



WATER-RIGHT DOCKET

Rocky Mountain National Park

Docket No: 28

BEAVER CREEK. 1)HUPP DITCHES. 2)BEAVER DITCHES

Preliminary Docket Information

00-00-0000: water right record

WATER RIGHT RECORD

Park: ROMO

Docket Number:

Federal #28

IDENTIFICATION NO: ROMO, R, 29, 05, 73, A, F, 28

DITCH/WATER SYSTEM: Hupp Ditches

SOURCE OF SUPPLY: Beaver Creek

LOCATION: The point of diversion of the South Hupp Ditch is on the south bank of Beaver Creek at a point whence the $\frac{1}{2}$ corner of Section 29, T5N, R73W, bears N $48^{\circ}13'$ W 1146.9 feet and the Point of Diversion for the North Hupp Ditch is on the north bank of Beaver Creek at a point whence the $\frac{1}{2}$ corner of said Section 29 bears N $62^{\circ}21'$ W 1106.2 feet.

WATER RIGHT:

Appropriator:

Application/Permit Number: Map NP-RM-6984, May 16, 1938. Transfers of Decree Priorities.

Certificate Record Number:

Date of Priority: Irrigation Joint Priority No. 38. Water Dist. No. 4 as of May 5, 1876.

Quantity of Water: 2.848 c.f.s. but not to exceed 94.393 acre-feet per annum. (See also Beaver Ditches, Docket #28)

Purpose: Irrigation

Irrigated Land Description:

SUMMARY OF STATUS: The original Decree was for 4.0 c.f.s. By Court Decree in a Change-In-Point-Of-Diversion Case 10050, January 30, 1939 1.152 c.f.s. was transferred to other park water systems.

WATER RIGHT RECORD

Park:ROMO

Docket Number:
Federal #28

IDENTIFICATION NO: ROMO, R, 30,0573, B F, 28

DITCH/WATER SYSTEM: Beaver Ditches

SOURCE OF SUPPLY: Beaver Creek

LOCATION: Point of Diversion of the two Beaver Ditches are on opposite banks of Beaver Creek at the east end of the bridge at the end of the Beaver Meadows dirt road, at a point whence the $W\frac{1}{2}$ corner of Section 30, T5N, R73W, bears $S86^{\circ}31'W$ 3429.1 feet.

WATER RIGHT:

Appropriator:

Application/Permit Number: Map Np-RM-6984 , May 16, 1938, Transfers
of Decree Priorities.

Certificate Record Number:

Date of Priority: Irrigation Joint Priority No. 58, Water Dist. No.4 as
of May 5, 1876.

Quantity of Water: 2.848 c.f.s. but not to exceed 94.393 acre-feet
per annum. (See also Hupp Ditches, Docket #28)

Purpose: Irrigation

Irrigated Land Description:

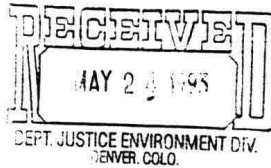
SUMMARY OF STATUS: The original Decree was for 4.0 c.f.s.
By Court Decree in a Change-In-Point-Of-Diversion
Case 10050, January 30, 1939. 1.152 c.f.s. was trans-
ferred to other park water systems.

DOCKET INFORMATION SHEET

Docket Identity	ROMO R 30 05 73 C F 28
Region	ROCKY MOUNTAIN
Area	ROCKY MOUNTAIN NATIONAL PARK
Site	BEAVER DITCHES
State	COLORADO
County	LARIMER
Docket	ROMO WATER RIGHT DOCKET 28
Location	T6N R73W SEC 30
Acquired by	PURCHASE
Application	NP-RM-6984 MAY 16 1938 TRANSFER OF PRIORITY
Permit	58
Certificate	COURT DECREE 10050
Priority	MAY 5 1876 - 2.848 CFS
Reservation	JANUARY 26 1915
Status	ACTIVE FEDERAL JANUARY 30 1939
Source	SURFACE WATER
Use	IRRIGATION
Quantity	2.848 CFS BUT NOT TO EXCEED 94.393 ACRE-FEET
Hydrologic Unit	10190006
Remarks	ORIGINAL DECREE WAS FOR 4.0 CFS BY CHANGE IN POINT OF DIVERSION 1.152 CFS WAS TRANSFERRED TO OTHER PARK WATER SYSTEMS SEE ALSO HUPP DITCHES

DOCKET INFORMATION SHEET

Docket Identity	ROMO R 29 05 73 B F 28
Region	ROCKY MOUNTAIN
Area	ROCKY MOUNTAIN NATIONAL PARK
Site	HUAPA DITCHES
State	COLORADO
County	LARIMER
Docket	ROMO WATER RIGHT DOCKET 28
Location	T5M R73W SEC 29
Acquired by	PURCHASE
Application	NP-RM-6984 MAY 16 1938 TRANSFER OF PRIORITY
Permit	38
Certificate	COURT DECREE 19050
Priority	MAY 5 1876 - 2.848 CFS
Reservation	JANUARY 26 1915
Status	ACTIVE FEDERAL JANUARY 30 1939
Source	SURFACE WATER
Use	IRRIGATION
Quantity	2.848 CFS BUT NOT TO EXCEED 94.393 ACRE FEET
Hydrologic Unit	10190006
Remarks	ORIGINAL DECREE WAS FOR 4.0 CFS BY CHANGE IN POINT OF DIVERSION 1.152 CFS WAS TRANSFERRED TO OTHER PARK WATER SYSTEMS SEE ALSO BEAVER DITCHES



FILED IN
DISTRICT COURT
WATER DIV. 1
WELD CO. COLO.
MAY 17 1993

COPY FOR YOUR
INFORMATION

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

CASE NO. 85CW381
(Boulder County CA 4862 and CA 10050)

CORRECTED FINDINGS AND RULING DECREE OF THE WATER COURT

IN THE MATTER OF THE APPLICATION OF WATER RIGHTS OF
UNITED STATES OF AMERICA, ROCKY MOUNTAIN NATIONAL PARK,
IN LARIMER COUNTY

THIS CHANGE was filed with the Water Clerk, Water Division 1, on December 19, 1985 to modify the decree in Boulder County CA 4862 which had been changed in CA 10050. The Court being fully advised in the premises does hereby find:

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

A Statement of Opposition to said application was filed by the Colorado Water Conservation Board and subsequently withdrawn by stipulation. The time for filing additional statements has expired.

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

FINDINGS OF FACT

1. Hupps Ditch aka Huppe Ditch or Hupps and Beaver Ditch was decreed in Boulder County CA 4862 dated March 18, 1912. The ditch was decreed for irrigation of 120 acres with 4 cfs of water as of May 5, 1876.

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2. The Hupps and Beaver Ditches were changed to an additional six new points of diversion in Boulder County CA 10050 dated January 30, 1939. Judge Frederic W. Clark divided the 360 acre feet among the new points of diversion leaving 2.848 cfs, but not to exceed 94.393 acre feet per annum at the original points of diversion. Using the 3 acre feet per acre from the original decree 94.943 acre feet is the amount required for 31.46 acres. Applicants claim for 47.6 acres is not supported.

3. Using applicant's consumptive use of 1.1166 acre feet/acre, the irrigation of 31.46 acres produces an estimated consumptive use of 6.45 acre feet during May, 11.69 acre feet during June, 10.04 acre feet during July and 6.95 acre feet during August. All uses historically were within the boundaries of Rocky Mountain National Park.

4. Applicant requests the consumptively used portion of this right be changed to wildlife and fish maintenance and propagation and recreation uses all within the natural stream channel of the Big Thompson River.

IT IS HEREBY THE DECREE OF THE WATER COURT

1. The name and address of the applicant:

United States of America
Department of Justice
Environment and Natural Resources Division
General Litigation Section
999 18th St., #945
Denver, CO 80202

2. The name of the structure:

Hupps Ditch and Beaver Ditch aka Huppe Ditch

3. The legal description of the structure:

Hupps Ditch is decreed in NW1/4 SW1/4, Section 29, Township 5 North, Range 73 West, 6th P.M., Larimer County, and Beaver Ditch in SW1/4 NE1/4, Section 30, Township 5 North, Range 73 West, 6th P.M., Larimer County.

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4. The source of the water:

Beaver Creek aka Beaver Brook

5. The date of appropriation:

May 5, 1876 as decreed in CA 4862 dated March 18, 1912.

6. The amount of water:

Hupps and Beaver Ditch was decreed for 4 cfs. To prevent injury to other water rights, only the consumptive use is transferred herein as follows:

May	0.105 cfs
June	0.196 cfs
July	0.163 cfs
August	0.113 cfs

The remainder of the 4 cfs is relinquished to the stream system except as transferred in CA 10050 as follows:

0.015 cfs to Springs in NW1/4 NE1/4, Section 34, Township 5 North, Range 73 West,

0.300 cfs to Big Thompson River in NE1/4 NW1/4, Section 4, Township 4 North, Range 73 West,

0.086 cfs to Springs in NE1/4 NW1/4, Section 14, Township 4 North, Range 74 West,

0.589 cfs to Boulder Crook in NE1/4 NW1/4, Section 18, Township 4 North, Range 73 West,

0.081 cfs to Springs in SW1/4 SW1/4, Section 3, Township 4 North, Range 74 West,

and 0.081 cfs to Fern Creek in NE1/4, Section 3, Township 4 North, Range 74 West.

7. The use of the water:

Wildlife and fish maintenance and propagation and recreation all within the natural channel of the Beaver Creek, all limited to use within Rocky Mountain National Park.

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8. This change was filed pursuant to a Stipulation for Deletion from Abandonment List in Case Nos. 84CW426 through 84CW466 between the United States and the State Engineer and Division Engineer for Water Division No. 1. In accordance with that stipulation, the United States agrees not to use the water right decreed herein outside of the exterior boundaries of Rocky Mountain National Park unless otherwise expressly directed by statute. Furthermore, the United States agrees not to sell the water right decreed herein unless otherwise expressly directed by statute. Should the United States desire to change the place, manner, or time of use of the decreed water right, the United States agrees to file a change of water right application at such time.

9. This decree was entered pursuant to a stipulation between the United States and the Colorado Water Conservation Board and the issues decided herein were not litigated between the parties. In accordance with that stipulation, the parties shall not be collaterally estopped from asserting any factual or legal claims or defenses in any other case as a result of this decree. Additionally, the parties agree they shall not cite this decree as precedent in any other case.

10. Due to the unique location of this water right and the limitation contained herein, water rights of others will not be injured by this change.

11. This change shall be subject to reconsideration by the water judge on the question of injury to the vested rights of others for a period of 5 years from the date of this decree pursuant to CRS 37-92-304(6).

PARAGRAPHS 8 AND 9 WERE ADDED PURSUANT TO STIPULATION AMONG PARTIES.

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

Dated: MAY 19 1987

A handwritten signature in cursive script, appearing to read "Robert A. Behrman", written over a horizontal line.

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

Recorded JUL 7, 1939 at 9:00 o'clock A. M.

Reception No. 480428 Stanley A. Curtis, Recorder

STATE OF COLORADO, }
COUNTY OF BOULDER. } ss.

IN THE DISTRICT COURT
No. 10050.

IN THE MATTER OF PRIORITY }
OF WATER RIGHTS IN DISTRICT }
NO. 4. }

ON PETITION OF THE UNITED STATES
OF AMERICA TO CHANGE POINTS OF
DIVERSION OF A PORTION OF THE
WATER HERETOFORE AUTHORIZED TO BE
TAKEN AND USED UNDER PRIORITIES
NUMBERED 57, 58 AND 68.

FINDINGS AND DECREE.

THIS MATTER NOW COMING ON TO BE HEARD in open Court this 30th day of January A. D. 1939, upon the petition of the UNITED STATES OF AMERICA, praying for authority to make changes in points of diversion of a portion of the waters authorized to be taken under adjudication priorities numbered 57, 58 and 68, in Water District No. 4, within and for the State of Colorado.

And the petitioner, appearing by Worth Allen and Wayne C. Williams, special assistants to the Attorney General of the United States, and the objectors or protestants or others appearing in person or by counsel as follows: Eleanor E. Hondius in person and by her attorneys, Fred W. Stover and Dale E. Shannon.

And this cause having been originally set by order of this court made on August 11, 1938, for hearing on the 28th day of September, 1938, and having been duly continued from time to time by order of this court, each continuance having been made at or before the time for which the matter previously had been set,

And the Court having heard and received evidence, and heard argument of attorneys, and being fully advised in the premises, finds that:

1. All parties who may be affected by the proposed changes in points of diversion have been duly notified, as by law required, and that the following named persons and corporations, in written instruments filed with the Clerk of this Court, acknowledged service upon them on the dates set opposite their respective names, of a printed copy of the notice issued by the Clerk of this Court:

Gertrude H. Grant, August 22, 1938.

The Farmers Irrigating Ditch and Reservoir Company, a corporation, by T. M. McKee, President, August 24, 1938.

Florence E. Kistler,
by Clarence L. Ireland, her attorney, August 26, 1938.

Alice G. Henry, August 27, 1938.

The Eaton Investment Company, a corporation,
by Robert G. Smith, its attorney, September 1, 1938.

2. The Petitioner, United States of America, is now the lawful owner of and is entitled to exercise the rights in and to, said adjudicated priorities numbered 57, 58, and 68, in Water District No. 4, within and for the State of Colorado, having acquired said rights as appurtenances to land purchased by it from Pieter (Peter) Hondius in the years 1923, 1924, and 1932, which said lands are described in detail in the petition filed herein, and which said conveyances are more particularly described as follows:

Warranty deed dated September 22, 1923, filed for record as Instrument No. 269762 in the office of the County Clerk and Recorder of Larimer County, State of Colorado, on April 8, 1924, and recorded in Book 481, page 101 of the public records of said county.

Warranty deed dated May 8, 1924, filed for record as Instrument No. 274366, in the office of the County Clerk and Recorder of Larimer County, State of Colorado, on June 19, 1924, and recorded in Book 481, page 360 of the public records of said county.

Warranty deed dated February 18, 1932, filed for record as Instrument No. 390196, in the office of the County Clerk and Recorder of Larimer County, State of Colorado, on March 15, 1932, and recorded in Book 623, page 424 of the public records of said county.

The Petitioner has made continuous use of the full amount of water authorized to be taken under and by said priorities numbered 57, 58, and 68, except as to Priority Right Number 57. Under said priority right number 57, it has continuously used nine hundred and eighty three one thousandths (0.983) of one cubic foot of water per second upon eleven and eight-tenths (11.8) acres of land. It has not used and is not entitled to use water under said priority right upon any more land than 11.8 acres.

3. The changes in points of diversion sought in the petition to be made will not injuriously affect the rights of any water users in said Water District No. 4.

Authority should, therefore, be granted to the petitioner to make the changes in points of diversion as prayed, but with a proviso and condition that, in taking water from the new points of diversion, the rights of the petitioner to water shall not become superior with respect to the matter of priority to any rights that are now senior thereto. In other words, a condition should be made to the effect that no greater priority right shall be obtained by reason of making a domestic or other use of the water taken from said new points of diversion than such right or rights as are now held in connection with the use of water taken under said adjudicated rights for irrigation purposes.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that authority be and the same is hereby granted to the United States of America to make the following changes in points of diversion of a portion of the water authorized to be taken under said priority rights numbered 57, 58 and 68, in Water District No. 4, State of Colorado, the points of diversion, the new use, and the amount of water in both second feet, and acre feet per annum, to be used from both the original and new points of diversion, being stated as follows:

PRIORITY NUMBER 57.

THE JONES DITCH.

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(1) Springs tributary to Fall River in the Northwest quarter (NW $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section 21, Township 5 North, Range 73 West of the Sixth Principal Meridian* from which the Northwest corner of said section bears North 79° 06' West 1236.12 feet.	Domestic supply, sanitation, fire protection, in Aspenglen (Public) Campground.	0.064 second-feet, but not to exceed 11.407 acre-feet per annum.
*The Sixth Principal Meridian is hereafter referred to as the 6th P. M.		
(2) On the right or South bank of Hidden Valley Creek, a tributary of Fall River, in the Southwest quarter (SW $\frac{1}{4}$) of the Southeast quarter (SE $\frac{1}{4}$) of Section 18, Township 5 North, Range 73 West of the 6th P. M. from which the Southeast corner of said section bears South 85° 02' East 2309.1 feet.	Domestic supply, sanitation, fire protection, at camp in Little Horseshoe Park and adjacent (Ashton) ranch, and public campground to be built and established.	0.044 second-feet, but not to exceed 10.493 acre-feet per annum.
		<u>Quantity hereafter to be used from original point of diversion.</u>
		0.875 second-feet, but not to exceed 13.5 acre-feet per annum.

PRIORITY NUMBER 68.

THE HORSESHOE DITCH.

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(1) Three springs, being headwaters of Sundance Creek, a tributary of Fall River, in the Northwest quarter (NW $\frac{1}{4}$) of Southwest quarter (SW $\frac{1}{4}$) of Section 16, Township 5 North, Range 74 West of the 6th P. M., and from which the Southeast one-sixteenth (1/16) corner of Section 14, Township 5 North, Range 74 West of the 6th P. M., bears as follows: From Spring No. 1, South 86° 24' East 13,319 feet. From Spring No. 2, South 85° 54' East 13,328 feet. From Spring No. 3, South 86° 15' East 13,304 feet.	Domestic, sanitation and fire protection at the Trail Ridge Road Maintenance Camp.	0.004 second-feet, but not to exceed 1.35 acre-feet per annum.
(2) On the right or South bank of Hidden Valley Creek, a tributary of Fall River, in the Southwest quarter (SW $\frac{1}{4}$) of the Southeast quarter (SE $\frac{1}{4}$) of Section 18, Township 5 North, Range 73 West of the 6th P.M. from which the Southeast corner of said section bears south 85° 02' East 2309.1 feet.	Domestic supply, sanitation, fire protection, in Little Horseshoe Park and adjacent (Ashton) ranch, and public campground to be built and established.	0.145 second-feet, but not to exceed 34.499 acre-feet per annum.
(3) The North side of a nameless tributary at the headwaters of Fall River in the Northeast quarter (NE $\frac{1}{4}$) of the Northeast quarter (NE $\frac{1}{4}$) of Section 1, Township 5 North, Range 75 West of the 6th P.M., and from which point the Northeast corner of said Section 1 bears North 21° 48' East 549 feet. (The corner being a scribed stone of GLO survey of 1882).	Domestic, sanitation and fire protection at Fall River Pass Museum, public comfort station and parking area.	0.100 second-feet, but not to exceed 16.947 acre-feet per annum.

THE HORSESHOE DITCH - (Continued)

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(4) Chiquita Creek, a tributary of Fall River, in the Southwest quarter (SW $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of section 11, Township 5 North, Range 7 $\frac{1}{2}$ West of the 6th P. M., at a point from which the Southeast corner of said section bears South 58° 53' East 5173.6 feet.	Domestic, sanitation, fire protection, at Endovalley Campground.	0.118 second-feet, but not to exceed 20.736 acre-feet per annum.
		<u>Quantity hereafter to be used from original point of diversion.</u>
		4.633 second-feet, but not to exceed 181.468 acre-feet.

PRIORITY NUMBER 58.THE HUPPS AND BEAVER DITCHES.

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(1) Springs tributary to Big Thompson River in the Northwest quarter (NW $\frac{1}{4}$) of the Northeast quarter (NE $\frac{1}{4}$) of Section 34, Township 5 North, Range 73 West of the 6th P. M., from which the North quarter corner of said Section 34 bears North 85° 44' West 376 feet.	Domestic, industrial and fire protection, in Park Utility and employees' residential area.	0.015 second-feet, but not to exceed 11.16 acre-feet per annum.
(2) South or right bank of Big Thompson River in the Northeast quarter (NE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section 4, Township 4 North, Range 73 West of the 6th P. M., at a point from which the Southeast corner of Section 33, Township 5 North, Range 73 West of the 6th P. M. bears North 78° 26' East 1069 feet.	Domestic, sanitation, fire protection, for a lodge, store and housekeeping cabins at Camp Woods and Big Thompson River Entrance to Park.	0.300 second-feet, but not to exceed 85.973 acre-feet per annum.

THE HUPPS AND BEAVER DITCHES (Continued)

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(3) Springs tributary to Bear Lake, which is tributary to Big Thompson River through Glacier Creek, in the Northeast quarter (NE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section 14, Township 4 North, Range 74 West of the 6th P. M., from which point the N55W 1/256 corner of Section 7, Township 4 North, Range 73 West of the 6th P. M. bears North 77° 46' East 10,696 feet. (Corners of Section 14 burned out about 1898.)	Domestic sanitation, fire protection, for hotel, museum, ranger station, and parking area at end of motor road at Bear Lake.	0.086 second-feet, but not to exceed 24,658 acre-feet per annum.
(4) Right bank of Boulder Brook, a tributary of Big Thompson River through Glacier Creek, in the Northeast quarter (NE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section 18, Township 4 North, Range 73 West of the 6th P. M., from which the North quarter (N $\frac{1}{4}$) corner of said Section 18 bears North 50° 15' East 1332.6 feet.	Domestic, sanitation, fire protection, at Sprague's Hotel, Glacier Basin Camp-ground, and Mountain side Lodge.	0.589 second-feet, but not to exceed 112,242 acre-feet per annum.
(5) Springs tributary to Fern Lake, which is tributary to Big Thompson River through Fern Creek, in the Southwest quarter (SW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$) of Section 3, Township 4 North, Range 74 West of the 6th P. M., at a point from which the Southeast corner of Section 35, Township 5 North, Range 74 West of the 6th P. M., bears North 51° 14' East 9346.94 feet.	Domestic, sanitation, fire protection, at Fern Lodge and Fern Lake Ranger Station.	0.081 second-feet, but not to exceed 18,277 acre-feet per annum.
(6) East or right bank of Fern Creek, a tributary of Big Thompson River in Lot one (1) of the Northeast quarter (NE $\frac{1}{4}$) of Section 3, Township 4 North, Range 74 West of the 6th P. M., at a point from which the Southeast corner of Section 35, Township 5 North, Range 74 West of the 6th P. M., bears North 81° 46' East 3956.1 feet.	Domestic, sanitation, fire protection, at Forest Inn.	0.081 second-feet, but not to exceed 13,297 acre-feet per annum.

Quantity hereafter to be used from original points of diversion.

2.848 second-feet, but not to exceed 94,393 acre-feet per annum.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the authority hereby granted is subject to the condition hereby made, that in making the said changes in points of diversion, United States of America, and all future owners of the water rights under which water shall be diverted from said new points of diversion, shall acquire no greater or different priority rights by reason of making a domestic or other use of the water so diverted than if the water so diverted were used for irrigation purposes, as authorized in the general adjudication decree made and signed by this Court on June 29, 1916.

DONE IN OPEN COURT this 30th day of January, 1939.

FREDERIC W. CLARK
JUDGE.

Book 685 Page 540

STATE OF COLORADO,)
COUNTY OF BOULDER.) SS.

I, C. W. ATKINSON, Clerk of the District Court in and for said County, in the State aforesaid, and as such Clerk custodian of the files and records of said Court, do hereby certify that the foregoing is a full, true and correct copy of FINDINGS AND DECREE, in Case No. 10050, duly entered on the 30th day of January, A. D. 1939, IN THE MATTER OF PRIORITY OF WATER RIGHTS IN DISTRICT NO. 4, ON PETITION OF THE UNITED STATES OF AMERICA TO CHANGE POINTS OF DIVERSION OF A PORTION OF THE WATER HERETOFORE AUTHORIZED TO BE TAKEN AND USED UNDER PRIORITIES NUMBERED 57, 58 and 68, as the same appears of record in this Court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court, at my office in Boulder, this 16th day of February, A. D. 1939.

(SEAL)

/s/ C. W. Atkinson
Clerk.

360
No. 7776 AR 30

WARRANTY DEED - B. B. - Out West Printing and Stationery Co., Colorado Springs, Colo.

This Deed, Made this 5th day of May in the year of our Lord one thousand nine hundred and twenty four, between Peter Mondine

of the County of Garfield and State of Colorado, of the first part, and The United States of America

of the County of Garfield and State of Colorado, of the second part:

Witnesseth, That the said part 4 of the first part, for and in consideration of the sum of three thousand four hundred (\$3,400.00) Dollars, to the said part 4 of the first part in hand paid by the said part 4 of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said part 4 of the second part, its heirs and assigns forever, all the following described lot or parcel of land, situate, lying and being in the County of Larimer and State of Colorado, to-wit:

The East one half (1/2) of the North-east quarter (N.E. 1/4) of the North-west one-quarter (N.W. 1/4) of Section thirty-four (Sec. 34), Township five North, Range twenty-three West, (T. 5 N., R. 23 W.) of the Sixth Principal Meridian (6 P.M.), containing approximately twenty (20) acres, together with a right of way for road purposes over a practicable route from the Northern boundary of the above described tract of land to the nearest public road way.

Together with all and singular the hereditaments and appurtenances therunto belonging, or in anywise appertaining, and the reversion and reversion, remainder and remainders, rents, issue and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the said part 4 of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

To Have and to Hold the said premises above bargained and described, with the appurtenances unto

the said part 4 of the second part, its heirs and assigns forever. And the said

part 4 of the first part, for themselves his heirs, executors and administrators, sold, covenant, grant, bargain and agree to and with the said part 4 of the second part, its heirs and assigns, that at the time of the executing and delivery of these presents, he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature coever,

and the above bargained premises in the quiet and peaceable possession of the said part 4 of the second part, its heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said part 4 of the first part shall and will Warrant and Forever Defend.

In Witness Whereof, The said part 4 of the first part has hereunto set his hand and seal, the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

U. S. Notary Public
Garfield County, Colo.
Peter Mondine

STATE OF COLORADO,
County of Garfield ss. I, Charles J. Hill a Notary Public
in and for said Garfield County, in the State aforesaid, do hereby certify that

Peter Mondine

who is personally known to me to be the person whose name he subscribed to the foregoing Deed, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and Notarial seal, this 5th day of May A. D. 1924.

My commission expires August 11th A. D. 1927.

Charles J. Hill
NOTARY PUBLIC.

Filed for record the 19 day of June A. D. 1924 at 8:22 o'clock A. M.

Matthew Auld Recorder.
By G. B. Cushing Deputy.

Other Supporting Information

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Rocky

4-11-63

W O D C	APR 15 1963
CHF	ADM
PERS	P & P
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Memorandum

To: The Director

From: ^{Acting} Assistant Regional Director, Midwest Region

Subject: Water Rights on Hupps, Beaver, Jones and Horseshoe Ditches.

Enclosed is a copy of Mr. Whitcraft's comments regarding the status of subject water rights. This reply is with reference to Mr. Dunn's August 28, 1962 memorandum.

The following is a tabular summary of the use of subject rights and the availability for transfer:

System	Quantity	Remarks
<u>Hupps - Beaver Ditches</u> <u>Priority No. 56</u>		
Forest Inn	.081 c.f.s.	Abandoned
Fern Lake	.081 c.f.s.	Will use at Fern Lake Patrol Cabin
Camp Woods	.300 c.f.s.	Plan to use at picnic ground, later
Glacier Basin	.589 c.f.s.	In use
Bear Lake Pipeline No. 2	.120 c.f.s.	In use
Utility Area	.015 c.f.s.	In use
<u>Jones Ditch</u> <u>Priority No. 57</u>		
Aspenglen	.064 c.f.s.	In use
Little Horseshoe	.044 c.f.s.	Available for transfer
Federal owned (Jones Ditch)	.875 c.f.s.	(.775 c.f.s. available for transfer (.10 c.f.s. retained to irrigate campground
Eates Park	4.017	(Diverting in pens tack of Bonitus Cascade pipeline.
Total	5.000	

Horseshoe Ditch

Priority No. 68

Horseshoe Ditch	4.633 c.f.s.	Retained and available for transfer
Little Horseshoe Park	.145 c.f.s.	Availability for transfer
Endovalley Campground	.118 c.f.s.	In use
Trail Ridge Road Camp	.004 c.f.s.	In use
Fall River Pass	.100 c.f.s.	In use

Pending further developments where some of the available water rights can be used, we will hold the docket in their present status.

(Sgd) Harry B. Robinson

In duplicate A. ang. Assistant Regional Director

cc: Superintendent, Rocky Mountain
✓ Chief, WODC - in duplicate w/enclosure



UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Rocky Mountain National Park
and

IN REPLY REFER TO:

L54

Shadow Mountain National Recreation Area
P. O. Box 1080, Estes Park, Colorado

January 3, 1963

Memorandum

To: Regional Director, Midwest Region
From: Acting Superintendent, Rocky Mountain

Subject: Water rights on Hupps, Beaver, Jones and Horseshoe Ditches

Mr. Melaas' September 12, 1962, memorandum asked for a review of the status of the above water rights and if any of them might be transferred or used by new systems in the same drainage areas.

Docket No. 28, Hupps and Beaver Ditches, indicates that we retained a right to use 2.848 cubic feet per second under this right. It has not been abandoned and is used occasionally to irrigate portions of Beaver Meadows. At this time the ditches and headgates are in need of repair. This water right originally had four cubic feet decreed to it, but in the change in point of diversion made in 1939 by the National Park Service, 1.152 cubic feet of water were transferred to water systems at Forest Inn, Fern Lake, Camp Woods, Glacier Basin, Bear Lake and the Utility Area. Of these, the .081 c.f.s. used at Forest Inn has been abandoned and is available for transfer to other systems. The .081 c.f.s. transferred to Fern Lake is not currently being used but it is our plan to move the pipeline to the Fern Lake patrol cabin when Fern Lake Lodge is torn down in the near future. The .300 c.f.s. of water transferred to Camp Woods is not currently being used, as Camp Woods has been removed. However, our long range planning includes a picnic area in this location and therefore only part of this right is available for transfer to other locations. Water transferred in 1939 to Glacier Basin, Bear Lake and the Utility Area is still in use.

In the same 1939 adjudication .108 c.f.s. of the Jones Ditch water right was transferred to Aspenglen (.064) and the Little Horseshoe Pipeline (.044). The Aspenglen water is being used for the campground but the water at Little Horseshoe has not been used since the Public Health Department declared it unsafe for human consumption at the Little Horseshoe residences. This .044 c.f.s. is available for transfer to the other systems. The remainder of 4.892 c.f.s. of decreed

Reg. Director
Admin. Asst.
Asst. to R. D.
Admin.
Cons. Int. Use
Res. Planning
Prog. Coord.
Info. & Pabls.
Field Solic.
<i>Director 1-10</i>
<i>1-10</i>
Action taken
<i>Director 1-10</i>
Filed 1-10

COPIES TO:
Director
1-10
4-8-63

water left in Jones Ditch is divided between the United States (.875 c.f.s.) and the Town of Estes Park (4.017 c.f.s.). The United States-owned water is allowed to run through the campground in the original Jones Ditch where it helps maintain plant growth in the heart of the campground. The Town of Estes Park is now diverting its share of the water further up in the penstock of the Hondius Cascade Pipeline. Headgate repairs are needed on the Jones Ditch point of diversion. A large share of the .875 c.f.s. owned by the United States would be available for transfer to some other system as .10 c.f.s. would be adequate for the ditch flow through the campground.

Horseshoe Ditch (Docket No. 35) retains a decreed right of 4.633 c.f.s. and is used several times a year to irrigate the meadows in Horseshoe Park. In the 1939 change in point of diversion .367 c.f.s. of the original 5 c.f.s. was transferred to Little Horseshoe, Endovalley Campground, Trail Ridge Road Camp, and Fall River Pass water systems. These are all in use with the exception of Little Horseshoe mentioned above concerning Jones Ditch.

Much of the 4.633 c.f.s. retained in the Horseshoe Ditch right is available for transfer to other systems.

At the time of this writing, there are no new systems in the drainage areas occupied by the Hupps, Beaver, Jones and Horseshoe Ditches which are in need of water right protection which could be gained by transferring parts of the above rights thereto. We are grateful, however, to Mr. Dunn for suggesting this review, as it reminded us of the .081 c.f.s. available for transfer from the abandoned Forest Inn Pipeline and the .189 c.f.s. now in disuse at Little Horseshoe Park residence area.

Thomas E. Whitcraft

Thomas E. Whitcraft

In duplicate

Docket No. 28

HUPPS AND BEAVER DITCHES

Ditches Nos. , Water District No. 4.

USE

Irrigation. Supplies water to irrigate the Beaver Meadows (Wildlife Range) in Sections 30 and 29, Township 5 North, Range 73 West.

HEADGATE

Points of Diversion of the two Beaver Ditches are on opposite banks of Beaver Creek at the East end of the bridge at the end of the Beaver Meadows dirt road, at a point whence the West Quarter Corner of Section 30, Township 5 North, Range 73 West, bears South $86^{\circ} 31'$ West 3429.1 feet. The Point of Diversion of the South Hupps Ditch is on the South bank of Beaver Creek at a point whence the West Quarter Corner of Section 29, Township 5 North, Range 73 West, bears North $48^{\circ} 13'$ West 1146.9 feet and the Point of Diversion for the North Hupps Ditch is on the North bank of Beaver Creek at a point whence the West Quarter Corner of said Section 29 bears North $62^{\circ} 21'$ West 1106.2 feet.

PRIORITY

Irrigation Joint Priority No. 58, Water District No. 4, as of May 5, 1876.

AMOUNT OF DECREE

2.848 cubic feet of water per second of time but not to exceed 94.393 acre-feet per annum permitted to flow into the Beaver and Hupps Ditches. The original Decree was for 4.0 cubic feet of water per second of time but not to exceed 360.0 acre-feet per annum. By Court Decree in a Change-In-Point-Of-Diversion Case, January 30, 1939, 1.152 cubic feet of water per second of time was transferred to other Park water systems, but not to exceed 265.607 acre-feet.

OWNERSHIP and OPERATION

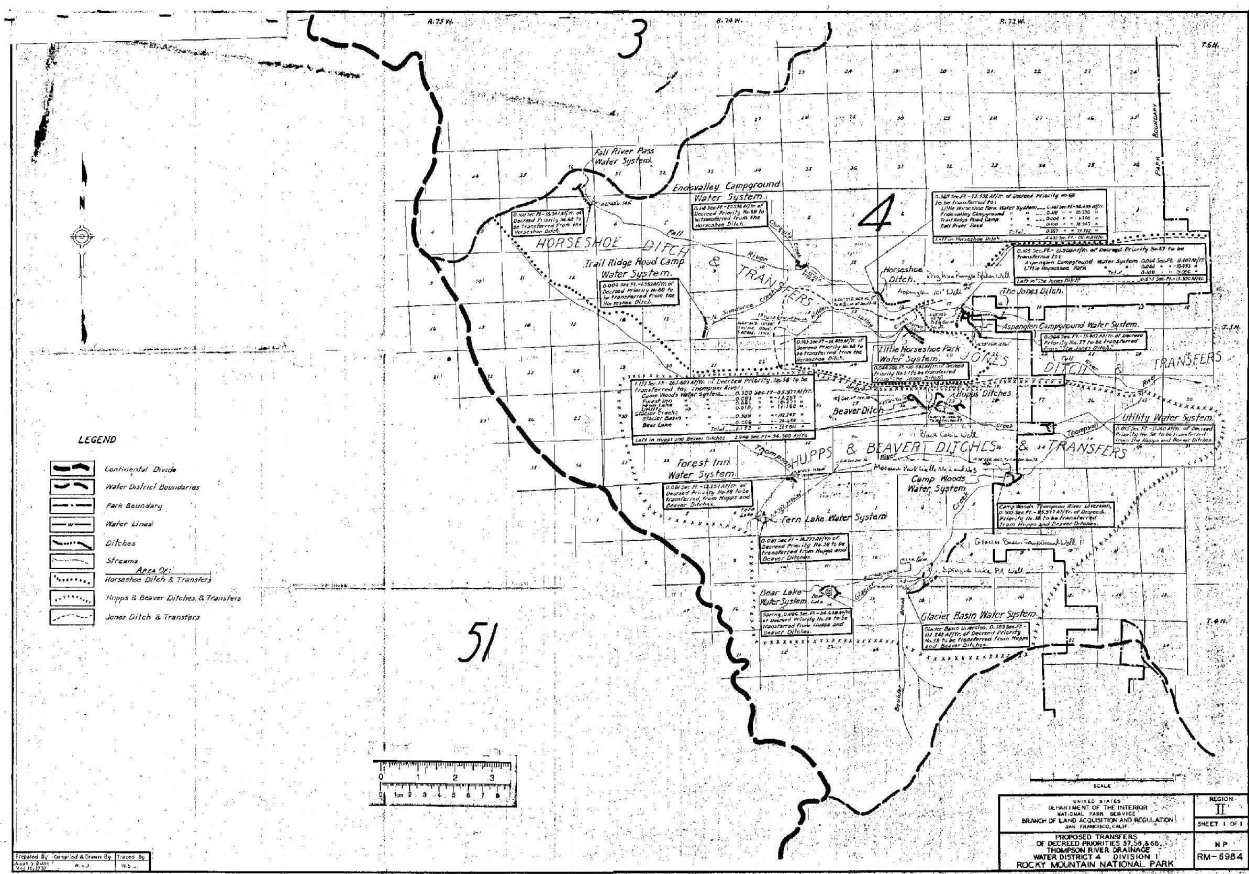
Owned by United States. Acquired by purchase from Pieter Hondius.
Operated by the National Park Service.

MAPS

NP-RM-6984, May 16, 1938, Transfers of Decree Priorities.

Central Ranger District.

Upper Beaver Meadow Area.



Docket Information

Number of Documents in Docket 24

Documents Dated from 5/8/1924 to 4/11/1963

Docket Compiled: 6/9/2011