
Use of Water: Domestic
Amount claimed: 2 gpm

Name of Structure: NPS Glacier Basin Water System
Legal description: At a point from whence the N 1/4 corner of Section 18, T. 4 N., R. 73 W. bears N 50° 15' E, 1332.6 ft.
Source: Boulder Brook, tributary to Big Thompson River
Description of Structure: Surface diversion
Date of Reservation: January 26, 1915
Use of Water: Domestic, recreation, fire protection
Amount claimed: 264 gpm

REC'D OCT 5 1940

STATE OF COLORADO }
COUNTY OF BOULDER } ss.

IN THE DISTRICT COURT
No. 10077.

IN THE MATTER OF THE ADJUDICATION
OF PRIORITIES OF RIGHTS TO THE USE
OF WATER FOR IRRIGATION AND OTHER
BENEFICIAL PURPOSES IN WATER DIS-
TRICT NO. 4, WATER DIVISION NO. 1,
IN THE STATE OF COLORADO.

FINAL DECREE

AS TO BEAR LAKE
PIPE LINE NO. 2.

This matter coming on for hearing in open court, pursuant to an order made herein by the Court on April 1, 1940, the latter date being the first biennial adjudication day after the entry of the decree herein on November 14, 1939, and the United States of America having appeared by Worth Allen, its attorney, and no other persons having appeared herein,

And the Court having heard testimony and being duly advised in the premises, subject to the general conditions and provisions set forth in said decree of November 14, 1939, IT IS FOUND, ORDERED, ADJUDGED AND DECREED By the Court, with respect to

BEAR LAKE PIPE LINE NO. 2

(Domestic Priority No. 44; Ditch-- Pipe Line-- No. 40.)

In said decree of November 14, 1939, claimant was found to be entitled to a decree to the effect that there be permitted to flow out of the spring area therein described, at the point therein described, into said Bear Lake Pipe Line No. 2, .12 cubic feet of water per second of time, for domestic, sanitary, fire protection and recreational purposes at the Bear Lake Lodge, Ranger Station, and recreational area, with Domestic Priority No. 44, conditional, as of June 20, 1932, provided that the claimant within a reasonable time after the entry of said decree should complete the construction of said pipe line and should apply said water to beneficial use. Said decree further provided that a final decree should be thereafter entered for such an amount of water

as should be shown in subsequent proceedings to have been applied to beneficial use with reasonable diligence, and that the amount of water so to be thereafter finally decreed should in no event be in excess of .12 cubic feet per second of time.

Said claimant, since November 14, 1939, has completed construction of said line, and during the summer of 1940, has made beneficial use of .12 cubic feet of water per second of time through and by means of said pipe line. The uses to which said water was applied were those for which the conditional decree was made.

The completion of said pipe line and the beneficial use of water through the same and by means thereof were made with reasonable diligence, and final decree should now be entered.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED by the Court, that for domestic, sanitary, fire protection, and recreational purposes, and by virtue of an appropriation by survey and construction, and for the benefit of the party or parties entitled to the enjoyment thereof, there be permitted to flow out of said spring area into said pipe line .12 cubic feet of water per second of time, with DOMESTIC PRIORITY NO. 44, as of date June 30, 1932, subject to the general and paramount provisions of the decree of November 14, 1939, in this cause.

Done in Open Court this 23rd day of September, A. D. 1940.

Judge.

C O P Y

STATE OF COLORADO)
COUNTY OF BOULDER)

ss

IN THE DISTRICT COURT

NO. 10077.

IN THE MATTER OF THE ADJUDICATION)
OF PRIORITIES OF RIGHTS TO USE OF)
WATER FOR IRRIGATION AND OTHER)
BENEFICIAL PURPOSES IN WATER DIS-)
TRICT NO. 4, WATER DIVISION NO. 1,)
IN THE STATE OF COLORADO.)

CLAIM OF THE UNITED STATES
OF AMERICA FOR BEAR LAKE
PIPE LINE NO. 2.

P E T I T I O N .

Now comes the United States of America, by Worth Allen
and Wayne C. Williams, Special Assistants to the Attorney General
of the United States, thereunto duly authorized and directed by
the Attorney General, and by Joseph E. Taylor, Regional Attorney,
National Park Service, and represents to the court that

On November 14, 1939, the court made a decree herein
awarding a conditional priority of right to the petitioner on
and in connection with Bear Lake Pipe Line No. 2.

The use of said pipe line will be seasonal. Since the
summer season of 1939 had passed at the time the decree herein
was made, your petitioner has not had an opportunity to make the
maximum use of said pipe line. During the summer of 1940, use
will be made of said pipe line, and after said season has passed
petitioner will be ready and desirous of making further proof
herein in order to have the said conditional priority right ad-
judged a final one.

WHEREFORE, this petitioner prays this honorable court to
set the matter for hearing on a day certain after the summer
season of 1940.

Respectfully,

Special Assistants to the Attorney General

Regional Attorney, National Park Service.

UNITED STATES OF AMERICA,)
State of Colorado,) ss
County of Larimer.)

JOHN S. McLAUGHLIN, being first duly sworn, on his oath deposes and says that he is Assistant Superintendent of Rocky Mountain National Park, and makes this affidavit on behalf of the United States of America, petitioner; that he has read the foregoing petition and is conversant with the facts therein stated, and that the contents thereof are true of his own personal knowledge.

Assistant Superintendent,
Rocky Mountain National Park.

Subscribed and sworn to before me this _____ day of
_____ 1940.

Notary Public.

My commission expires _____.

REC'D DEC 8 1939

BEAR LAKE PIPE LINE NO. 2.

(Domestic Priority No. 44, Conditional; Ditch--Pipe Line-- No. 40.)

1. The claimant of Bear Lake Pipe Line No. 2 is United States of America, Rocky Mountain National Park, Estes Park, Colorado.

2. The source of supply of said pipe line is springs on the northern edge of Nymph lake which is tributary to the Big Thompson river through Glacier creek.

3. The head works of said pipe line consists of two lines of 4-inch vitrified tile across the said spring area and draining into a 1000 gallon settling basin at points whence the N3SW 1/4SE corner of section seven (7), township four (4) north, range seventy-three (73) west of the 6th principal meridian, established by the General Land Office, bears

From diversion No. 1 at end of tile line No. 1, north 70°40' east 11090 feet.

From diversion No. 2 at end of tile line No. 2, north 71°40' east 11070 feet.

4. The general course of the main pipe line is northeasterly.

5. The description of said pipe line is as follows:

The diameter of said pipe is 2 inches; the grade of said pipe line is 108 feet per thousand; the length of the main pipe line is 850 feet to a 20,000 gallon distribution reservoir; the capacity of said pipe line is 0.12 cubic feet per second of time.

6. The use of said pipe line is for domestic, sanitary, fire protection, and recreational purposes in the Bear Lake recreational area located in the south half of the northeast quarter (S½NE¼) of section fourteen (14), township four (4) north, range seventy-four (74) west of the 6th principal meridian.

7. The proposed line is shown by survey and map.

7. Work was commenced by survey made on June 20, 1932, and has since been continuously carried on with reasonable diligence, but has not yet been completed.

8. Map and statement of claim on this pipe line was filed in the office of the State Engineer by claimant on April 19, 1939, and was assigned filing No. 16,551.

9. As a matter of law, claimant is entitled to a decree to the effect that there be permitted to flow out of the spring area at the point hereinbefore described into said pipe line .12 cubic feet of water per second of time for domestic, sanitary, fire protection and recreational purposes at the Bear Lake Lodge, Ranger Station and recreational area, with Domestic Priority No. 44, conditional, as of June 20, 1932; provided that the claimant, within a reasonable time after the entry of this decree, shall complete the construction of said pipe line and shall apply said water to beneficial use, and provided further that a final decree shall be hereafter entered for such an amount of water as shall be shown in subsequent proceedings to have been applied to beneficial use with reasonable diligence, and that the amount of water so to be hereafter finally decreed shall in no event be in excess of .12 cubic feet per second of time.

WHEREFORE, IT IS ORDERED ADJUDGED AND DECREED by the Court, that for domestic, sanitary, fire protection, and recreational purposes, and by virtue of an appropriation by survey and construction, and for the benefit of the party or parties entitled to the enjoyment thereof, there be permitted to flow out of said spring area into said pipe line .12 cubic feet of water per second of time, with DOMESTIC PRIORITY NO. 44, conditional, as of date June 20, 1932, subject to the general

and paramount provisions of this decree, and provided that the claimant, within a reasonable time after the entry of this decree, shall complete the construction of said pipe line and shall apply said water to beneficial use, and provided further that a final decree shall be hereafter entered for such an amount of water as shall be shown in subsequent proceedings to have been applied to beneficial use with reasonable diligence, and that the amount of water so to be hereafter finally decreed shall in no event be in excess of .12 cubic feet per second of time.

STATE OF COLORADO }
COUNTY OF BOULDER } ss

IN THE DISTRICT COURT

NO. 10077.

IN THE MATTER OF THE ADJUDICATION }
OF PRIORITIES OF RIGHTS TO USE OF }
WATER FOR IRRIGATION AND OTHER }
BENEFICIAL PURPOSES IN WATER DIS- }
TRICT NO. 4 WATER DIVISION NO. 1. }
IN THE STATE OF COLORADO.

STATEMENT OF CLAIM OF THE
UNITED STATES OF AMERICA
FOR THE BEAR LAKE PIPE
LINE NO. 2.

Now comes the United States of America, by Worth Allen and Wayne G. Williams, Special Assistants to the Attorney General of the United States, thereunto duly authorized and directed by the Attorney General, and by Joseph E. Taylor, Regional Attorney, National Park Service, and hereby presents this petition and statement of claim herein, and shows unto this honorable court that:

FIRST: The name of the claimant is the United States of America.

SECOND: The postoffice address of the claimant is Rocky Mountain National Park, Estes Park, Colorado.

THIRD: The name of the pipe line for which claim is made herein is Bear Lake Pipe Line No. 2.

FOURTH: The said pipe line derives its supply of water from springs on the Northern edge of Nymph lake which is tributary to the Big Thompson river through Glacier creek.

FIFTH: The headworks of said pipe line consist of two lines of 4-inch vitrified tile across the said spring area and draining into a 1000-gallon settling basin whence the NS&W 1/236 corner of section seven (7), township four (4) north, range seventy-three (73) west of the 6th principal meridian bears:

From diversion No. 1 at end of tile line No. 1 -
north 70° 48' east 11090 feet,

From diversion No. 2 at end of tile line No. 2 -
north 71° 40' east 11070 feet.

SIXTH: The general course of the main pipe line is north-easterly;

The diameter of said pipe is 2 inches;

The grade of said pipe is 108 feet per thousand;

The length of the main pipe line is 850 feet to
a 20,000 gallon distribution reservoir.

The capacity of said main pipe line is 0.12 cubic
feet per second of time, for which claim is hereby made for domestic, sanitary, fire protection, and recreational purposes.

SEVENTH: Work was commenced by survey ^{on June 29,} in August, 1932, and
has since been continuously carried on with reasonable diligence
and will be completed ^{on Sept. 20,} in June, 1939.

EIGHTH: A map with statement of claim was filed by the
claimant in the office of the State Engineer, State of Colorado,
on April 19, 1939, and has been accepted by the State Engineer and
assigned filing No. 18861.

NINTH: The water conveyed through said line is to be distributed in the Bear Lake recreational area in the south half of the northeast quarter (SE 1/4 NE 1/4) of section fourteen (14), township four (4) north, range seventy-four (74) west of the 6th principal meridian.

TENTH: The diversion of 0.12 cubic feet of water per second of time by the Bear Lake Pipe Line No. 2 is necessary to provide additional domestic, sanitary, fire protection, and recreational facilities for the Bear Lake Lodge, Ranger Station and recreational area.

Wherefore, it is prayed that the petitioner, the United States of America, be permitted to file this its petition and statement of claim; that it be allowed to protect and secure its rights and interests by filing and introducing any and all evidence, and by due examination of any and all witnesses touching any and all claims of others to the appropriation and use of water in and from the Big Thompson river and its tributaries and sources, the allowance of which may be adverse to the interests of the United States in the premises.

It is further prayed by the petitioner that a decree be made in this proceeding adjudging and decreeing to the petitioner, the United States of America, a priority of right as of the date of ~~August 31~~ ^{June 24}, 1932, to the uses of water for the purposes and in the amounts hereinbefore in detail set forth and claimed, which said decree, in the event that said Bear Lake Pipe Line No. 2 has not been completed prior to the date of the hearing herein, may be conditioned upon the final completion of said works and the application of waters therefrom to a beneficial use, and that, upon completion of said works and application of waters to a beneficial use thereby and therefrom, a priority right to the use of 0.12 cubic feet of water per second of time for the purposes and in the amounts hereinabove in detail set forth and claimed, shall be decreed to petitioner, and for all other and further proper relief in the premises.

THE UNITED STATES OF AMERICA,

By _____

Special Assistants to the
Attorney General.

Regional Attorney, National
Park Service.

UNITED STATES OF AMERICA,)
State of Colorado,) SS.
County of Larimer.)

JOHN S. McLAUGHLIN, being first duly sworn on oath, deposes and says that he is Assistant Superintendent of Rocky Mountain National Park, and makes this affidavit on behalf of the United States of America, claimant; that he has read the foregoing statement of claim and is conversant with the facts therein stated, and

that the matters therein referred to are true to the best of
his knowledge and belief.

Assistant Superintendent,
Rocky Mountain National Park.

Subscribed and sworn to before me this _____ day of
_____, 1939.

Notary Public.

My commission expires _____.

Other Supporting Information

06/28/93

10:15

001

ROCKY MOUNTAIN NATIONAL PARK



RCMO 71 12/90
FAX TRANSMITTAL FORM

DATE: JUNE 28, 1993

TO: OWEN WILLIAMS, NPS, WATER RESOURCES DIVISION, FT. COLLINS

FAX TELEPHONE NUMBER: 303-225-9965

FROM: KEN CZARNOWSKI, ROCKY MOUNTAIN NATIONAL PARK

SUBJECT: _____

NUMBER OF PAGES TO FOLLOW: 3

SPECIAL INSTRUCTIONS: Please review and give me your comments.

PLEASE CALL (303) 586-2371 X 203 WITH QUESTIONS OR PROBLEMS.
FAX (303) 586-4702

SENT BY: _____
DATE FAXED: _____
TIME FAXED: _____

06/28/93 10:16

002

June 26, 1993

Ralph O. Canaday, Attorney
Office of the Solicitor
Rocky Mountain Region
P.O. Box 25007
Denver Federal Center
Denver, CO 80225

Dear Mr. Canaday:

This is to follow up on your telephone request to Ken Czarnowski of my staff for a clarification of Service policy regarding development and use of water rights on federal reserved lands within a national park.

Direction for park management with respect to water rights is found in Management Policies, U.S. Department of the Interior, National Park Service, 1988. Specifically, Chapter 4:17 of the above referenced document states:

Water Rights

Water for the preservation, management, development and use of the national park system will be obtained and used in accordance with legal authority and with due consideration for the needs of other water users. The National Park Service will generally obtain water rights by assertion of appropriative rights recognized under state law. Essential water rights will be purchased if unappropriated water is not available. The Service will seek negotiated settlements to resolve conflicts among multiple water claimants. The Service will assert claims to reserved federal water rights for water quantities determined to be the minimum amounts needed to protect the primary purposes of a given park.

Recently, the park applied for a permit to install a pump and divert groundwater from a well located on reserved land at Bear Lake. The permit requested was for an exempt well that would allow use of water for drinking and sanitation purposes in the amount of 0.33 acre-feet per year. The quantity allowed is more than sufficient for our needs.

As I understand your question, you asked why would we subject ourselves to the jurisdiction of the State Engineer when we have the authority to drill a well and use water under the Reserved Rights Doctrine and then inform the State as a matter of comity.

06/28/93 10:16

003

Water rights policy in the National Park Service has evolved over time, has changed with various administrations, and contains many grey areas. The issue regarding the Bear Lake well falls within one of the grey areas. However, the following analysis should be helpful in explaining why we chose to work within the confines of State rules and regulations.

Option 1 - Apply for a permit to divert water under existing state regulations.

Advantages

- * This action is in accord with NPS policy.
- * An exempt well is outside the jurisdiction of the State Engineer and has no priority date. Therefore, it would not be subject to a "call on the river."
- * If and when NPS reserved rights are adjudicated and quantified, the amount of water allocated to the well (0.33 acre-feet) will not count against the park's allocation.
- * Our ability to use water under the Reserved Rights Doctrine is retained.
- * This action will help improve our relationship with the State Engineer's Office and the Water Court.

Disadvantages

- * Although exempt wells are outside the jurisdiction of the State Engineer, state law could change.
- * Uses are limited to drinking and sanitary purposes.
- * Use is limited to 0.33 acre-feet per year.

Option 2 - Drill a well, put water to beneficial use and inform the State Engineer of our action as a matter of comity.

Advantages

- * The cost of paperwork and the \$60 filing fee would be avoided.
- * There would be no limit on the purpose of use or the quantity of water used.
- * There would be no delay in putting water to beneficial use.

06/28/93 10:17

004

Disadvantages

- * This action appears to diverge from park policy.
- * A priority date of 1915 is rather junior in the South Platte Basin and the water right may be subject to a "call on the river".
- * Our relationship with the State Engineer's office and the Water Court would deteriorate.

Based on the above analysis, we believe option one is the proper course of action. If you have any questions, please call Ken at 586-3565, ext. 263.

Sincerely,

Homer L. Rouse
Superintendent

cc: CRM
CM
Wise-RMR
Williams-WRD
Johnson-DOJ

L54

June 28, 1993

Ralph O. Canaday, Attorney
Office of the Solicitor
Rocky Mountain Region
P.O. Box 25007
Denver Federal Center
Denver, CO 80225

Dear Mr. Canaday:

This is to follow up on your telephone request to Ken Czarnowski of my staff for a clarification of National Park Service policy regarding development and use of water rights on federal reserved lands within a national park.

Direction for park management with respect to water rights is found in Management Policies, U.S. Department of the Interior, National Park Service, 1988. Specifically, Chapter 4:17 of the above referenced document states:

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Recently, the park applied for a permit to install a pump and divert groundwater from a well located on reserved land at Bear Lake. The permit requested was for an exempt well that would allow use of water for drinking and sanitation purposes in the amount of 0.33 acre-feet per year. The quantity allowed is more than sufficient for our needs.

As we understand your question, you asked why would we subject ourselves to the jurisdiction of the State Engineer when we have the authority to drill a well and use water under the Reserved Rights Doctrine and then inform the State as a matter of comity.

Water rights policy in the National Park Service has evolved over time, has changed with various administrations, and contains many grey areas. The issue regarding the Bear Lake well falls within one of the grey areas. However, the following analysis should be helpful in explaining why we chose to work within the confines of State rules and regulations.

Option 1 - Apply for a permit to divert water under existing state regulations.

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- * This action is in accord with NPS policy.
- * An exempt well is outside the jurisdiction of the State Engineer and has no priority date. Therefore, it would not be subject to a "call on the river."
- * If and when NPS reserved rights are adjudicated and quantified, the amount of water allocated to the well (0.33 acre-feet) will not count against the park's allocation.
- * Our ability to use water under the Reserved Rights Doctrine is retained.
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Disadvantages

- * Although exempt wells are outside the jurisdiction of the State Engineer, state law could change.
- * Uses are limited to drinking and sanitary purposes.
- * Use is limited to 0.33 acre-feet per year.

Option 2 - Drill a well, put water to beneficial use and inform the State Engineer of our action as a matter of comity.

Advantages

- * The cost of paperwork and the \$60 filing fee would be avoided.

- * There would be no limit on the purpose of use or the quantity of water used.
- * There would be no delay in putting water to beneficial use.

Disadvantages

- * This action appears to diverge from National Park Service policy.
- * A priority date of 1915 is rather junior in the South Platte Basin and the water right may be subject to a "call on the river".
- * Our relationship with the State Engineer's office and the Water Court would deteriorate.

Based on the above analysis, we believe option one is the proper course of action. If you have any questions, please call Ken at 586-3565, ext. 263.

Sincerely,

Signed

Homer L. Rouse
Superintendent

cc:
CRM
CM
Wise-RMR
Williams-WRD

April 9, 1953

STATEMENT

For general conditions relating to adjudication and
decree, see Rocky Mountain National Park Docket No. 13.

(SGD.) A. VAN V. DUNN.
A. van V. Dunn
Chief, Water Resources Branch

