WATER-RIGHT DOCKET

Yosemite National Park

Docket No: 23

EL PORTAL, 1880 HENNESSEY & MORRISON, MERCED RIVER

Preliminary Docket Information

06-28-1996: notes to the file: primary water supply for el portal is from wells 2-7; well no. 1 is no longer in use

NOTES TO THE FILE YOSE 023: El Portal, 1880, Hennessey and Morrison, Merced R.
YOSE 024: El Portal, 1884, Wharton and Utter, Merced R.
YOSE 025: El Portal, 1888, O. W. Ward, Crane Cr.

June 28, 1996

The primary water supply for El Portal is from wells 2 through 7. Well 1 was used in the past, but is not currently in use because of contamination problems. All 7 wells are thought to tap the underflow of the Merced River. Dockets 012, 010, 018, 019, 020, 021, and 022, provide documentation of wells 1-7 respectively. Water rights for these wells, or future developed supplies within El Portal from the Merced River or its tributaries, could conceivably be claimed under various water right doctrines, including riparian and appropriative (pre-1914 rights). For information pertaining to land status common to dockets 012, 010, and 018-025, please refer to YOSE 012: El Portal Well #1. For information pertaining to pre-1914 appropriative rights common to dockets 023-025, please refer to YOSE 023.

Dockets 023-025 provide documentation of pre-1914 appropriative rights. As of December 2, 1959--the date the NPS filed an application to appropriate the waters of Moss Creek (documentation in YOSE 006)--the NPS presented to the State of California (under item 12 of the Moss Creek application) three pre-1914 rights as valid rights NPS had acquired. Dockets 023-025 each contain a copy of the Moss Creek application which documents information provided to the State about NPS's pre-1914 appropriative rights at El Portal.

The Acting Regional Chief of Operations, in a June 23, 1959, Memorandum from Regional Chief of Operations, Region Four, to Superintendent, Yosemite National Park, Subject: Water Right Application, Moss Creek, El Portal, 1959, stated "of the 19 or so county water right filings made for water in the El Portal area, we believe only three fit the State's requirement of Paragraph 12, Other Rights. The lands on which Moss Creek water is to be used have been supplied in the past with water possibly covered by county filings as listed on the application...We thought reference should be made to permit the establishment of early appropriative priorities should they be needed in the future."

The quantities associated with the rights were estimated "offhand" in a July 29, 1959, Memorandum from Acting Regional Chief of Operations, Region Four, to Superintendent, Yosemite, Subject: Water Right Application, Moss Creek, El Portal, file L54: "...the most we could substantiate by past use would be in the range of 10,000 gallons per day under the Hennessey and Morrison filing, a like amount under the Wharton and Utter filing and 250,000 gallons per day under the O. W. Ward filing for Crane Creek."

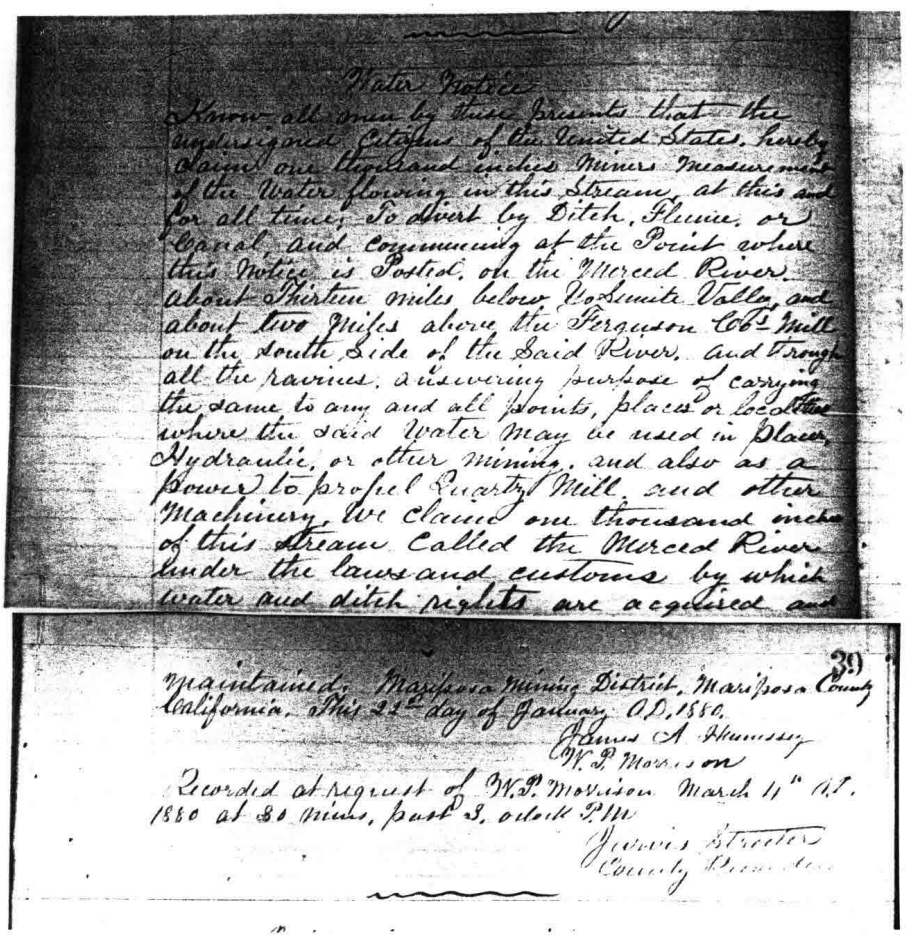
The Moss Creek application (YOSE 006) is for water for municipal use. A municipality can hold water rights for a future anticipated need. And, when the NPS filed its Moss Creek right, it also estimated its future anticipated need as "estimated average daily consumption by the above facilities during the month of maximum use at the end of each five-year period..." for 1966, 1971 and 1976, and noted that "Continued growth is expected beyond 1976." For 1976 1,000,000 gallons per day (1.55 cubic feet per second) was estimated.

The NPS's pre-1914 appropriative rights, documented in YOSE 023-025, probably have not been lost by non-use because the NPS anticipated and documented a future need for the water for municipal purposes. Additionally, it is conceivable that the NPS has been exercising its pre-1914, in whole or in part, by its withdrawals and diversions within El Portal.

Alice Johns

Alice Johns
Hydrologist
Water Rights Branch
Water Resources Division

State Water Rights Documentation



Water Notice

Know all men by these presents that the undersigned Citizens of the United States, hereby claim one hundred inches Miners measurement of the Water flowing in this Stream, at this and for all times, to divert by Ditch, Flume, or Canal, and Commencing at the Point where this Notice is Posted, on the Merced River about Thirteen miles below Yo Semite Valley and about two Miles above the Ferguson Co's Mill on the South Side of the said River, and through all the ravines, a distancing purpose of carrying the same to any and all points, places or localities where the said Water may be used in Placer, Hydraulic, or other mining, and also as a Power to propel Quartz Mill, and other Machinery, We claim one thousand inches of this Stream called the Merced River under the laws and customs by which water and ditch rights are acquired and

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maintained. Mariposa Mining District, Mariposa County California. This 22nd day of January A.D. 1880.

James A Hennessy
W. P. Morrison

Recorded at request of W.P. Morrison March 11th A.D. 1880 at 30 minutes past 3 o'clock P.M.

James Streeter
County Recorder

Mariposa County Vol. 1 of Water Rights, Pages 38 & 39

Hennessey & Morrison Appropriation - Merced River - Jan 22, 1880

photos No. 57-1-29 & 30

Supporting Hydro Data

COPY

STATE OF CALIFORNIA - STATE WATER RIGHTS BOARD

1401 21st Street
P.O. Box 1592
Sacramento 7

P-R-O-T-E-S-T

Application _____

I, the El Portal Water System, Incorporated

of El Portal, California have read carefully a copy of, or a notice relative to Application 16186 & 16187 of The Merced Irrigation District to appropriate from The Merced River at a point #1. NE¼ of SW¼ of Sec. 6, T4S, R17E; #2. NW¼ of SE¼ of Sec. 13, T4S, R15E; and #3. NE¼ of SW¼ of Sec. 7, T5S, R15E, MDB&M.

It is desired to protest against the approval thereof because to the best of our information and belief the proposed appropriation will result in injury to us as follows: it will deprive us of the necessary water for the domestic use for the eighty-seven (87) homes and one (1) schoolhouse in the town of El Portal.

Protestant claims a right to the use of water from the source from which applicant proposes to divert, which right is based upon Riparian claim and use began before December 19, 1914.

The extent of present and past use of water by protestant or his predecessors in interest from this source is as follows: Water has been used continuously since 1907. We use approximately 250,000 gallons per day or approximately 175 gallons per minute. The diversion is made from Jan. 1 to Dec. 31 of each year. The water is used for domestic purposes for eighty-seven (87) homes and one (1) schoolhouse in the town of El Portal.

Where is your diversion point located? Crane Creek tributary to the Merced River SW 1/4 of SW 1/4 of Section 9, T.3S, R20E, M.D.&M, and from the Merced River NE¼ of NE¼ of Sec. 17.

This protest may be disregarded and dismissed if the State Water Rights Board will acknowledge our rights to the 250,000 gallons of water per day over this application by the Merced Irrigation District; and provided further, that the claim by the Merced Irrigation District in no way affects our Riparian Rights.

A true copy of this protest has been served upon the applicant by Certified Mail.

/sgd./ Harry L. Odgers, Secretary
El Portal Water System Incorporated

Date December 12, 1958

NOTE

A concise and definite statement of the grounds of protest is desired. This statement should take the form indicated on the blanks on the reverse side of this sheet. Additional information may be added below if there is insufficient space in the blanks, or data not pertinent to those blanks, but insofar as practicable it is desired that protests follow the printed form.

It is our feeling that during the years of normal and subnormal rainfall, that the Merced River is already over-appropriated, and that the appropriation of this additional amount would deprive us of the necessary water for the domestic use of the eighty-seven (87) homes and one (1) schoolhouse now located in El Portal.

We use approximately 250,000 gallons of water per day from January 1 to Dec. 31 of each year. During years of normal and above normal rainfall, this water is diverted from the SW¼ of the SW¼ of Section 9 of Crane Creek which is a tributary to the Merced River. In years with sub-normal rainfall, when Crane Creek is too low to supply all of our needs, we pump water from the NE¼ of the NE¼ of Section 17 of the Merced River.

We claim that, as the town is bordered by Crane Creek on the northeast, and by the Merced River on the southeast, and that by the continual use of this water by us and our predecessors from 1907 to the present time, we have Riparian rights and that our needs should come before any further appropriations are made.

We are an incorporated, non-profit water system, and have a permit from the State Board of Public Health to operate.

EL PORTAL
WATER RIGHTS INVESTIGATION

November 6-8, 1957

L. Spaulding

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Water Systems

El Portal Water Association

Forest Service Leases

Brantly

National Lead Co.

Abbeville

Yosemite Valley RR - Moss Creek

Tungsten Mill

Indian - Crane Creek

Las Mariposas Land Co

Appendix

Site investigation - Field Notes

Las Mariposas Land Co. Abstract - Notes

Mariposa County Water Right Records - Notes

" " " " " Photographs

Map - El Portal Quad.



SEARCH OF LAND RECORDS

Bureau of Land Management
Department of the Interior
Washington, D. C.

Land Plats & Field Notes - 3rd Floor Interior Bldg.
Tract Books - 4th " " "
Patent Books - Basement " "

L. Spaulding
November 20, 1957

L. Spaulding
Nov. 12, 1957

COUNTY FILINGS

WATER RIGHTS APPROPRIATIONS - EL PORTAL AREA

Recorded with Mariposa County

SOURCE	LOCATION OF DIVERSION	APPROPRIATOR	QUANTITY (40 MI = 1 Sec. Ft.)	USE	RECORDED Date	RECORDED Vol. & Pg.
① * Merced R.	13 miles below Yosemite Valley	James A. Hennessey	100 MI	mining power	Jan 22, 1880	1-38
① Merced R.	2 " above Ferguson Co. Mill 1¼ mi above residence of Hennessy	W. P. Morrison L. G. Wharton E. S. Utter	2000 MI	mining milling stock watering	Apr. 14, 1884	1-84
① * Crane Cr.	near N. line of SW¼, S3, T3N, R10E	James McCauley	200 MI	irrigation	Mar 10, 1887	1-105
Crane Cr.	1000' from N. bank Merced R.	O. W. Ward	1000 MI	irrigation stock watering	Feb 27, 1888	1-123
① * Moss Cr.	1 mile from mouth	O. W. Ward	2000 MI	irrigation stock watering	Aug 20, 1888	1-125
Merced R.	at mouth of Crane Cr.	Augustus H. Ward	20,000 MI	mining, milling power irrigation	Jun 11, 1900	2-89
do	do	do	do	do	Apr. 28, 1902	2-126
do	east boundary of Sec. 16 3/4 mi east of Crane Cr.	do	do	do	May 12, 1902	2-128
do	do	do	do	do	Jul. 15, 1902	2-134
do	do	do	do	do	Sep 10, 1902	2-137
do	do	do	do	do	Nov. 10, 1902	2-137
do	do	do	do	do	Jan 9, 1903	2-143
do	do	do	do	do	Mar 9, 1903	2-147
do	do	do	do	do	May 21, 1903	2-153
do	do	do	do	do	Feb 11, 1905	2-220
do	do	do	do	do	Feb 15, 1905	2-220
Moss Cr.	3/4 mi from Merced R. S18 T3S R20E	do	5000 MI	irrigation mining milling	Oct. 8, 1906	2-273
Crane Cr.	½ mi from mouth	Jules A. McCauley	1000 MI	power	Jun 12, 1907	2-285
Merced R.	east boundary of Sec 16 T3S R20E	Merced River Elec. Co	20,000 MI	power mining - milling irrig. manuf.	Aug. 12, 1909	3-29

① Photograph of County Record made [illegible]

D Copy of county record in Abstract made for Las Mariposas Land Co.

El P_ tal Yosemite National P_rk
COUNTY WATER RIGHT FILINGS

compiled by spaulding
February 20, 1959

ORIGINAL FILING				CHAIN OF INTEREST				
DATE OF FILING	STREAM	APPROPRIATOR	RECORDED Vol.-Pg.	No.	DATE OF INSTRUMENT	TRANSACTION	RECORDED Book-Vol-Pg.	REMARKS
Jan. 22, 1880	Merced R.	Hennessey & Morrison	1-38	1.	——	Although filing is not refered to this filing may have been acquired by A.H. Ward and thence to Ward Land Co		mining & power use probably never made
				2.	Aug. 10, 1908	Right to divert to Hennessy Ranch reserved by Ward Land Co	Agreements T-200	
				3.		Ward Land Co. to El Portal Mining Co.		
				4.		El Portal Mining Co. to United States		
Feb. 27, 1888	Crane Cr.	O.W. Ward	1-123			Although not specifically named in documents the chain of interest in this filing appears to be as follows		
				1.		O.W. Ward to A.H Ward		no record
				2.		A.H. Ward to Ward Land Co.		no record
				3.	Aug. 10, 1908	Portion- Ward Land Co. to T. Prather 2/3, A.H. Ward 1/3	Agreements T-200	
						Portion - reserved by Ward Land Co.		
				4.	Nov. 1, 1909	Portion: Prather & Ward to Merced R. Elec.	Deeds 25-192	this portion never used
				5.	Dec. 22, 1911	Portion - Merced R. Elec. Co. to Merced R. E.P. Co.	Deeds 26-60	
				6.	Feb. 8, 1915	Portion - Merced R.E.P Co. to Merced R. Elec	Deeds 27-181	
				7.		Portion - Merced R. Elec. to Las Mariposas Land		
				8.		Portion - Ward Land Co. to El Portal Mines		
				9.		Portion - El Portal Mining to United States		
July 15, 1902	Merced R.	Augustus H. Ward	2-134	1.	Jan. 2, 1907	Augustus H. Ward to Ward Land Co.	Deeds 23-153	water under these filings never used
Feb. 11, 1905	"	" " "	2-220	2.	Aug 10, 1908	Ward Land Co. to Prather(½) & Ward (½) Excess reserved by Ward Land & R.R.	Agreements T-200	
Feb 15, 1905	"	" " "	2-220	3.	Nov. 1, 1909	Prather & Ward to Merced R. Elec. Co.	Deeds 25-192	
Oct. 2, 1911	"			4.	Dec. 22, 1911	Merced R. Elec. to Merced R. Elec. Power	Deeds 26-60	
				5.	Feb 8, 1915	Merced R. Elec. Power to Merced R. Elec.	Deeds 27-181	
				6.		Merced R. Elec. to Las Mariposas Land		
Oct. 6, 1906	Moss Cr.	Augustus H. Ward	2-273	1.	Jan. 2, 1907	Augustus H. Ward to Ward Land Co.	Deeds 23-153	use under this filing never made
				2.		Ward Land Co. to El Portal Mining		
				3.		El Portal Mining to United States		

El Portal - Yosemite National Park
COUNTY WATER RIGHT FILINGS

Compiled by Spaulding
February 20, 1954
Revised Apr 20 '54

ORIGINAL FILING				CHAIN OF INTEREST				
DATE OF FILING	STREAM	APPROPRIATOR	RECORDED Vol.-Pg.	No.	DATE OF INSTRUMENT	TRANSACTION	RECORDED Book-Vol.-Pg.	REMARKS
Jan. 22, 1880	Merced R.	Hennessey & Morrison	1-38	1.	——	Although filing is not refered to this filing may have been acquired by A.H. Ward and thence to Ward Lands.		mining & power use probably never made
				2.	Aug. 10, 1908	Right to divert to Hennessy Ranch reserved by Ward Land Co.	Agreements T-200	
				3.	Aug. 10, 1920	Ward Land Co. to El Portal Mining Co.		
				4.	Nov. 7, 1958	El Portal Mining Co. to United States	64-348	
Feb. 27, 1888	Crane Cr.	O.W. Ward	1-123			Although not specifically named in documents the chain of interest in this filing appears to be as follows:		
				1.	1896	O.W. Ward to A.H. Ward		~~no record~~
				2.	Jan 2. 1907	A.H. Ward to Ward Land Co.		~~no record~~
				3.	Aug. 10, 1908	Portion- Ward Land Co. to (T. Prather 5/6, A.H. Ward 1/6); Portion reserved by Ward Land Co.	Agreements T-200	
				4.	Nov. 1, 1909	Portion: Prather & Ward to Merced R. Elec.	Deeds 25-192	this portion never used
				5.	Dec. 28, 1911	Portion - Merced R. Elec. Co. to Merced R. E.P. Co.	Deeds 26-60	
				6.	Feb. 8, 1915	Portion - Merced R.E.P Co. to Merced R. Elec	Deeds 27-181	
				7.		Portion - Merced R. Elec. to Las Mariposas Land		
				8.	Aug 10, 1920	Portion - Ward Land Co. to El Portal Mine		
				9.	Nov. 7, 1958	Portion - El Portal Mining to United States	64-348	
July 15, 1902	Merced R.	Augustus H. Ward	2-134	1.	Jan. 2, 1907	Augustus H. Ward to Ward Land Co.	Deeds 23-153	water under these filings never used
Feb. 11, 1905	"	" " "	2-220	2.	Aug 10, 1908	Ward Land Co. to Prather(4/6) & Ward (1/6) Excess reserved by Ward Land & R.R.	Agreements T-200	
Feb 15, 1905	"	" " "	2-220	3.	Nov. 1, 1909	Prather & Ward to Merced R. Elec. Co.	Deeds 25-192	
Oct. 2, 1911	"			4.	Dec. 22, 1911	Merced R. Elec to Merced R. Elec. Power	Deeds 26-60	
				5.	Feb 8, 1915	Merced R. Elec. Power to Merced R. Elec.	Deeds 27-181	
				6.		Merced R. Elec. to Las Mariposas Land		
Oct. 6, 1906	Moss Cr.	Augustus H. Ward	2-273	1.	Jan. 2, 1907	Augustus H. Ward to Ward Land Co.	Deeds 23-153	use under this filing never made
				2.	Aug. 10, 1920	Ward Land Co. to El Portal Mining		
				3.	Nov. 7, 1958	El Portal Mining to United States	64-348	

El Portal – Yosemite National Park
COUNTY WATER RIGHT FILINGS

Compiled by Spaulding February 20, 1959
Revised 1/18/60 ESS

ORIGINAL FILING				CHAIN OF INTEREST				
DATE OF FILING	STREAM	APPROPRIATOR	RECORDED Vol.-Pg.	No.	DATE OF INSTRUMENT	TRANSACTION	RECORDED Book-Vol.-Pg.	REMARKS
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				2.	Aug. 10, 1908	Right to divert to Hennessy Ranch reserved by Ward Land Co.	Agreements T-200	
				3.	Aug. 10, 1920	Ward Land Co. to El Portal Mining Co.		
				4.	Nov. 7, 1958	El Portal Mining Co. to United States	64-348	
Feb. 27, 1888	Crane Cr.	O.W. Ward	1-123			Although not specifically named in documents the chain of interest in this filing appears to be as follows:		
				1.	~~1896~~	O.W. Ward to A.H. Ward		~~no record~~
				2.	Jan 2. 1907	A.H. Ward to Ward Land Co.		~~no record~~
				3.	Aug. 10, 1908	Portion - Ward Land Co. to {T. Prather 2/3, A.H. Ward 1/3}	Agreements T-200	
						Portion - reserved by Ward Land Co.		
				4.	Nov. 1, 1909	Portion: Prather & Ward to Merced R. Elec.	Deeds 25-192	this portion never used
				5.	Dec. 28, 1911	Portion - Merced R. Elec. Co. to Merced R. E. P. Co.	Deeds 26-60	
				6.	Feb. 8, 1915	Portion - Merced R. E. P. Co. to Merced R. Elec.	Deeds 27-181	
				7.		Portion - Merced R. Elec. to Las Mariposas Land		
				8.	Aug 10, 1920	Portion - Ward Land Co. to El Portal Mine		
				9.	Nov. 7, 1958	Portion - El Portal Mining to United States	64-348	
July 15, 1902	Merced R.	Augustus H. Ward	2-134	1.	Jan. 2, 1907	Augustus H. Ward to Ward Land Co.	Deeds 23-153	water under these filings never used
Feb. 11, 1905	"	" " "	2-220	2.	Aug 10, 1908	Ward Land Co. to Prather (2/3) & Ward (1/3) Excess reserved by Ward Land & R.R.	Agreements T-200	
Feb 15, 1905	"	" " "	2-220	3.	Nov. 1, 1909	Prather & Ward to Merced R. Elec. Co.	Deeds 25-192	
Oct. 2, 1911	"			4.	Dec. 22, 1911	Merced R. Elec. to Merced R. Elec. Power	Deeds 26-60	
				5.	Feb 8, 1915	Merced R. Elec. Power to Merced R. Elec.	Deeds 27-181	
				6.		Merced R. Elec. to Las Mariposas Land		
Oct. 6, 1906	Moss Cr.	Augustus H. Ward	2-273	1.	Jan. 2, 1907	Augustus H. Ward to Ward Land Co.	Deeds 23-153	use under this filing never made
				2.	Aug. 10, 1920	Ward Land Co. to El Portal Mining		
				3.	Nov. 7, 1958	El Portal Mining to United States	64-348	

PATENTS, DEEDS, GRANTS & AGREEMENTS

El Portal, Mariposa County

on Land now held by El Portal Mining Co.

Compiled by L. Spaulding Dec. 5, 1957

ITEM	DATE OF DOCUMENT	INSTRUMENT	PARTIES	DESCRIPTION & TERMS All land is in T3S. R20E MDM	SOURCE OF INFORMATION	RECORDED Vol. & Page
1	Aug. 1, 1884	Homestead Cert. No. 1578	Leonidas G. Wharton	160 Acres SW^4NW^4 Sec 16, S^2NE^4, SE^4NW^4 Sec. 17	Washington, DC Tract Book, BLM	Stockton 4 - 460
2	Aug 17, 1888	Homestead Receipt # 5158	Oliver W. Ward	160 Acres SE^4NW^4, SW^4NE^4, NW^4SE^4, NE^4SW^4 Sec 18	do	not found
3	Oct. 16, 1890	M.B.L. Warrant No. 80680 (State of Calif.)	Augustus H. Ward	NE^4SE^4 Sec 18, N^2SW^4, SW^4NW^4 Sec 17 160A	do	Act of 1841 vol 16 (Warrant vol 113 Page 214
4	Dec 20, 1890	Patent	W.R. Birmingham Charles W. Mott	E1/2, S1/2 SW^4, NW^4SW^4 Sec 16. 440 A.	Abstract Las Mariposas Land Co.	Mariposa Co. Patents R-64
5	Apr. 21, 1893	Grant Deed	W.R. Birmingham & wife grant to James H. Martin	1/2 interest in Item 4	do	Mariposa Co. Deeds 14-12
6	Sep 1, 1893	Grant Deed	Charles W. Mott grant to James H. Martin	1/2 interest in Item 4	do	Mariposa Co. Deeds 15-83
7	May 9, 1902	Grant Deed	James H. Martin grant to A. H Ward	All of Items 5 & 6	do	Mariposa Co Deeds 21-52
8	Jan 2, 1907	Grant Deed	Augustus H. Ward to Ward Land Co.	Granted to Ward Land Co. 1. Land described Items 1, 2, 3, & 4 (SW^4NW^4 S16 not included) 2. Water Right - Moss Cr. - County vol. 2, pg 278 3. Water Right - 'B' System, " vol. 2 pg 220 4. Right of Way - power line - County Agreements vol. 7 pg. 78-80	do	Mariposa Co. Deeds 23-153
9	Oct. 5, 1907	Grant Deed	Augustus H. Ward and Ward Land Co to Yosemite Valley R.R.	Grant to Yosemite Valley RR 1. Irregular Parcel, 15.2 acres in NE^4 S17 2. Right of Way, 100' wide RR S17 & 18 3. Right of Way, 30' wide wagon Rd. S16 & 17 Conditions a. Land reverts to Ward Land Co on abandonment of R.R. b. Mineral rights reserved c. Water Rights - Merced & tributaries reserved by Ward Land Co	do	Mariposa Co. Deeds 23-20

ITEM	DATE OF DOCUMENT	INSTRUMENT	PARTIES	DESCRIPTION & TERMS	SOURCE OF INFORMATION	RECORDED Vol. & Page
10	Aug 10, 1908	Agreement	Ward Land Co. 1ST Thomas Prather, Augustus H. Ward } 2ND Yosemite Terminal Co 3RD	Whereas, Ward Land Co - is owner of certain land in S 16, 17 & 18 - granted Right of Way to YVRR - reserved right to use wagon road - reserved water rights - leased land in Sec. 16, 17 & 18 to Yosemite Term. Co - reserved land for canal from Crane Cr. & Merced R. - reserved 2 acres in NW¼ Sec 16 - leased certain land in S 18 to F.M. Smith - has right to construct pole line Ward Land Co. sells to { Thomas Prather 2/3 interest; Augustus H. Ward 1/3 " } in property: 1. Land in Sec. 16 except wagon road 2. Right to use wagon road 3. Right of way for dam, canal, etc. 4. Strip of Land 50' wide, Sec 16, 17 & 18 5. 2 Acres of Land in Sec. 16 6. Right of way for ditch reserved from F.M. Smith lease 7. Right to construct pole line along R.R. Ward Land Co. and Yosemite Terminal Co. Sell to { Thomas Prather 2/3 interest; Augustus H. Ward 1/3 " } in land and property: 1. Water Right - Merced River - 'B' System { Recorded July 15, 1905; " Feb 15, 1905 2. All of Water in Merced River in Sec. 16 3. All of water in Crane Creek in Sec 16 Except:- water diverted in Sec 17 to Hennessy Ranch - water from Crane Cr. required for use at hotel at El Portal AGREED that Ward Land Co and Ysemite Terminal Co.: 1. Shall have right to use water of Crane Cr. for operating existing power plant at El Portal 2. (power rights) 3. Shall have right to all water of Merced River and Crane Creek not used by party of 2nd part 4. Shall not interfere with appropriation of water of Merced River and Crane Creek by party of 2nd part and shall, when requested, prosecute all others attempting to appropriate or divert any water of Crane Creek or Merced River	Abstract Las Mariposas Land Co	Mariposa Co Agreements Vol. T pg. 20

ITEM	DATE OF DOCUMENT	INSTRUMENT	PARTIES	DISCRIPTION & TERMS	SOURCE OF INFORMATION	RECORDED Vol. & Page
11	Nov. 1, 1909	Grant Deed	Thomas Prather and Augustus H. Ward to Merced River Elec. Co.	Rights, titles, interests & estates described in Agreement of Aug 10, 1908 (Item 10)	Abstract Las Mariposas Land Co.	Mariposa Co Deeds 25-19
12	Dec 28, 1911	Grant Deed	Merced River Elec. Co. to Merced River Elec. Power Co.	All lands, water rights owned by Merced River Elec. Co (Item 11) including: 1. Land in Sec. 16 2. Easement for waterworks Sec. 16, 17 & 18 3. 100' strip of land in NW¼ Sec. 16 4. Water Rights - Crane Creek & Merced R. except reservation by Ward Land Co & Yosemite Terra 5. Water Right - Merced R. of Oct 2, 1911 6. Special Use Permit - Right of way within Stanislaus Nat. Forest by Secty. Interior dated Aug 4, 1910	do	Mariposa Co Deeds 26-6
13	Mar 6, 1913	Grant Deed	Same as Item 12	New deed of conveyance correcting mistakes in Deed of Dec. 28, 1911 (Item 12)	do	Mariposa Co. Deeds 27-21
14	Feb 8, 1915	Grant Deed	Merced River Elec. Power Co to Merced River Elec. Co.	All property described in Deed of Mar 6, 1913 (Item 13)	do	Mariposa Co. Deeds 27-181

(TRACT BOOK ROOM - 4th Floor Interior Bldg)(Rm. 4550)

Search of GLO Patent Book Nov. 20, 1957
Book 105 California T3S R20E MDBM L. Spaulding

Page 13 Reservations Act

- Township reserved as Forest Land Oct 1, 1890 26 Stat. 6517
- Part of sec. 16 & 18 : Reserved from entry - 25' of ℄ transmission line (Map, Ex. K). Feb 13, 1922
- Sec. 4 to 9, Pts 16, 17, 18, 19, Named Stanislaus Nat'l Forest Ex. order July 2, 1908
- West ½ Twp - Sierra Nat'l Forest. Act Feb 7, 1905, Public 49
- (Sec. 4 to 9, 16 to 21, N² 22, N² 23, SW¼ 24, NW¼ 25, 26 to 35, S² 36
  Withdrawn for Sierra Nat. Forest by 3rd proc. Apr. 20, 1908)
- (Named as Sierra Nat'l. Forest by Ex Ord. Effective July 1, 1908
  Parts of Secs 16 to 19, 20, 21, S² 22, S² 23, SW¼ 24 NW¼ 25, 26 to 35, S² 36

Page 14

- (Parts of Secs. 9, 16, 17, 18, 25' of ℄ of transmission line (Map Ex K") Amendatory Appln. San Joaquins Light & Power Co. Proj. # 1153 Reserved from Entry Nov. 7, 1932 (Sec 24, Act June 10, 1920)
- (Part of Secs 7 & 18 - approved as Power Site Classification #251, by Secy. Apt. 11, 1930 (Moss Creek) # 1374355

Description	Name of Purchaser	Date of Sale	Receipt No. & Certificate of Purchase	Excess Receipt No.	Final Cert. No.	Date	Remarks
Sec 3 SW¼NW¼, SE¼NE¼ 160 A.	[John] Peter Meson	Mar 17, 1884	4083	8806	2166	Dec 23, 1889	
Sec. 3, Lots 2, 3, SW¼NE¼ SE¼NW¼ 162A	George Meyers	Mar 17, 1884	4082	8205	157a	Jul 11, 1884	
Sec. 3 NW¼SW¼, NE¼SW¼, N½SE¼ [W½SW¼] (See sec 35) 160A	Thomas Rutherford	May 23, 1884	4149		1571	Jul 11, 1884	
(Std. survey 68 Plat approved Jan 30, 1914)							
Sec. 4 By Metes & Bounds 21 A.	Theodore S. Solomons	Dec 1, 1911	04137			Pat. 678138 May 17, 1919	
Sec. 4 R/W NE¼SE¼	Transmission Line Pac. Gas & Elec.	Mar 4, 1911	Misc. 68774			Appd. 5/26/55 (F.S. Letter)	
Sec 4 SE¼SE¼ (See sec 9)							
Sec 4 SW¼SE¼, NE¼SW¼SE¼, E½SE¼SW¼SE¼ E½E½NE¼SW¼ 65 A.	Fred W. McCauley	Sept. 5, 1908	0477			Pat. 182938 Mar 9, 1911 Restored, Lisb No. 1355, Applin. Nov. 29, 191 (See posted in error in Sec. 5)	
Sec 7 Lots 1, 2, 3, 4, NE¼, E½NW¼ E½SW¼ & SE¼						P.S. Classification # 251-1374555	
Sec 9 E½NW¼NE¼, NE¼SW¼NW¼NE¼, NW¼SE¼NE¼, E½SE¼NE¼ 40 A.	Fred W. McCauley	Jul 1, 1914	07477			Sacramento add'l to Hd 0477 See Sec 4 F.C. Aug. 26, 1914	
Sec. 9 SE¼SE¼ within 25 ft. Reserved to F.P. Com's Proj. No. 1153 - 1441640							
Sec 9 W½SW¼, SE¼SE¼, NE¼SE¼ 160A.	James McCauley	Oct. 4, 1884	4260		2560	Jan 4, 1894	
Sec. 9 R/W Transmission Line	PG&E	Act. Mar. 4, 1911	Misc 68974			Appd. 5/26/55	
Sec. 10 - none							
Sec. 11 - none							
Sec 12	Yosemite Lumber Co.						
Sec 13	Timber						
Sec 14	Yosemite Lumber Co						
Sec 15	Yosemite Lumber Co						

DESCRIPTION	NAME OF PURCHASER	Date of Sale	Receipt No.	Excess No.	Final Cert. No. Date	REMARKS
* Sec. 16 Ind. Alt. Appl. $S^2SE^4NW^4$, $N^2N^2NE^4SW^4$ 30 A.	John Wilson	Jan 3, 1915	07952		567976/Feb 17, 1917	Patented in Fee to Minn Wilson, et al Pat. 1137608 Feb 7, 1953
" Part of $N^2NW^1/4$ within 25 ft.		Reserved Feb 13, 1928				F.P. Proj. 802-1291844
" SW^4NW^4 (see Sec 17)						
" N^2NW^4 80 A.	For selection # in lieu of SW sec. 8		#807			Appd. May 3, 1921 Lieu S
" ~~$SE^4NW^4NE^4SW^4$~~ 80 A.	Indian Thomas	May 2, 1884	4152			Con. sue to R & R Dec. 30, 1891
" N^2NE, $E^1/2NW$, SWNW 200 A.	cancelled by G Dec 5, 1908 Doc D 642	Sep. 5, 1905				Subject to R/W Yosemite Valley Ry
" ~~R/W~~ N^2NW^4	PG & E		Misc. 68974			Appd 5/26/55 Transmission Line
Sec. 17 ~~$S^1/2NE^4$, NW^4SE^4, N^2SW^4, SW^4NW^4~~ [illegible]	R/W Yosemite Valley R.R.	Act Mar 3, 1875,			Approved Feb 5, 1909	Cancelled by Court Decree entered 12-1-50
" NSE^4	" " " " "		#0614		Map filed Oct 6, 1908	Approved Mar 25, 191 Cancelled by Court Decree of Dec 1, 194
* (Homestead Certificate No. 1578, Application 4107 Homestead Act of 20th May 1862)						
* " $(SW^4NW^4 16)$ S^2NE^4, SE^4NW^4 160 A.	Leonidas G. Wharton	Apr. 8, 1884	4107		1578/Aug 1, 1884	Stockton Vol. 4 pg. 46
* ← [Act of 1847 160A. Vol. 169 Page 214] (warrant Vol. 1130)					R & R #	86 Act 1849
" $(NE^4SE^4 18)$ N^2SW^4, SW^4NW^4 160 A.	Augustus H. Ward	Oct. 16, 1890				Located by MRL Warrant #80680
" ~~N^2SW^4, SW^4NW^4~~						See Sec 18 cancelled
" $S^1/2NE$, NWSE, SWNW, $N^1/2SW$ 240 A.	Subject to R/W Yosemite Valley R.R.	Sept. 5, 1905				Act — 3, 1875
Sec. 18 ~~Lots 3, 4, E^2SW^4, N^2SE^4, SE^4NE^4~~	R/W Amended definite location Yosemite Valley R.R.				Approved Feb 5, 1909	Cancelled by court decree entered 12-1-1949
" Min. Entry ~~SENE~~ 40 A.	Augustus H. Ward & F.G. Drims	M.A. Sept. 28, 1910 Dec. 29, 1910	03410		entry cancelled by 'N' Feb 9, 1914 Refund ordered Jun 30, 1914	"Combination Stone Placer Cl
" $SENE^4$, $E^2Lot 3$, $E^2Lot 4$, $WSESW^4$	(within 25 feet) reserved Feb 13, 1928 see Sec 19 M.A. 04697				F.P. Proj. #802	1291844
* " Home SE^4NW^4, SW^4NE^4, $NWSE^4$, ~~NE^4SW^4~~	Oliver W. Ward	Aug 17, 1888	5158			Commuted to Cash No. 10599 Apr 7, 1890
" $SSESW^4$, SW SW SNSE^4 (see sec 19 M.A. 010856)						
" M.E. Sur. 5598 S^2SE^4 & ~~N^2SE^4~~ 19.7 A.	El Portal Mining Co.	M.A. filed Apr. 11, 1923 July 3, 1923	014552		947356/Nov. 3, 1924	"East Boryte Mining Co
* " ~~Home ($N^2SWSW^4NW^4$ (7) NE^4~~	160 A. James A. Hennessey	Oct. 29, 1885	4540			"Rel. cancld" by Reg Mar 23-89 396022

Sec. 18 DESCRIPTION	NAME OF PURCHASER	Date of Sale	Receipt No.	Final Certificate Date	Final Certificate Number	REMARKS
SESW¼, SWSE¼ (See Sec 19)	M.A. 025328 Sur. 5974					"Rejected as to Barium #3, 6"
Sec 18 Pg 41 NE¼SE¼	See sec. 17					
" Lots 1, 2, 3, N½NE¼, NENW¼	P.S. Classification #251 - 1374355					
" R/W Lots SE¼ NE¼	PG&E Transmission Line		Misc 68974			Appd. 5/26/1955 (F.S. Act. Mar 4, 1911
" SENE, N½SE, E½SW, SWSW 240 A.	Subject to R/W Yosemite Valley Ry Co.					Appd. Sept 5, 1905 Act. Mar __ 1875
* " ~~HOME Lot 16 (1321.9) Lots 2, 4 & SE¼SW¼~~ 165.6 A.	Thomas S. Hopkins 5355	Sept. 26, 1889				Excess Receipt # 10127 Sept 26, Canc'd by 'P' May 28, 1898
" SE¼NE¼, Lots 2, 3	(within 25 ft.) Reserved F.P. Comic Proj. No 1153-1441646					
Sec 19 ~~Min. E½ Lot 2, E½ Lot 4, & WSESW¼, 18 NENW¼, NWNE¼, ESENW¼, SWNE¼, SSENE¼ WESE¼, NSESE¼ 305.56 A.~~	Augustus H. Ward et als M. A. August 14, 1912		04697			Sacramento - 'Bright Stone Consolida Placer Mining Claim. Rejected by L Feb 4, 1914 Refund ordered May 4, 1914 Patented No. 638316 Jun 26, 191
Sec. 19 Min E. Sur. 5281 a & b In SSESW¼ SWSWSW SE¼ 18 WNWNE¼, SNE¼, NSE¼, ENENW¼, N½N½NWNENW¼	M.A. Mar 20, 1917 61.98 A. El Portal Mining Co. Sale June 28, 1917 #010856					North Barium & other Lodes cancelled N Nov. 12, 1917 as to Hillside
" M Sur 5974 In SESW¼ SWSE¼ 18, NNE¼ 57.4 A.	M.A. Mar. 4, 1930 El Portal Mining Co.		#02532	Jan. 13, 1936		"Barium #2, ~~3~~" Rejected Nov. 15, 1935 as to Barium Nos. 3, 6 "N"
" R/W NE¼NW¼	PG&E. Transmission Line		Misc. 68974			Appl. 5/26/1955
Sec 20 No entries						
Sec 21 ESW¼, SE¼ 240 A.	Yosemite Lumber Co.			Act of Apr 9, 1912	1306844	decided on May 8, 19

Book 105 page 13 See 16, 17 & 18 on page 16

Leonidas G. Wharton S½SW¼, SW¼ Sec 16 S½ of NE¼, SE¼ of NW¼, N½ of NW¼ } Sec 17

Wharton Def't #1578 Aug 1, 1956

Receipt #407 dated April 6, 1964

Rm. 4550 - not to last log

Mrs. Darnell - For Decree copies

get interpretation on claim

Price - date of patent

Serial No.

patent No.

Area included

Name of patentee

Data on reclamation

EL PORTAL ASSOCIATION

EL PORTAL WATER ASSOCIATION
WATER SYSTEM

Land ownership
System ownership
History
Discription of System
Photographs

SYSTEM: EL PORTAL WATER ASSOCIATION

Land Ownership

Diversion Works - Stanislaus National Forest
Supply Line - Nat. Forest & El Portal Mining Co. Land
Storage Tanks - El Portal Mining Co. Land
Distribution System - El Portal Mining Co. Land

System Ownership

Diversion Works & Supply Line - El Portal Water Assoc.
Storage Tanks - "donated to water association by El Portal Mining Co." Roy Munson
Distribution Lines - Land by ? at cost of individual home owners

History

1883 Wharton Ranch at present - El Portal Ref: Plat T3S R20E

prior to 1888 ditch dug from Crane Creek to Wharton Ranch Ref: O. W. Ward Water Right Approp. Mariposa Vol. 1 of Water Rights pg. 123

1888 O. W. Ward appropriated Crane Creek water conveyed by ditch to his land formerly known as "Wharton Ranch"
Ref: Vol. 1 of Water Rights pg. 122

About 1904-05-06-07 Yosemite Valley RR constructed to El Portal
R.R. Completed in 1908 per filed map - Mariposa County - Filed Sept 21, 1908

1907 A. H. Ward and Ward Land Co. grants to Yosemite Valley R.R. land and rights of way reserving

—>1907 Augustus H. Ward grants to Ward Land Co. certain lands and water rights in Sections 16, 17 & 18 T3S R20E .

Deed dated Jan 2, 1907
Ref: Los Mariposas Land Co. Abstract
G. O'Henello

prior to 1908 [Yosemite Terminal Co.]? constructs Crane Creek diversion and 6" riveted steel pipeline to operate hydro power plant at El Portal

Ref: Agreement dated Aug 10, 1908

1908 Agreement made Aug 10 on lands and water rights in El Portal area:
- Ward Land Co sells to Thomas Prather (2/3 interest) and Augustus H Ward (1/3 interest) all of water

Aug 10. 1908 Agt cont (cont.)

in Crane Creek in Sec. 16.... except water from Crane Creek required for use at hotel at El Portal owned by Yosemite Terminal Co.

- Thomas Prather and Augustus H. Ward shall have right to use water of Crane Creek for operating existing power plant belonging to Yosemite Terminal Co. at El Portal.

Ref: Agreement 1. Ward Land Co.
2. {Thomas Prather / August H. Ward}
3. Yosemite Terminal Co.

Mariposa Agreements vol. T pg. 200
G. OHonello, Las Mariposas Land Co

1909 Rights, titles, interests and estates described in Agreement of Aug. 10, 1908 granted by August H. Ward & Thomas Prather to Merced River Elec. Co.

Ref: Mariposa Vol. 25 of Deeds pg. 192
G. OHonello, Las Mariposas Land Co

1910 Special Use Permit dated Aug. 4, 1910 granted to Merced River Elec. Co. by Secretary of Interior

for right of way for tunnel, canal and reservoir site within Stanislaus National Forest.

Ref: Los Mariposas Land Co. abstract Deed 1- Dec. 28. 1911

1911 All lands, water rights owned by Merced River Electric Co. sold to Merced River Electric Power Co

Including:

- water right to Crane Creek
- right to transport water across Sec 17 & 18

ref: Vol. 96 Deeds pg 60 Mar 16, 1915
Vol. 87 " pg 21 Mar. 13, 1913

1915 All lands & water rights owned by Merced River Electric Power Co. Sold to Merced River Electric Co.

Ref: Mariposa vol. 97 of Deeds pg 181

19— Storage tanks "donated" to El Portal Water Association by El Portal Mining Co Ref: Ray Munson

1929 ± Pipeline from diversion to storage tanks replaced with 3" steel pipe by El Portal Water Association

Ref: Clyde Gonn - who helped lay pipe

1947 Interests of Merced River Electric Co. sold to Las Mariposas Land Co.

Ref: Gene OHonello

1956 Diversion works rebuilt by Water Association.

Description of System

Diversion Works - (Photos)
Located on Crane Creek in NW 1/4 of NW 1/4 of Sec 16 T3S R20E

Elevation 2250 (aneroid barometer)

Water diverted by low dam of concrete, rubble masonry and sand bags.
Two 4" pipes about 40 feet long carry water to timber box 7'-6" x 3'-8" x 3'-7" deep.

Alternate Diversion - Pump from Merced River (Photos)

Supply lines - (Photo)
3" Screwed steel pipe about 1200 ft. long carries water to storage tanks
Capacity: 127' in 1200' L = 114' per 100
Q = 157 GPM for C = 100

Storage Tanks - (Photo)
two 10,000 gal. riveted steel tanks on timber platform
Elevation 2113 - bottom of tanks (barometer)

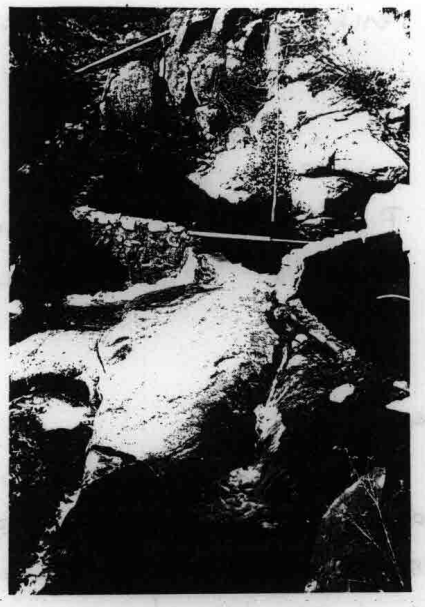
Treatment: Wallace & Tiernan water operated hypochlorinator treating water entering storage tanks

Distribution System
Pipes laid by individual home owners - no data gathered

Use: Domestic
Water piped to 76 houses including school, garage, recreation hall, post office. Lawn sprinkling and watering trees & shrubs done by each resident during summer

Quantity: not measured

EL PORTAL
WATER ASSOCIATION
SYSTEM



Diversion Works
Crane Creek
photo # 57-1-3
Nov. 6, 1957



Diversion Works
Timber Intake Dam
photo # 57-1-4
Nov. 6, 1957

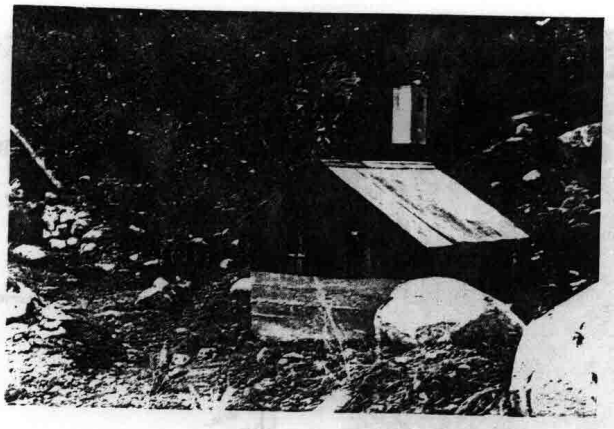
Alternate Intake



Suction Line to Merced River

photo # 57-1-21

Nov. 6, 1957



Pump House

photo 57-1-20

11-00-1957: photograph of supply line from diversion to storage tanks

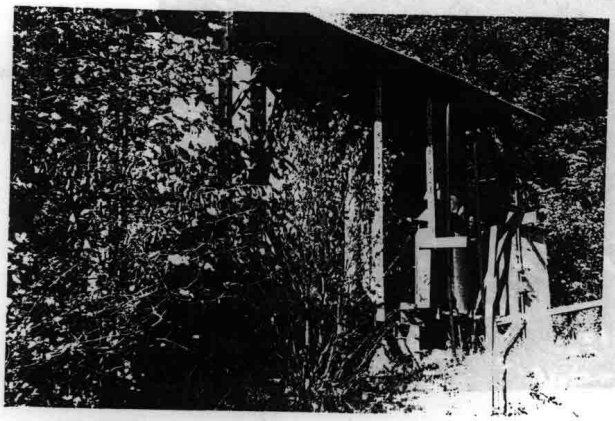


Supply Line from Diversion to Storage Tanks -

3" line - El Portal System

2" " - Forest Services House

photo # 57-1-6



Storage Tanks

2-10,000 Gal riveted steel tanks

photo # 57-1-7

NATIONAL LEAD COMPANY
WATER SYSTEM



National Lead Company Water System

Land ownership: El Portal Mining Co. leased to National Lead Co. - lease expires 1958? National Lead Co. was removing mill machinery in Nov. 1957

System ownership: National Lead Co.

History:

1938 Land leased to National Lead
Ref: Mr. Savage

19__ Two wells dug near Merced River one went dry - other had too much iron to drink Ref Savage

19__ Diversion dam Merced River constructed. Wood flume conveying water to pump house

1953 Third well dug - presently in use

1955-56 River diversion flume washed out and replaced

Description of System

Diversion Works - photo
Cased well near Merced River
Dug well about 36" dia. 10 feet deep
cased with ___ inch dia. concrete pipe

Pumps

Well System F.E. Myers & Bros
5 x 5 piston pump driven
by 5 HP electric motor

River Diversion System not in use
2 parallel Byron Jackson
centrifugal pumps, each with
rated capacity of 350 GPM,
each driven by 20 HP electric
motor, 6" suction, 6" outlet

Supply line

from well - 2" steel
from River Diversion - 5 or 6 inch

Storage - 3 Wood stave tanks

Lowest Tank 10,000 Gallons used for mill supply - not in use at present

Middle Tank 3000 Gallons in use for domestic supply
elev. of bottom 1921' (barometer)
equipped with electric float switch

Top Tank 10,000 Gallons - used for fire protection
bottom elevation 1967' (barometer

Distribution System
Domestic 2" line to Residences
Cable hung river crossing to other residences on south bank

Fire 8" steel from top tank to Mill

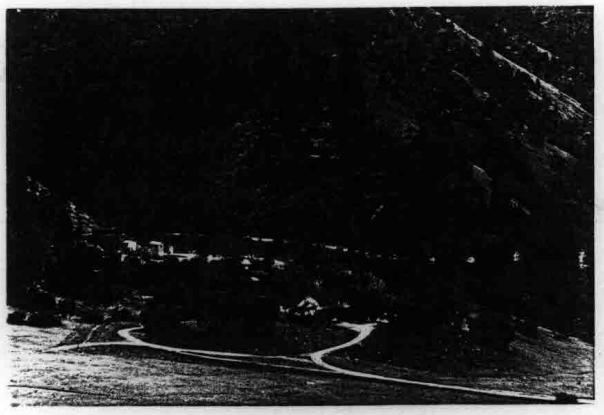
Use 4 residences 2 now occupied
Barium Mill

Domestic, milling, mining, fire protection

Quantity of Use not known

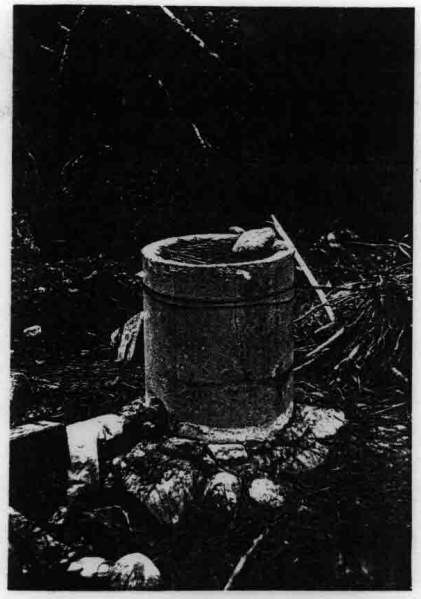
Source of Information

Mr. Connie Savage, El Portal
employee of National Lead Co



National Lead & Development

photo # 57-1-28
Nov. 7, 1957



Well - in use Nov. 1957

photo # 57-1-13
Nov 6, 1957



Pump House
from well

photo # 57-1-15



Pump House
from Merced R.

photo # 57-1-17

BRANTLY WATEE SYSTEM



BRANTLY WATER SYSTEM

Land Ownership - El Portal Mining Co.

System Ownership
either El Portal Mining Co or Brantly

History - see El Portal Water Association System

about 1908 System constructed by [Yosemite Terminal Co.?] including diversion works 10", 8" & 6" riveted steel supply line, storage tanks

prior to 1914 El Portal Mining Co. acquired land

19____ Hydraulic ram in river used to supply El Portal when Crane Creek ran dry

Refs: Ray Munson

19—— Well dug at site of present Standard Station - pump and hypochlorinator installed

1955-56 Floods washed out part of road near well

1957 Inclined river intake works constructed on riprap bank of river - Suction line from pump in original well laid under road & down inclined concrete conduit

Discription of System

Diversion Works - Photo
Source - Merced River
Intake - 36"? Concrete pipe ___ ft
long laid at 45° on
bank of Merced River
and extending below
river bed. ___ inch
suction line from pump
laid inside concrete pipe
with foot valve at bottom

Pump - located in original well
in front of Standard Sta.
HP rating : ___

Treatment - Hypochlorination -
Isn't it with pump?

Alternate Source
Crane Creek through connection
to El Portal Water Association
System

Supply Line

Storage (private)
Two wood stave tanks on
timber tower

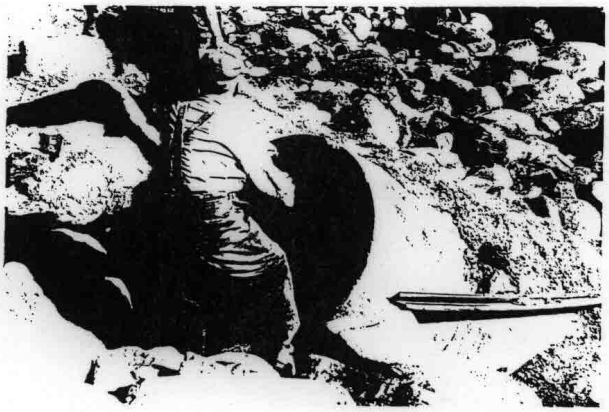
Distribution System

Use Domestic
Standard Station
Motel — units
Hotel
Store

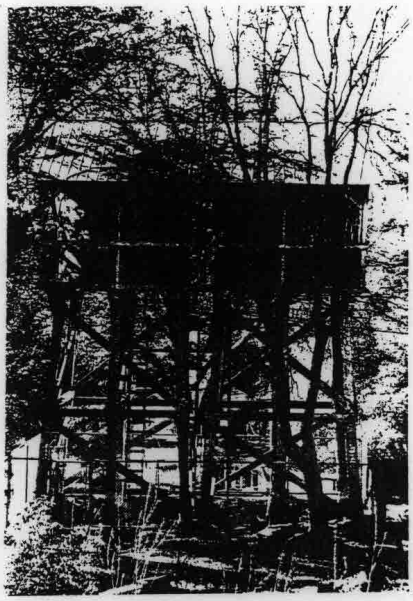
Quantity used



Merced River Intake
Ray Munson & Les Moe
Nov. 6, 1957
photo # 57-1-10



Merced River Intake
Nov. 6, 1957
photo # 57-1-9



Storage Tanks

photo # 57-1-2

Nov. 6. 1957

ABBEVILLE WATER SYSTEMS



Abbeville Water Systems

Land Ownership: El Portal Mining Co.

System Ownership: Residents (presumably)

History

1880 Water Right filed with Mariposa Co. by Hennessey & Mormon Vol. 1 pg 3E

1883 Hennessey ranch & ditch from Merced River shown by US Land Survey
Ref: Plat of T3S R20E

1914 "Hennessy Garden" shown by Cowell & Pedesen Map of El Porol Mining Company

19— Garden & Fruit trees cultivated

19— West well dug & tower erected

19— East well dug & tower erected

1955 Pumping from river regd. East well used dry at West Well

1957 Pressure system installed A elevated tank no longer used.

Discription of systems

East Well (photo)

Source: Well dia . depth ____

Pump: Demster 210 F driven by 3/4 HP Electric Motor

Storage: 2000 gallon wood stave on timbers [illegible] directly over well

Distribution System:

Use - Domestic - Five residence all plumbed - some town sp[illegible]

Sources of information:

Mrs Schelling - resident & water user

West Well (photo)

Source: well - dug by Connie Savoy

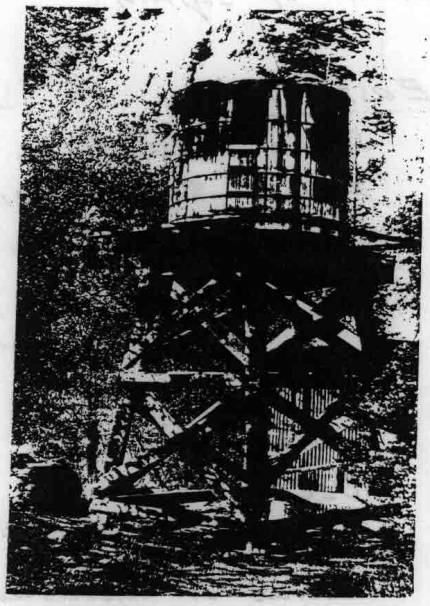
Pump Fairbanks-Morse Model C355 RIF 1/2 HP.

Storage: Pressure Tank at well, 1200 gal. wood st[illegible] on timbers [illegible] in use

Distribution System

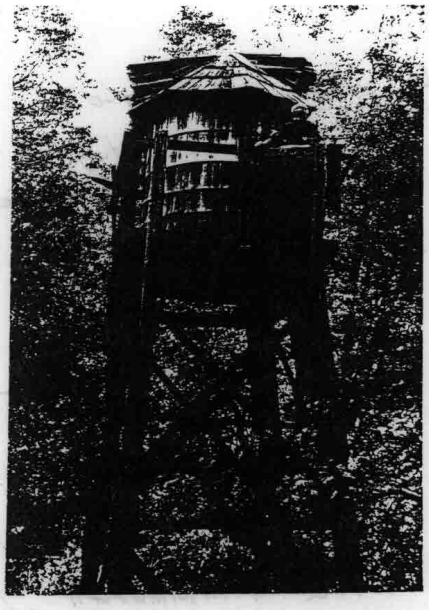
Use - Domestic - 2 houses - fully p[illegible]

Source of Information Mr. Ollie Arch. [illegible] Mrs. ____ [illegible]



East Tank

photo # 57-1-11



West Tank
Les Moe

photo # 57-1-12

YOSEMITE VALLEY RAILROAD
MOSS CREEK WATER SYSTEM



YOSEMITE VALLEY RR MOSS CREEK WATER SYSTEM

Land Ownership : Stanislaus National Forest

System Ownership : presumably reverted to Nat. For. with abandonment of R.R.

History : 1908 R.R. completed
Officers, Yosemite Valley Railroad Co. 1908 { Frank G. Drum, President; Grant H. Nickerson, Chief Engineer; Julius H. Ellis, Secretary }
19— diversion, pipeline & tank constructed

1943 (about) Tank & pipeline dismantled

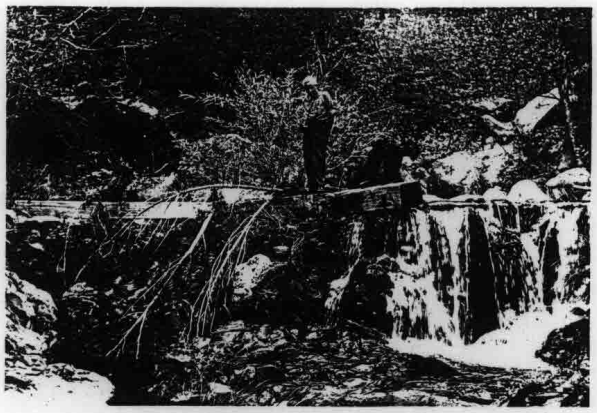
Discription of System :
Diversion : Moss Creek about 600 feet from Merced River
Rock & Mortar Dam 2' to 6' high 30' total width topped with 12 x 12 timber - fitted with 4" diversion pipe and about a 14" sluice opening covered by a slide gate
elevation crest : 1706' (barometer)

Supply line : Removed

Storage : removed - tower piers next to R.R. at Moss Creek Bridge
elev. RR. subgrade BM on bridge 1670 ft.

Use : Locomotive water

Source of Information :
visual inspection



Moss Creek
Diversion Dam
Les Moe

photo # 57-1-26
Nov. 7, 1957



Piers for
Tank Tower

photo # 57-1-27



Dam - Moss Cr.

photo #571-25

TUNGSTEN MILL SYSTEM



Tungsten Mill Water System

Land Ownership - [redacted] Mill Co

System Ownership -

History
prior 1955 Mill constructed
1957 - not in operation

Description of System:
Source: Mercer River pumped (photo
to hillside storage

Supply Line: about 600' 2" steel pipe

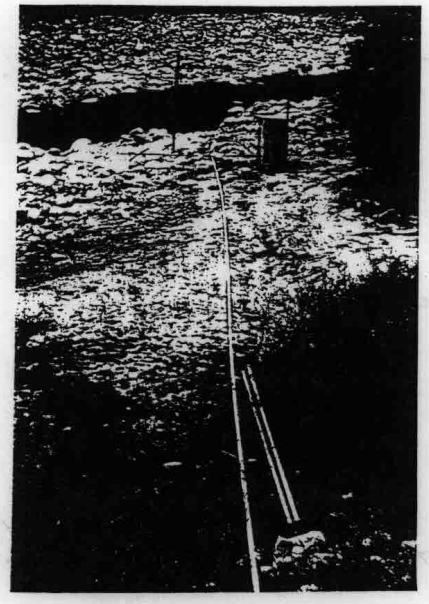
Storage: 2 - 6000 gallon redwood
steel tanks (photo)

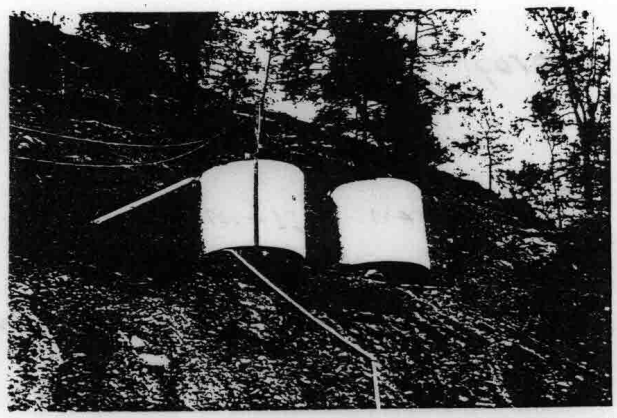
Distribution System: 2" pipe to mill

Use: Milling operations
tungsten mill

Quantity Used: not known

Source of information: inspection





INDIAN WATER SYSTEM



Indian Water System

Note: System now completly removed

Source: Crane Creek about 50 feet downstream from El Portal Water Association diversion

Place of use: West bank of Crane Creek about 800 feet from mouth. Used by about 5 Indian families living in tents and shacks

History: Gene Reale got drunk & burned down all the houses about 1945-46. Area not occupied since. Pipe line washed out by floods & removed

Description of System

Diversion Works - Small concrete dams between rocks in Crane Creek. 2" pipe cast in concrete wall

Supply Line: 2" steel (sections twisted & lying in stream)

Storage : none (apparently)

Source of Information :
Clyde Gann, El Portal resident for 20 years



Diversion Works
Crane Creek
photo 57-1-5 Nov. 6, 1957

LAS MARIPOSAS LAND CO.
WATER SYSTEMS

Las Mariposas Land Co. Water Systems

A. Service Station, Coffee Shop & Motel System

Sources

Spring. North of Highway on side hill - used in summ
Merced River - summer use 3-4 months

Land ownership

Spring - near property line - Las Mariposas Land Co. may be on Nat. Forest

River - Property is riparian

History

1947 Land and water rights acquired by Las Mariposas Land Co. from Merced River Electric Co.

Description of System - not inspected

Spring

Supply line 1"

Storage Tank

Distribution Line 2"

B. Private Residences

Land ownership : individual home owners

Source : Merced River

Systems : Each homeowner installs own river intake ~~and~~, pump and pipeline.

Use :

Four residences

Two more under construction

Source of information :

Mr. Gene C Hemelle . Shareholder Las Mariposas Land &

Abstract made for Las Mariposas Land Co

SITE INVESTIGATION
Field Notes
L. Spaulding
Lee Moe

Nov. 6, 7 & 8, 1957



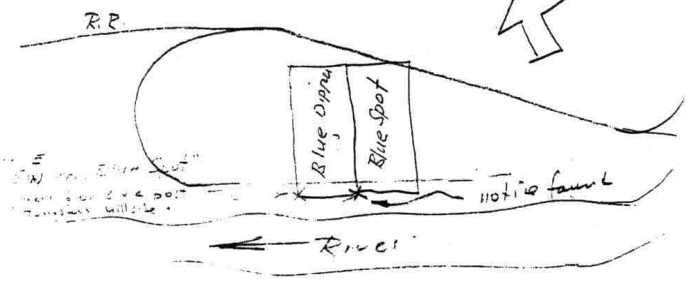
Millsite Claim

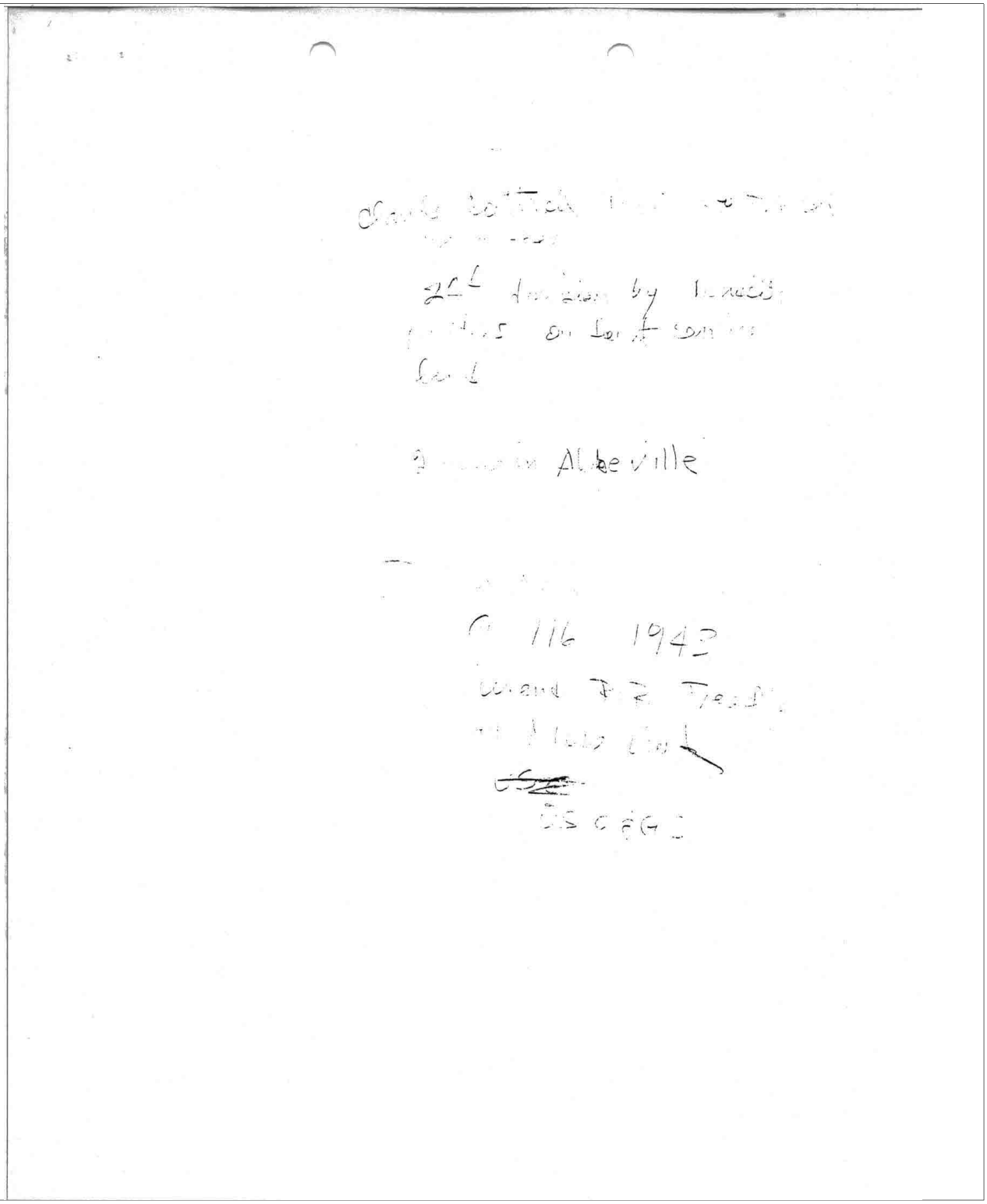
Alt Cove Mining Dist.

~~Blue Dipper millsite~~

Name: Blue Spot Millsite
Date: June 26 1952
Locator: John Milanovich
W. J. Barnett
L. W. Barnett

Blue Dipper is west of the Blue Spot





Al Clark - Project Clerk
Former Manager for El Paso
Mining Co. (previous to Brantly

⇒ Jim Price Sec.-Treas. Water Co.
-part time with [illegible]
-Watchman [illegible] Po L & Cuming Co.

from Clark to Peterson
[illegible] 1956 - 1957
piped to tanks now used
by Brantly
Purpose - locomotives
& mining use

P[illegible] put in about 7 years ago
[illegible] from Rio's - sump water
[illegible] goes dry. Use
[illegible] 2 or 3 times a week to fill

Friday, Nov. 8,

Mr. William E. Brantly is representative of El Portal Mining Co.

talk with Mrs Brantly → Mrs. Brantly

Standard Station

Hotel

Motel

Store

are on Brantly system

Investigation El Portal — L. Spaulding, Les Moe

Thur. Nov. 7

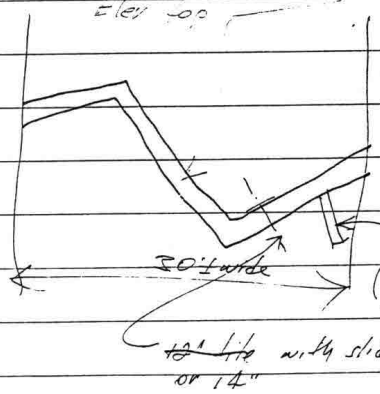
1. Moss Creek

2:35 PM ~~set~~ set altimeter at USC&GS BM G 716 set at 1670

Photo #25 Diversion works for Locomotive
" #26 do tank supply

2:50 1706 Moe
2:55 1720 Spaulding } say 1710?

use +7 adj. 1706'



rock & mortar wall 2' to 6' high on bedrock - topped with 12 x 12 timbers

~~12"~~ tile with slide gate or 14"

Photo #27 - Foundation of tank tower
check altimeter at G716
3:07 PM 1678

Investigated Moss creek below saddle at Power Line crossing – No evidence of water diversion in 1/4 mile of creek
Photo #28 National Lead Buildings from saddle at Power Line

2. Barium Mill
Lowest tank 11'-6" high 12' ± dia
wood stave (37.4' cir.)
Middle tank - (domestic) wood stave
7'-6" high 8' dia
~~Elev. bottom~~ 4:03 PM ~~1930~~ adj ele 1921
2" line to mill elec float switch
2" feed line from ~~5~~ 5" pump line going to top
Top tank wood stave Bot elev. ~~1976~~ 4:10 PM adj elev 1967'
11'-6" x 12' dia
fed by 5" line to top of tank
5" line to mill

Check elev. near Barium Mill 4:19 PM 1806
BM not found 1797 Com Quad -
readings are 9' high

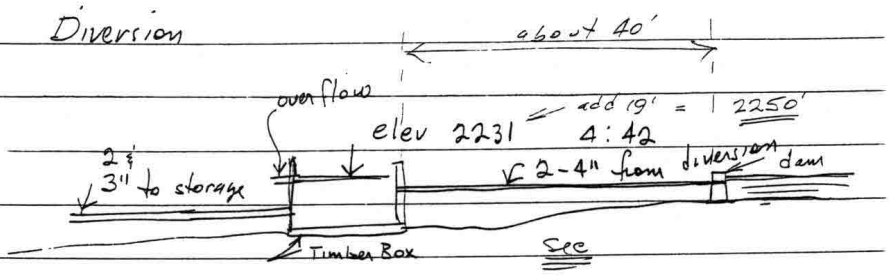
3. El Portal Community System

Elev. bottom of tanks

4:34 PM 2094 add 19' = 2113

3" black screwed pipe from diversion to tank

Diversion



Elevations measured with K & E Surveying Aneroid

NPS #44-2087

Check altimeter 5:10 PM read 1900

near BM 1919 (not found)

Spaulding & Mose

Nov. 6, 1957

Conversation with Mr. Gene Ottonello, U.S. Commissioner & one of 4 shareholders of Las Mariposas Land Co.

Las Mariposas Land Co.

A. Station, Coffee Shop & Motel

Source

1. Spring – used in winter not known whether on Las Mariposas land not tied on
2. River – used about 8–9 mos. in summer

System

1" line from spring to tank
2" " " tank to station

Owned by Las Mariposas Land Co.

B. Four residences on private land – sold to owners

Two houses under construction

each with pump from springs in river to pressure system lots run to R river depend on riparian rights

WATER SYSTEM -

A. LA PORTEL Motel Hotel & Residences

① 1. Tanks photos #1 & 2

2- wood stave tanks on timber tower

supply lines 4" - o.d. black steel from riv

1½ Galv. steel - to top of north tan

distribution

4" galv. steel to direction of rec. ba

1½" black steel " " "

2. Crane Creek Diversion

Photo # 3

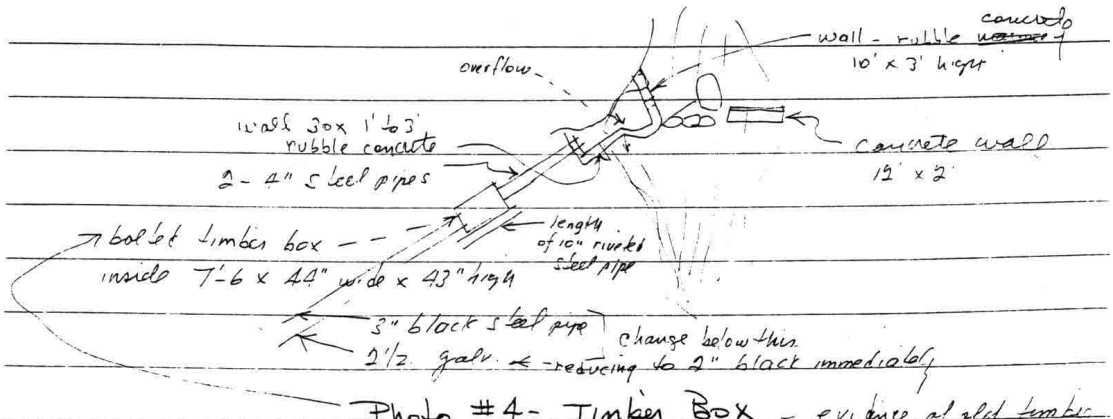


Photo #4 - Timber Box - evidence of old timber box under present box.

evidence of previous diversion at came spot as shown by old rusted 10" riveted steel pipe

7. ~~6~~ Rusted sections of 6" riveted steel along trail - continuous from about 500' below diversion

8 Storage tanks photo #7 2 @ 10,000 gal per Munson & Gann (separately)
2 - riveled metal tanks on timber platforms
11'-6" dia x 12'-0" high
with Wallace & Tiernan hypochlorinators
water operated

talked to Mr. Clyde Gann
says diversions have both been there as long as he has - he has been here 20 years
~~to date I know of any other diversions~~
Indians used to have own ~~diversion~~ pipe line —
Booth Brown
Gene Beale - got drunk & set fire burned down whole works about 1945-46

Lower tanks are Brantley's
He uses pump only when he can't pump from river connected to "ours" but valve is closed
Pump next to road is Water Company's
Did not have to pump out river this year

Mr Gann helped put in line from diversion to tank around '39. Replacing 6" riveted line

Forest System has tank - they disconnect in winter because of freeze up - Then they use El Portal system.

~~Dan~~ Only line left of original system ~~is~~ put in by R.R. is 4" down to Brantly. It feeds only standard station, motel & hotel ~~and~~ dee distribution lines come off 4" main for El Portal Residency

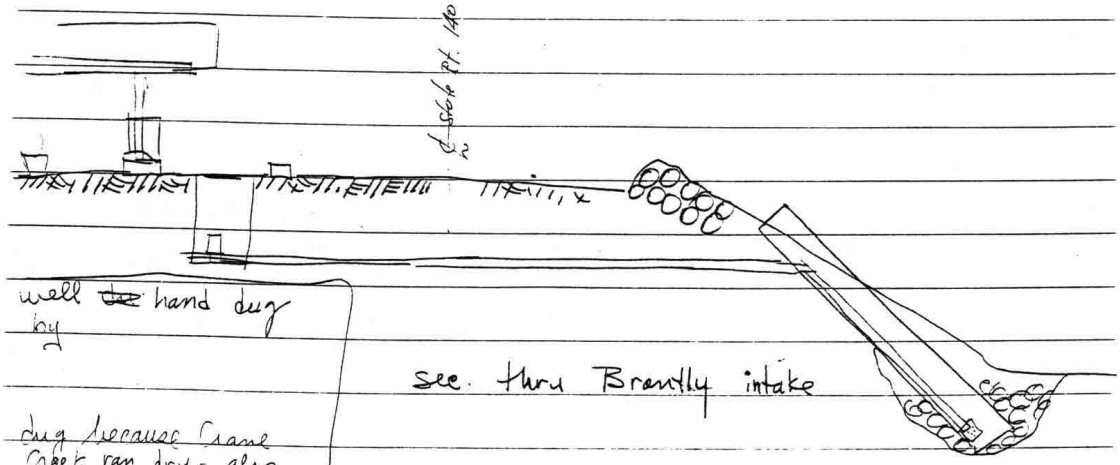
~~Newbert has it~~

See Newbert for dope on Forest Service system

had 12" wood flume - leaking badly
rocked up by Munson - hired men.

"No tank up here for engines"
"Tank was at Moss Creek" E of Cement Plant

"Clyde paid $30 per month to take care of chlorinator" Munson



Ques. "Does El Portal ~~Water~~ Assoc. have a water right filing?"

Munson → "Williams started to when he was head of water company but it was not carried through.

"Have heard that El Portal Mining Co. had water right."

Mr. Ollie
Information from 1 Arch
~~PHOTO~~ #12
2. Tank - wood stave on 20' tower (lumber) 5½' high 6' dia.
fruit trees & small veg gardens
3 houses use it
19' deep - cased hand dug
Dug by Connie Savage - works at Lumm Mill
dug before — good here
Tank no longer in use - pressure tank now used
½ HP Fairbanks-Morse Pump Model C 355 X R1F

"Railroad came in in 1904"
Pump from rives ~~sometimes~~ in Summer
to irrigate garden.

Had gardens & fruit trees years ago

Murchison was supt. may know how much was used

2" line from well
and 2" line to the tank

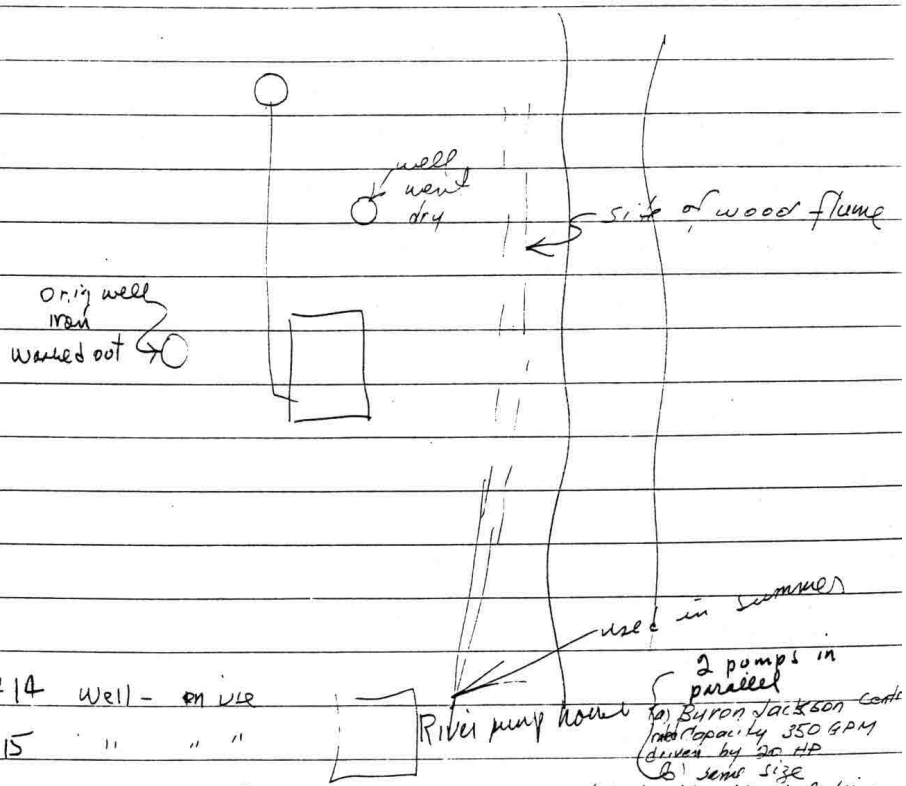
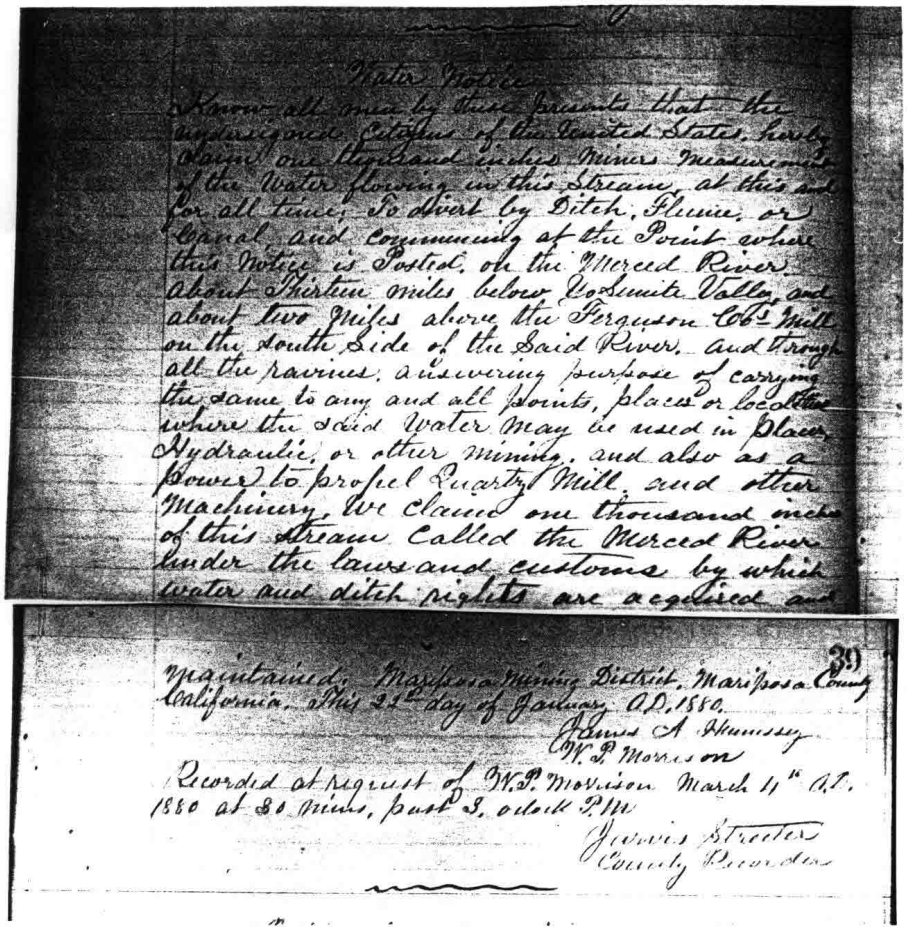


Photo #14 Well - on use
15 " " "
16 pump house from well
17 " " " river not put back in use
Since river washed out diversion

Installations all put in by National Lead

COUNTY FILINGS
PHOTOGRAPHS



Water Notice

Know all men by these presents that the undersigned Citizens of the United States, hereby claim one Hydraulic inches Miners Measurement of the Water flowing in this Stream, at this and for all time; To divert by Ditch, Flume, or Canal and Commencing at the Point where this Notice is Posted, on the Merced River about Thirteen miles below Yosemite Valley and about two Miles above the Ferguson Co's Mill on the South Side of the said River, and through all the ravines, a distance for the purpose of carrying the same to any and all points, places or localities where the said Water may be used in Placer Hydraulic, or other mining, and also as a Power to propel Quartz Mill, and other Machinery, We Claim one thousand inches of this Stream called the Merced River under the laws and customs by which water and ditch rights are acquired and

39

maintained. Mariposa Mining District. Mariposa County California. This 22nd day of January A.D. 1880.

James A Hennessy
W. P. Morrison

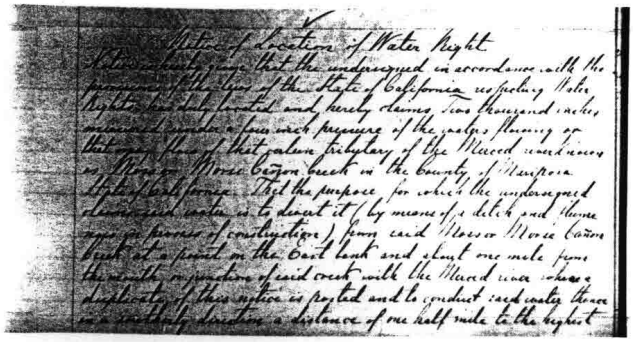
Recorded at request of W.P. Morrison March 11th A.D. 1880 at 80 Minutes, past 3, o'clock P.M.

Jarvis Streeter
County Recorder

Mariposa County Vol. 1 of Water Rights, Pages 38 & 39

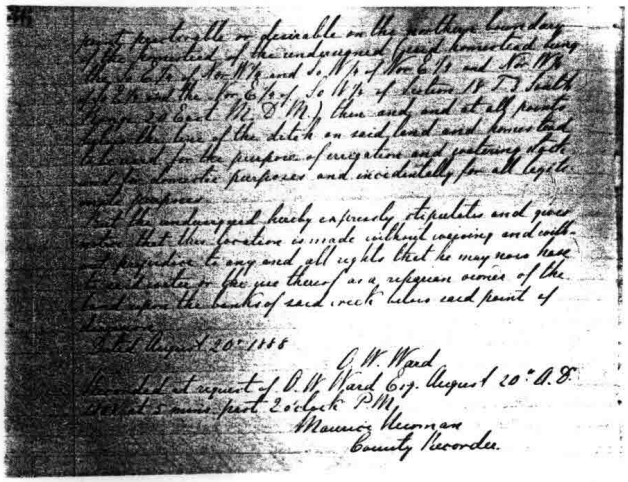
Hennessey & Morrison Appropriation - Merced River - Jan 22, 1880

photos No. 57-1-29 & 30



Notice of Location of Water Right

Notice is hereby given that the undersigned in accordance with the provisions of the laws of the State of California respecting Water Rights has this day located and hereby claims Two thousand inches measured under a four inch pressure of the water flowing or that may flow of that certain tributary of the Merced river known as Moss or Moris Canyon Creek in the County of Mariposa. Rights of both forms. That the purpose for which the undersigned claims said water is to divert it (by means of a ditch and flume now in process of construction) from said Moss or Moris Canon Creek at a point on the East bank and about one mile from the mouth or junction of said creek with the Merced river where a duplicate of this notice is posted and to conduct said water thence in a southerly direction a distance of one half mile to the highest



practicable or desirable on the southern boundary of the lands of the undersigned (said boundary being the E. line of the W. ½ and S. W. ¼ of Sec. 6 T. 3 and S. W. ¼ of S. W. ¼ and the S. ½ of S. E. ¼ of Section 12 T. 3 South R. 20 East M. D. M.) there and at all points along the line of the ditch on said land and power and the right to use for the purpose of irrigation and pasturing stock and for domestic purposes and incidentally for all lights and purposes.

And the undersigned hereby expressly stipulates and agrees that this location is made without waiving and without prejudice to any and all rights that he may now have or hereafter to the use thereof as a riparian owner of the land upon the banks of said creek below said point of diversion.

Dated August 20th 1888

O. W. Ward

Recorded at request of O. W. Ward Esq. August 20th A.D. 1888 at 5 minutes past 2 o'clock P.M.

Maurice Meenan
County Recorder.

photo # 57-1-33 & 34

O.W. Ward Appropriation - Moss Cr. 1888

Mariposa County Vol. 1 of Water Rights Pages 135 & 136

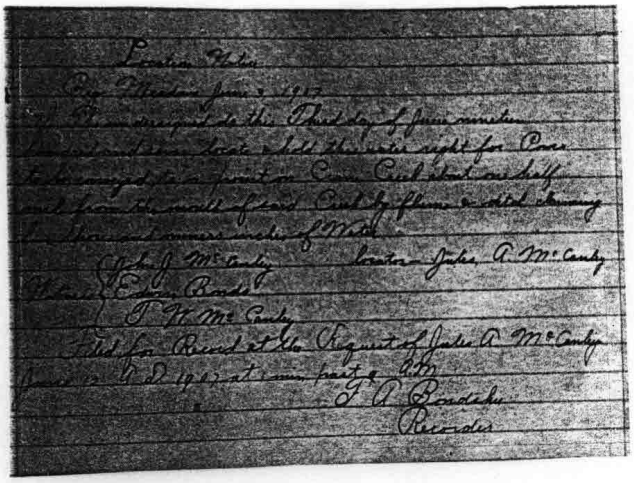
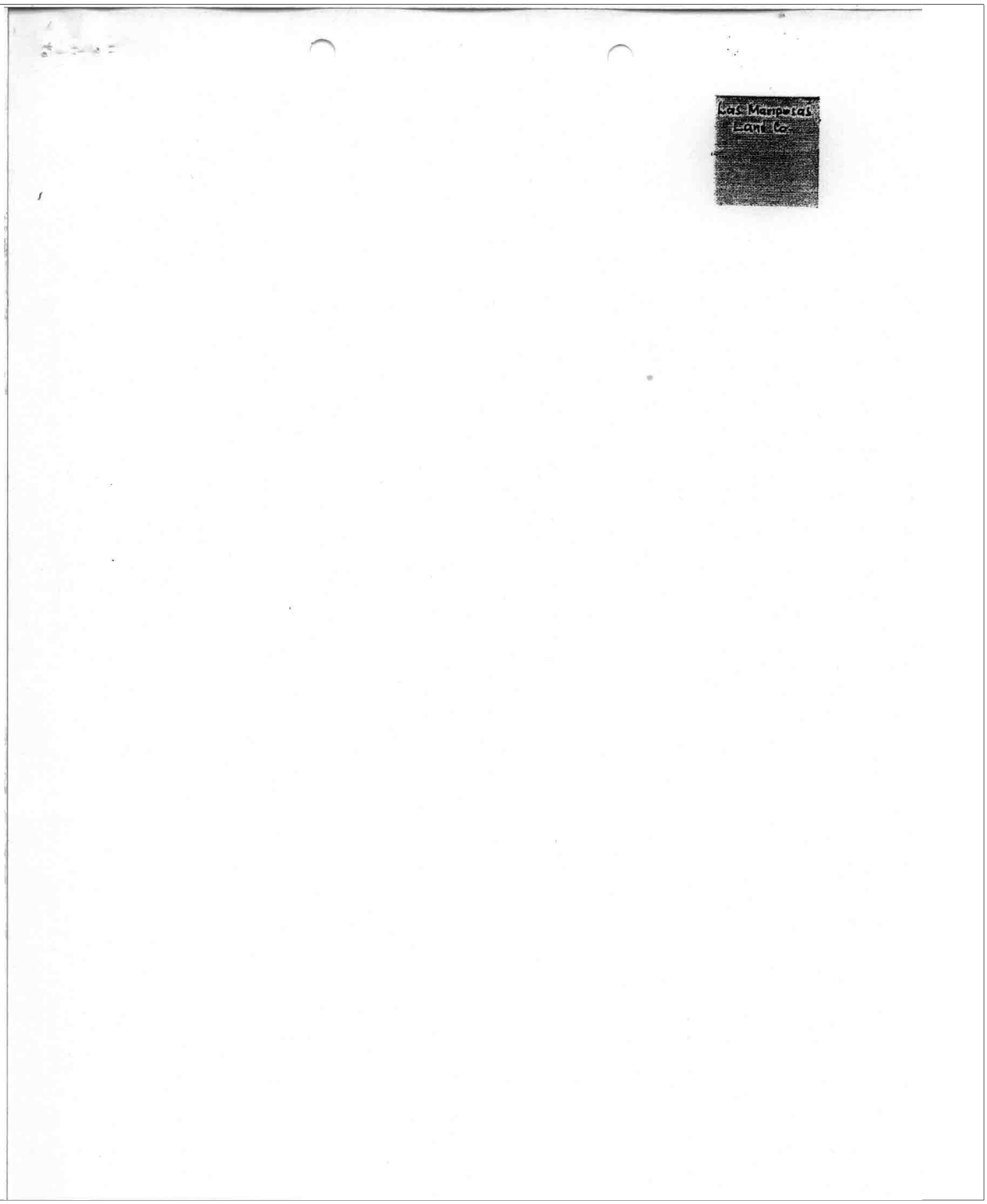


photo # 57-1-37

Jules A. McCauley Appropriation - Crane Cr. 1907

Mariposa County Vol. 2 of Water Rights Page 285


Lake Mamperal
Land Co.

Summary of Search made by
F. A. Bondshu July 9, 1946
of property of Merced River Electric Co.
for Las Mariposas Land Co.

from records in hand of G. O'Donnello
& summary made by L. Spaulding
Nov. 7, 1957

Bondshu notes in abstract:

~~Note~~ All State and County taxes on property assessed to Merced River Electric Company paid in full up to and including June 30, 1946

WATER RIGHT APPROPRIATION

Date of Filing	Source	Location	Quantity	Use	Appropriator	Recorded
The following data is from copies in hand of Gene Otterello, Box 575 Yosemite N.P. shareholder, Las Mariposas Land Co.						
July 15, 1902	Merced R.	T3S R30E east boundary of sec. 16 (¾ mi east of Crane Cr.)	20000 MI (= 500 Sec. Ft.)	power mining milling	A. H. Ward	Mariposa Co. Vol 2 pg [illegible]
Feb 15, 1905	do	do	do	do	do	do Vol. 2 pg 2[illegible]
Oct. 8, 1906	Moss Canyon Cr.	¾ mi from Merced R. Sec. 18 T3S R20E	5000 MI (= 125 Sec Ft.)	irrigation mining milling	A. H. Ward	do Vol. 2 pg. 27 (probably vol. 3)
Aug 12, 1909	Merced R.	east boundary of Sec. 16 T3S R20E	20,000 MI (= 500 CFS)	power mining milling irr. manufact.	Merced River Elec. Co. by A. H. Ward, pres.	Vol. 2 pg 2[illegible]
Feb 21, 1911	Merced R.	Sec. 22 T3S R19E	20000 MI	power mining	do	Vol. 3 pg 6
Feb 21, 1911	Merced R.	Sec. 16 T4S R18E	do	do	do	Vol 3 pg 67
Apr. 17, 1911	Merced R.	Sec. 30 T3S R19E	do	do	do	Vol 3 pg 7[illegible]
Oct 14, 1911	Merced R	(Amended location as recorded Feb 21, 1911) Sec 30 T3S R19E	do	do	do	Vol 3 pg 7[illegible]

COPIES LAND PATENTS, DEEDS & GRANTS

from papers in hand of Gene Othello

Date	Location	Owner	Recorded
Dec. 20, 1890	440 acres - Granted by State of Calif. E½, S½ of SW¼, NW¼ of SW¼, Sec. 16, T3S R20E	W. R. Birmingham, Charles W. Mott	Mariposa Co June 18 1902 Vol. R pg 648 of patents
April 21, 1893	½ interest in above Granted to James H. Martin by W. R. Birmingham & wife		Mariposa Co Vol. 14 of Deeds pg. 121 April 26, 1893
Sept. 1, 1893	½ interest in ~~of~~ first 440 acres Granted to James H. Martin by Chas. W. Mott		Nov 8 ~~Sept~~ 1893 Vol. 15 of Deeds pg 83
May 9, 1902	S½ T3S R20E 440 acres E½, S½ of SW¼, NW¼ of SW¼ Granted to A. H. Ward by J. H. Martin		June 18, 1902 Deeds Vol 21 pg 5
~~Sept. 22, 1905~~	~~strip 100' wide 3000 ft. long ± along located Yosemite Valley R.R. across lots 1, 2 & 3 and NE¼ of NW¼ of Sec. 9 T4S R17E & other lands~~	~~Mariposa Electric Power Co granted to Yosemite Valley RR Co~~	
Jan 2, 1907	Sec. 18 NE¼ of SE¼ Sec 17 N½ of SW¼ " SW¼ of NW¼ " S½ of NE¼ " SE¼ of NW¼ Sec 18 SE¼ of NW¼ " SW¼ of NE¼ " NW¼ of SE¼ " NE¼ of SW¼ Sec 16 W½ of SW¼ " SE¼ of SW¼ " E½ all of T3S R20E	Also Water Right on Moss Canyon Creek Sec 18 T3S R20E Recorded Oct. 8, 1906 vol. 2 pg 273 Also Grant from Yosemite Valley RR Co to Augustus H. Ward the right & privileges of constructing & operating a power line along Railway right of way Recorded Agreements vol. T pg. 78 to 80 Mariposa Co. Also Water Right known as 'B' System Vol. 2 of Water Rights. pg. 220	Granted by Augustus H. Ward to The Ward Land Company Recorded May 14, 1907
Oct. 5, 1907	1. "Yosemite Valley RR station Ground" irregular parcel 15.2 acres in NE¼ Sec 17 T3S R20E 2. 100' wide strip crossing Sec. 17 & Sec. 18 on land of Ward Land Co T3S R20E along & Yosemite Valley RR		

LAND PATENTS & GRANTS (cont.)

Date	Location	Owner	Recorded
Oct 5 1907 (cont.)			
	3. 50' wide strip along ℄ of main wagon road constructed by Yosemite RR Co. in SE¼ of NE¼ Sec 17, SW¼ of NW¼ and NE¼ of Sec. 16, T 3S R 20E to Boundary of ~~Yosemite National Park~~	Granted to Yosemite Valley RR Co by Augustus H. Ward and Ward Land Co.	Recorded Oct 10, 19 Deeds vol 23 pg 206

Conditions:

1. Reverts to Ward Land Co on abandonment of R.R.
2. Mineral rights are reserved
3. Water rights to Merced & tributaries are reserved by Ward Land Co

August 10, 1908 Agreement: WARD LAND Co - party of first part

THOMAS PRATHER " " second "
~~AUGUSTUS H. WARD~~

YOSEMITE TERMINAL CO. " " third "
(J.H. Ellis, Pres. W.P. Newbert, Sec.)

Whereas — WARD Land Co. is owner of land in Sec. 16, 17 & 18 T3S R 20 E
" — " " " granted Right of Way to YVRR
" — " " " reserved right to use wagon road & water rights
" — " " " leased lands in Sec. 16, 17 & 18 to YOSEMITE TERM. Co. Recorded April 1, 1908, Leases Vol. L pg 382
" — " " " reserved land for canal from Cane C. & Merced R. from diversion in N½ Sec. 16
Route described on map filed by Augustus H. Ward Jan 16, 1906 US Land office, Stockton
ALSO reserved 2 acres in NW¼ Sec. 16
" " water rights
" — " " " leased to F.M. Smith Dec 13, 1907 certain land in Sec. 18 with reservations for ditch
" — " " " has right to construct pole line

Aug 10, 1908 Agreement (cont.)

WARD LAND Co. sells to { Thomas Prather 2/3 interest
Augustus H. Ward 1/3 "

in property:

1. Land ~~of~~ in Sec. 16 T 3S R 20 E
except strip 50' wide for wagon road which was granted to YVRR
2. Right to use wagon road
3. Right of way for dam, canals, ditches, flumes, pipelines, roads
4. Strip of land 50' wide through Sec. 16, 17 & 18
also 2 acres of land in Sec. 16
5. Right of way for ditch reserved from F. M. Smith lease
6. Right to construct pole line ~~along~~ along RR

WARD LAND Co. & YOSEMITE TERMINAL Co. ~~Sell~~

Sell to { Thomas Prather 2/3 interest
~~Augustus H. Ward 1/3 "~~ }

in land and property:

1. Water Right to appropriate 20,000 MI from Merced River in Sec 16 based on notice recorded July 15, 1902 and based on notice amending & supplementing first notice recorded Feb 15, 1905 - known as 'B' system
2. All of water in Merced River in Sec 16
3. All of water in Crane Creek in Sec 16

Except- Water diverted in Sec. 17 to Hennessy Ranch

Except. Water from Crane Creek required for use at hotel at El Portal owned by Yosemite Terminal Co.

Aug. 10, 1908 Agreement (cont.)

Agreed that WARD LAND Co. and YOSEMITE TERMINAL CO.

(1.) shall have right to use water of Crane Creek for operating existing power plant belonging to Yosemite Terminal Co. at El Portal - until parties of 2nd part construct power plant operated by water from Merced R. and Crane Cr.

(2.) - power rights

(3) have right to all water of Merced River and Crane Creek for irrigation, watering stock and domestic purposes not used by party of 2nd part

~~(4) Party of second part shall not divert, appropriate or utilize~~

(4) ~~Third~~ shall not interfere with appropriation of water of Merced River and Crane Creek by parties of 2nd part and shall, when request by 2nd party prosecute all other persons or corporations attempting to appropriate or divert any water of Crane Creek or Merced River

Recorded in Agreements Vol. T pg 200
Nov. 23, 1908

Nov. 1, 1909

Rights, titles, interests and estates described in Agreement of August 10, 1908 ~~grants~~ granted by Thomas Prather and August H. Ward to Merced River Electric Company

Recorded March 19, 1910 Deeds Vol. 25, pg 19.

All lands, water-rights owned by Merced River Electric Co.

Dec. 28, 1911 Land in Sec 16, T 3 S R 20 E

~~Subject to exceptions~~

Sold to Merced River Electric Power Company including:

1. Land in Sec. 16, T 3 S R 20 E
2. Easement across sec. 16, 17 & 18 for waterworks (map made by J. A. Jenkins dated Dec. 29, 1905 with field notes on file at U.S. Land Office, Sacramento)
3. 100' strip in NW 1/4 of Sec 16
4. Water Right to Crane Creek & Merced River & right to transport water across Sec 17 & 18 excepting irrigation, domestic uses reserved by Ward Land Co and Yosemite Terminal Co.
5. Water Right of Oct. 2, 1911 appropriated by Merced River Elec. Co to 20,000 MI of Merced R.
6. Special Use Permit dated Aug 4, 1910 ~~granted~~ granted to Merced River Electric Co. by Sec. of Interior for right of way for tunnel, canal & reservoir site within Stanislaus National Forest

Recorded March 16, 1912 Deeds vol. 26 pg 60

March 6, 1913 — Deed - correcting mistakes - a new deed of conveyance of Deed of Dec. 28, 1911 Merced River Electric Co. to Merced River Electric Power Company — Recorded March 13, 1913 Deeds Vol. 27 pg 21

~~March~~

Feb. 8, 1915 — Deed - All property described in deed of March 6, 1913 Sold by Merced River Electric Power Co. to Merced River Electric Co. — Recorded Feb 24, 1915 Deeds Vol. 27 p 16

County Filings
Notes

Nov. 8, 1957
~ Spaulding

Search of Mariposa County Water Rights Records

Date Recorded	Source	Location	Quantity	Appropriator	Vol. & Pa
Jan 22, 1880	Merced R.	13 miles below Yosemite Valley & " above Fergusons Co Mill	100 M.I. for mining & power	James A. Hennessey W. F. Morrison	1-3

photos #29 & 30 f8 1/20 hand held

Date	Source	Location	Quantity	Purpose	Appropriator	Vol. & Pg
Mar 10, 1887	Crow or ~~Crane~~	near N. line of SW/4 of S3 T3N, R20E ("at which point a flume is now located")	200 MI	stock watering irrigation	James McCauley	1-105

← photo # 31 f 2 1/20 tripod

April 14, 1884	Merced R	near Residence of L. G Wharton on Hites Cove & Yosemite Trail 1/4 mi above residence of James A Hennessey	2000 MI		L.G. Wharton E.C. Uher	1-85

photo # 32

Feb 27, 1888	Croco or Crane	1000 feet from N. bank Merced R (250' SW of NE cor. of SW/4 of NW/4 Sec 16)	1000 MI	irrigation stock watering domestic	O.W Ward	1-12

"conduct ... across the ranch and land of undersigned formerly well known as the 'Wharton Ranch'
"purpose is to divert it by means of ditch now and for years past dug and used for that purpose"

photo # 33 & 34

Aug 20, 1888	Moss or Morse Canon Cr.	1 mile from mouth to be conveyed to land & homestead of undersigned	~~2000~~ MI	irrigation stock watering	C. W. Ward	1-135-13

photo # 35 & 36

June 11, 1900	Merced R	mouth of Crane Cr.	mining irrigation milling power	20,000	Augustus H. Ward	2-89
Apr 28 1902	Merced R	" " " "	mining power	20,000	"	2-122
May 12, 1902	"	east boundary of sec 16 1/4 mi east of Crane Cr.	do	20,000	"	2-129
Sept 10, 1902	"	do	do	do	do	2-137
Nov 10, 1902	"	do	do	do	do	2-139
Jan 9, 1903		do	do	do	do	2-143

Date Recorded	Source	Location	Quantity	Purpose	Appropriated	Vol & Pg
March 9, 1903	Merced R.	3/4 east of Crane Cr.	2,000 MI	mining power	Augustus H. Ward	2-14
May 21, 1903	do	do	do	do	do	2-15
Feb 11, 1905	do	do	do	do	do	2-22
June 12, 1907	Crane Cr.	1/2 mile from mouth PHOTO # 37	1000 MI	Power	Jules A. McCauley	2-28

Vol 2	Vol 3	Names Checked	References
	none	A.H. Ward (Augustus H.)	2-88, 116, 122, 126, 128, 134, 137, 140, 143, 147, 153, 154, 157, 225, 227, 240, 255, 266, 2[illegible] 1-88, 1-164 2-48 2-71 273
		WARD, Alan H.	2-52 2-64
		Jas A Hennessey	1-38, 1-41
		McCauley, John J.	3-94
		James McCauley	1-105
		McCauley, Jules A	2-285
		Morrison, W.P.	1-36 1-39
		Meyers	none vol. 1
		Wharton, L.G.	1-84 none in vol. 2
		Utter, E.S.	1-84
		Smith, F.S.	none vol. 1
		Ray, N.C.	Maxwell Cr. Piney Cr. Merced R. 1-193, 1-194, 1-222, 1-226 T3S R15E
		W.R. Birmingham	none vol. 1
		Charles W. Mott	none vol. 1
		Martin, James H.	none vol. 1
		Merced River Elec Co.	none vol. 1
		Yosemite Valley R.R.	none vol. 1 3-144 SEC 10 T4S R17E
		Mott, Peter	Bean Cr. 1-244
		Martin, R.P.	1-270
		Ward, O.W.	Snyder Shoaff Sprague Miller's Mare Vol. 1 - 88, 111, 122, 135, 153, 153, 154, 168
		Todd, H.H.	1-88
		Heaton, Daniel	3-20
		Heaton, Paul	none in vol. 1 ~~1-67 1-168~~
		Ferguson, James	1-67 Sweetwater Creek
		Ferguson, SB	1-167 1-168
		Jones, Newman	none in vol. 1
		Hite, J.R.	1-19, 29, 55, 61, 77, 87

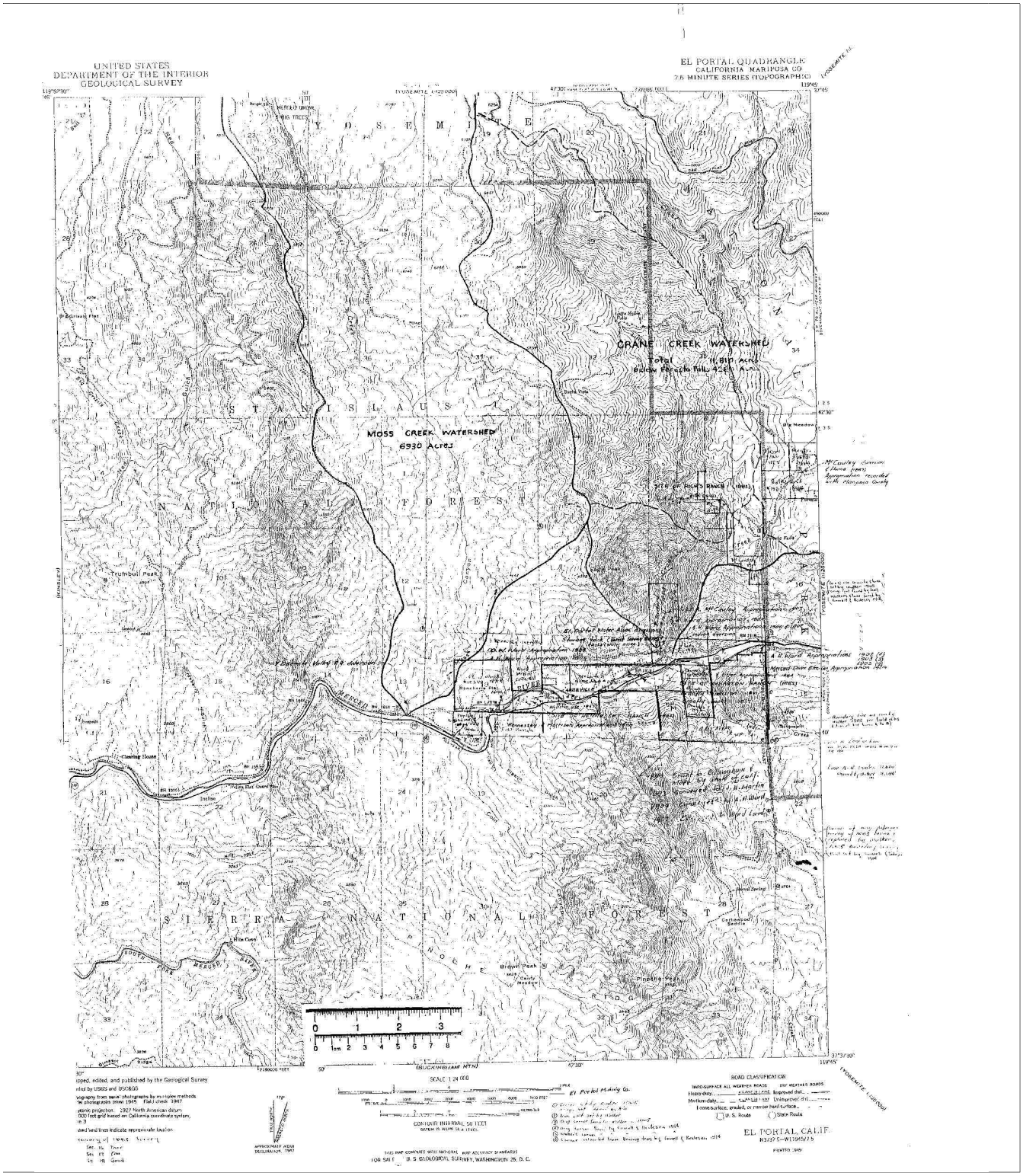
Merced R (Rutherford Mill site) see 22 T3S R19E

Vol 2 Vol 3

✓ Ward, ~~Hall~~ Harold C. 2-232, 245, 261, 265

✓ Merced River Elec. Co. 3·29, 65-67-70-74

00-00-1949: topographic map of moss creek watershed



Other Supporting Information

COPY

August 19, 1959

Memorandum

To: Regional Director, Region Four

From: Acting Chief, Division of Operations

Subject: Water Right Programs for the four National Parks in California

We have heard, indirectly, that there is a possibility that your office has in mind the early filing of about 50 applications you are having prepared for the appropriation of water in Yosemite and the other National parks in California. If so, we do not appear to have made the reason clear for having previously requested that a history and study be made of our claims, with a statement of each prepared so we could file them if necessary. It was not our intent to have the claims filed with the State Water Rights Board. We also desired a complete set of data for each claim in one of the parks, preferably Yosemite because of the variety of claims, for preliminary review and consideration by the Solicitor's Office. Developments since 1956 below Yosemite, Sequoia and Kings Canyon National Parks indicate that all Federal claims should be defined to support protests of private developments as they are proposed.

The memoranda of February 6, 1956, from Mr. Dunn, and April 26, 1956, from former Assistant Director Allen, related to the compilation of records of the basin of Federal water claim for legal study, as follows:

1. Map showing entire park, or portion in major drainage with:

a. History of land status, such as withdrawals and reservations; subdivision; patents; and federal acquisitions, with dates.

b. Progressive sources of water development and places of use with ties to section corners, and stream drainage from sources to Park boundary.

2. Description of successive water developments and uses, including method of diversion, water system capacity, purpose, and estimated maximum use when water system was

replaced, and present and probable ultimate water demand from existing and proposed water systems.

3. Population, irrigated area, and other data used for estimates given in item 2.

Fundamentally, the United States, through the Department of Justice is still relying on sovereign rights to the use of water on withdrawn reserved Federal lands, despite conflicting attitudes of the officials of several states and recurring bills by which Congress might subject the United States to the water laws of those states. You were requested by memorandum of April 26, 1956, from the Assistant Director, to initiate program of surveys and the investigation of historical land status and water use in the four California parks, and to provide factual statements of claim from which the Solicitor can determine the procedure to follow in determining how to comply with state water laws, or facilitate the state water administration, and to provide the basis for protest of downstream appropriations when necessary.

It was anticipated that a few of the claims for new appropriations might be filed as water right applications, but that may more would be found to be based on priorities of use before 1914 which can only be established by adjudication. The adjudications would probably be inopportune at this time. Only the factual records, as dockets, should be completed until after the Solicitor decides what, if any, immediate action is needed. In order to make such decisions, it will be necessary to have the complete story to trace water use from the first appropriation through successive changes in points of diversion, places and purposes of use to the present day.

Mr. Dunn anticipated, in 1956, that you would prepare the records for Yosemite first, because there are probably more of the different bases of water claim for the Solicitor's (or Regional Solicitor's) consideration. However, we wish the information for all of the parks, and the work may be distributed to the extent that funds and personnel permit.

The water rights procedure for the El Portal area differs from that for Yosemite National Park because there is no exclusive jurisdiction, much of the land has been patented and then reacquired by the United States, and the reacquired patented land has riparian rights and some appurtenant claims based on county filings which may

still be valid. By memorandum of July 15, Mr. Dunn offered comments on your draft of an application for the appropriation of Moss Creek, but advised that we would like to have the comments of the Regional Solicitor before giving clearance for filing. He also advised against a statement which implied abandonment of some Federal claims to water in the Park and the substitution of a 1959 claim to water of Moss Creek, for similar use, which may be protested by the Merced Irrigation District and other lower water claimants.

At this writing, we are also considering the need for conditions in pending license under Federal Power Permit 2179 of the Merced Irrigation District, which might be desirable to protest the Federal interests upstream. We do not have statements of the Federal claim similar to those used in protest of Application 15880 on the Tuolumne, for either the Park area or El Portal administrative area, but our studies are more advanced in the latter case. The Federal claims to water in the Merced drainage would be helpful at this time, and should be given high priority in your program.

We are attaching copies of ten letters and memoranda of which you have received previous copies, but which will be more comprehensive for this discussion if reviewed in connection with the study program instead of the particular problems to which they relate. You will note that they are variously filed under L-54, L-1425, and L-2415.

Acting Chief, Division of Operations

Attachments 10

Copy to: Filed Solicitor, Region Four (2)

LIST OF ATTACHED CORRESPONDENCE

1. Letter of December 7, 1953, to Mr. Dunn from the Office of the State Engineer, requesting that a supplemental application should be filed for the use of waters in the Big Stump Area, Kings Canyon, in excess of rights under License 961 which was established by private interests to which the Untied States has possessorship interest.

2. Letter of February 18, 1954, to the State Engineer from the Assistant Director, advising that we would file the application for the appropriation of supplemental water under conditions suggested by the Solicitor's Office.

3. Memorandum of December 6, 1954, to the Solicitor from the Assistant Director, requesting clarification of the water rights procedure of the Park Service.

4. Memorandum of June 10, 1955, to Acting Assistant Solicitor from Assistant Director, being a follow-up of memorandum of December 6, 1954, because of "complete" appropriation of the Merced River below Yosemite, under Water Right Applications 16186 and 16187, and Federal Power Permit 2179 of Merced Irrigation District.

5. Memorandum of June 21, 1955, to Director from Assistant Solicitor, advising that memorandum of December 6, 1954, was still under study, and the additional interests in memorandum of June 10, 1955, would also be presented for consideration.

6. Memorandum of September 14, 1955, to Assistant Solicitor from Assistant Director, presenting the further conflict of proposed appropriation of water within the Yosemite under Water Right Application 15880 of Tuolumne County Water District No. 2, below unrecorded Federal water uses from that River and its tributaries.

7. Memorandum of October 3, 1955, to Director from Acting Assistant Solicitor, partially in answer to memoranda of December 6, 1954, and June 10, 1955, recommending that the National Park Service should "continue" to file water claims under state laws, "<u>regardless of possible exclusive jurisdiction</u>", and that the matter of protesting application 15880 of Tuolumne Water District No. 2 should be referred to Regional and Field Solicitors.

8. Teletype of November 14, 1955, to Acting Regional Solicitor from Assistant Director, supplying requested information requested by letter, on points of diversion and quantities of present and ultimate water use at 11 Federal developments where unrecorded Federal water claims were jeopardized by proposed appropriation of water under Application 15880 of Tuolumne County Water District No. 2. The

significant point is that data had to be computed and compiled because the Park Service had not determined quantitative or legal basis of water claims in any California National Parks.

9. Memorandum of February 6, 1956, to Regional Director from Chief, Water Resources Section, outlining a program to complete the inventory and historical basis of Federal water rights in Yosemite for MISSION 66, possible use in protest of downstream appropriations, and for study by the Regional Solicitor to determine if applications or other records of use should be filed for any of the water developments.

10. Memorandum of April 26, 1956, to Regional Director form Assistant Director, which was approved by the Solicitor' Office, directing that necessary water right surveys be initiated in the California parks in 1957 and later, and that statements of claim be prepared for consideration by the Solicitor (or his regional representative). This did not constitute instructions to file and applications the State Water Rights Board.

L-54

July 29, 1959

WESTERN REGION & CO
JUL 31
CHIEF
ADMIN. AN
PERSONNEL
PLANS & OP
SAFETY
ARCHITECT
ENGINEER
LAND. ARCH.
ACTION TAKEN

Memorandum

To: Superintendent, Yosemite

From: Acting Regional Chief of Operations, Region Four

Subject: Water Right Application, Moss Creek, El Portal

By memorandum of July 15 Mr. Dunn made extensive comments on the draft of the subject application transmitted with our memorandum of June 23.

It should be noted that we are preparing only one application, being the subject Moss Creek application. No application is contemplated for the well proposed to temporarily serve the Trailer Court. We have assumed that the well even if it actually taps Merced River flow is an exercise of our Riparian Rights and needs no appropriative application.

Mr. Dunn refers to possible protest by the Merced Irrigation District unless the total potential use under each basis of rights is clarified. We do not think it is possible to fully clarify future use under the other rights referred to in answer to Question 12 other than to briefly state that use under county filings will be limited to past beneficial use and that use under riparian rights will conform to California Law. It is our understanding that under the latter (riparian) right there can be no definite fixed amount.

Making an offhand estimate of the amounts of existing appropriative rights under the three county filings, the most we could substantiate by past use would be in the range of 10,000 gallons per day under the Hennessey and Morrison filing, a like amount under the Wharton and Utter filing and 250,000 gallons per day under the O. W. Ward filing for Crane Creek. We have assumed that the present El Portal community is exercising the Ward right and the 250,000 GPD is the claim of El Portal Water System, Inc., in its December 12, 1958 protest to MID Applications 16186 and 16187.

However, to simplify the application and to avoid "inviting protests by telling too much," we are willing to eliminate all reference to County filings and propose to do so in the next revision of the application. Unless advised otherwise we intend to retain a reference to riparian rights but using only the brief sentence suggested by Mr. Dunn on page 2 of his July 15 memorandum.

We propose to revise the answer to Question 11, Place of Use, as Mr. Dunn suggests.

We propose to change 12A as Mr. Dunn suggests but to leave out 12B, County filings, entirely as discussed above. The statement concerning the El Portal Community we propose to renumber 12B and to reword as follows:

"Part of the El Portal community having a continuing population of about 300 and served by the El Portal Water System, Inc., is not included in the estimates for this water claim."

We are agreeable to changing the wording in answer to Question 15, Municipal Use, as Mr. Dunn suggests.

We do not think the estimate of future water demand from Moss Creek should be increased. The amount is already more than the summer flow of Moss Creek which probably falls to less than 1 second foot. An increased claim would probably have to be reduced later to a reasonable amount. Additional water, if needed, will have to come from Crane Creek, Indian Creek or the Merced River.

In regard to timing of the filing of the application, we point out that there is a possibility construction may be advanced to fiscal year 1961 and that ample time should be allowed to establish rights to Moss Creek. We think the application should be filed as soon as possible.

If agreeable with you, the Regional Solicitor and Mr. Dunn, we will prepare a revised application as discussed above.

G. F. WHITWORTH

George F. Whitworth
Acting Regional Chief of Operations

Copy to: Director
Chief, WODC
Field Solicitor McClellan (2)

IN REPLY REFER TO:
L54-CBL

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

RECEIVED
REGION FOUR OFFICE
JUL 20 '59

SURNAME	DATE
REG. DIR.	
ASST. R.D.	
OPERATIONS	
ADMIN.	
RECREATION	
INTERP.	
LEGAL	

July 15, 1959

Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Section

Please check with McClellan →

Subject: Application for the Appropriation of Water of Moss Creek, El Portal Area, Yosemite

The revised application, which we have received with copy of Mr. Wosky's memorandum of June 23 to the Superintendent, is more comprehensible than the draft of February 5, but I believe we may invite protests by telling too much. In answering questions I raised on February 16, a number of other broad questions came to my mind. I should like to have the Regional Solicitor's reaction to both the application and this memorandum.

You are now preparing both this application and one for the well to serve the Trailer Court, which are to constitute new appropriations. The subject application indicates that the administrative Site is largely federally reacquired patented land with riparian status and certain appurtenant rights based on county filings. Lessees are to have some service from the Moss Creek systems, but also have one or more water systems with independent rights or claims to which the United States does not assert present title or control. Some of the proposed municipal use is also to replace use previously made in the Park ("operations now based in the Park", second sentence, page 2 of supplement). The application terminates with the statement prescribed by the Solicitor's Office, that nothing shall constitute a waiver of any of the other Federal rights or claims I have listed.

If I represented the Merced Irrigation District I should protest the application until the total potential use under each basis of rights is clarified. Despite the "saving" statement at the close of the application, most of the statements in the three page supplement (1, 1a and 2) will place the United States on the defensive to preserve priorities of earlier uses which may be contemporary with, or earlier than most of the rights and claims of the Merced Irrigation District.

Subject to the Regional Solicitor's concurrence, I should follow your "municipal" in question 3 with "purposes to the extent of beneficial needs supplement to diversions under other rights as they exist or may be amended", and delete "purposes" at end of second line.

It might be well to add "on Federal land in Stanislaus National Forest" on second line, question 4, and indicate Federal ownership of proper portion of Sec. 7 on map.

In answer to question 10 the present development is scheduled for completion by 1966 and full use of 2 sec.ft. of water should be timed in accordance with answer to question 15 on which comments follow. As a municipal development there should be no present implication of finality.

I am not sure whether California requires a metes and bounds description of a municipal area, but Utah does. I believe the description would be acceptable in any case. I suggest that "11-Place of Use" on the supplement be revised to read:

> The municipal area consists of an Administrative Site, designated as El Portal, outside but adjacent to Yosemite National Park, which has been established under the act of September 2, 1958 (72 Stat. 1772), in Sections 16, 17 and 18, T 3 S, R 20 E, and Sec. 13, T 3 S, R 19 E, MDB&M, beginning ..... (continue with traverse by courses along lines of section subdivisions).
>
> The municipal area includes unpatented Federal land formerly in Stanislaus National Forest; the privately-owned $SE\frac{1}{4}$ $SW\frac{1}{4}$ $NW\frac{1}{4}$ and $NE\frac{1}{4}$ $NE\frac{1}{4}$ $SW\frac{1}{4}$ (?) said Sec. 16; and the following patented land which the United States has acquired from the El Portal Mining Company (Company omitted on your supplement) subject to existing leases to residents of the El Portal community:
>
> (give table as on your supplement under 12A, but no further comments)
>
> In answer to 12:
>
> A. The United States claims title to all riparian use heretofore made by the El Portal Mining Company, and its

aforesaid lessees; or other riparian diversions it may make.

B. The United States claims title to valid rights under the following county filings which are appurtenant to the aforesaid federally acquired patented land:

(give table under 12B, page 1a of supplement but I question whether we should rule out other claims as suggested in Mr. Wosky's pp 12B)

C. Part of the El Portal community is now served by the privately-owned _____ water system (or water system of the _____ water company), and a continuing population of about 300 are not included in estimates for this water claim.

I believe that the "El Portal Community in the said Administrative Site for Yosemite" would sound better than "operating base", in statement 15 on form. "Operating base" might imply undesirable abandonment of operations and established water rights in the Park. For the same reason I should delete the portion of second sentence, page 2 of supplement, which relates to transfer of "operations" now based in Yosemite Valley. As an alternative the Administrative Site can be considered as providing supplemental facilities for operations in the Park. We must not jeopardize the undefined water claims based on long use in the Park.

It also seems to me that the estimated water demands of 1966, 1971 and 1976 might be stretched a bit to exceed 2.0 sec.ft. by 1976. I think at least 0.5 sec.ft., and perhaps 1.0 sec.ft., should be included for garden and lawn irrigation by 1976, with proportionate earlier amounts. You should also be sure to add about 10% to 15% to all estimates because of the facts that quantities are estimates, and there is a trend of increasing per capita national water use.

Except to support protest of application of Merced Irrigation District, and this is only one of numerous Federal claims in Yosemite for that purpose, this application should not be filed until resulting permit will be within a year of the

start of construction. It is likely to be protested in any form. Hence, I believe that all aspects should be fully considered before the filing is made. I am offering suggestions for further consideration, and not prescribing revisions in this memorandum.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Yosemite
Chief, WODC (2)
Field Solicitor McClellan (2)

WR Copy (2)

L-54

June 23, 1959

Memorandum

To: Superintendent, Yosemite National Park

From: Regional Chief of Operations, Region Four

Subject: Water Right Application, Moss Creek, El Portal

Attached are the original and one copy of an application and supporting map for appropriation of the water of Moss Creek for use at the El Portal Administrative Area.

Copies are being distributed for review by the Director, Chief, WODC, and the Regional Solicitor. Upon receipt of notice of concurrence of these three offices the original may be signed and submitted to the State Water Rights Board.

The application is a revision of the draft submitted with our memorandum of February 10. Changes have been made in accordance with your memorandum of February 18, PCP U-109, and Mr. Dunn's memoranda of February 16, March 25, May 4(2) and June 4.

We make the following detailed explanation of the numbered paragraphs of the application:

2. The amount has been increased to 2.00 cfs as suggested by Mr. Dunn although the final license may have to be worded "when available" since the late summer flow probably will be less.

3. Municipal use only has been claimed as Mr. Dunn suggested. In this regard we understand that the existing residents will be served by the Park Service System through laterals constructed by the permittees. However, the present Moss Creek application makes no claims for permittees use because such use, we believe, is covered by existing rights as discussed below. We contemplate that the existing system used by permittees will continue to divert from Crane Creek until such time as the Park Service constructs replacement works on Crane Creek. The assumption is made that whatever water rights are held by the El Portal Water Association will be taken over by the Park Service.

4. The point of diversion has been relocated higher up the stream as recommended February 18 by Mr. Neilson. The survey tie is a scaled tie to the nearest known permanent corner.

5. Main conduit terminus has been selected as the site of the reservoir above Hi Portal.

6. Dimensions of the diversion dam were arbitrarily selected by this office, since planning has not advanced beyond the stage of preliminary requirements.

7. Reservoirs have been changed to 2 - 500,000 gallon tanks rather than a single million gallon tank to conform to PCP U-109.

8(b) Pipeline sizes and total length conform to PCP U-109.

9. The controlling grade of the 8-inch line from point of diversion to the tank was selected to give a capacity slightly larger than 2.0 cfs, the claimed amount.

The estimated cost was made equal to the construction estimate of PCP U-109. Actually the PCP includes diversion works on Crane Creek which are not part of the Moss Creek water but costs may be balanced by the fact that there may be construction after 1966 chargeable to the Moss Creek system.

10. Construction beginning date was selected on the assumption that the water system will be in the 1962 fiscal year program.

The completion date of July 1966 allows for some delay and subsequent additions to the work listed on PCP U-109.

The date water will be completely applied to the proposed use has been shown as "about 1971" as suggested by Mr. Dunn in the next to the last paragraph of his February 16 memorandum. We are aware of an inconsistency in that elsewhere the application states that the 1971 use will be 1.24 cfs and that continued growth is expected beyond 1976.

11. The place of use has been described as the entire area administered by the Park Service using the terminology of the third paragraph of Mr. Dunn's February 16 memorandum.

12. The description of existing rights has been extensively revised following Mr. Dunn's suggestions of February 18 and May 4.

12A. The reference to possible loss of riparian rights has been deleted. The suggested paragraph concerning patented lands was added.

12B. Of the 19 or so county water right filings made for water in the Hi Portal area, we believe only three fit the State's requirement of Paragraph 12, Other Rights. The lands on which Moss Creek

water is to be used have been supplied in the past with water possibly covered by county filings as listed on the application. The degree to which continued use can be proved and the chain of interest in the rights are difficult to establish. We thought reference should be made to permit the establishment of early appropriative priorities should they be needed in the future.

The chains of interest in the three filings as near as we can determine are as follows:

a. The first filing, that of Hennessey and Harrison, apparently covered use in the vicinity of area now known as "Abbeville." This land was patented by Augustus H. Ward in 1890. No record of the transfer of the water right from Hennessey and Harrison to Ward has been found but a 1906 agreement between Ward and others reserves Ward Land Company the right to divert water to the "Hennessey Ranch." Through succession the United States presumably now has the right. The actual use appears to have been first for mining use, followed by a small ranch with irrigated crops and more recently domestic use by residents leasing from the El Portal Mining Company. Some years ago direct diversion from the river was abandoned in favor of wells except for occasional pumping from the river when wells went dry. At best, the record of use provides only a tenuous claim for a small amount of water dating from the early filing.

b. The chain of interest and use under the 1854 Wharton and Utter filing is even more obscure. The appropriation was for water to be taken from the Merced River apparently near Crane Creek and conveyed for use somewhere near the present Standard Oil bulk plant. We have no evidence that actual use was made. Wharton received a patent in 1854 for lands at the present El Portal, his interests being sold to Oliver Ward, then to Augustus Ward and through succession to the United States. Reference to this filing has been included because further study may be able to establish it as the original appropriative right covering the use of water pumped from the Merced River.

c. The 1888 filing by O. W. Ward to Crane Creek offers the best continuous record of use and probably can be established as the right covering recent use by permittees at El Portal concurrent with a riparian right of the land owner (now the United States) to the same water. The chain of interest in the right has been covered in the tabulation attached to our memorandum of February 20, 1959 to the Director. Briefly, the appropriation was for use of water on Ward's ranch (the present El Portal) and later for other facilities on the site as evidenced by references in various recorded deeds and agreements although the right is not referred to specifically by the county recording. The chain of interest shows a division of the right, but the active portion is apparently now held by the United States.

We are not certain reference to these three filings should be shown on the application. We make reference only because the form called for a listing of rights under which water is served to the subject land. If it is desired to eliminate this portion the second page of the supplement can be removed and the reference under paragraph 12 can be erased.

It should be noted while on the subject of other rights, that Application 10483 covers use by Forest Service lessees at El Portal. In accordance with the instructions, Paragraph 12, that rights on file with the State Water Rights Board be excepted, no reference was made to this right on the application.

21. The final statement concerning a waiver of other rights was added as Mr. Dunn reminded.

(SGD) JOHN B. WOSKY
John B. Wosky
Regional Chief of Operations

Attachments

Copy to: Director (w/attachments)
Chief, WSRS (2) (w/attachments)
Regional Solicitor (w/attachments)

FILE IN DUPLICATE

[For full information concerning the filling out of this form refer to Article 4 of Rules and Regulations Pertaining to Appropriation of Water]

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

Application No. _____ Filed _____ (Applicant must not fill in the above blanks) at _____ M.

APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER

I, John C. Preston for the United States of America (Name of applicant)

of Yosemite National Park - Box 577, Yosemite (Address) County of Mariposa

State of California, do hereby make application for a permit to appropriate the following described unappropriated waters of the State of California, *SUBJECT TO VESTED RIGHTS:*

Source, Amount, Use and Location of Diversion Works

1. **The source** of the proposed appropriation is Moss Creek (Give name of stream, lake, etc., if named; if unnamed state nature of source and that it is unnamed)

located in Mariposa County, tributary to Merced River

2. **The amount of water** which applicant desires to appropriate under this application is as follows:

(*a*) For diversion to be directly applied to beneficial use 2.00 (1 cubic foot per second equals 40 statute miner's inches or 646.317 gallons per day) cubic feet per second, to be diverted from January 1 (Beginning date) to December 31 (Closing date) of each year.

(*b*) For diversion to be stored and later applied to beneficial use _____ (1 acre-foot equals 325,851 gallons) acre-feet per annum, to be collected between _____ (Beginning date) and _____ (Closing date) of each season.

NOTE.—Answer (*a*) or (*b*) or both (*a*) and (*b*) as may be necessary. If amount under (*a*) is less than .025 cubic foot per second, state in gallons per day. Neither the amount nor the season may be increased after application is filed. If underground storage is proposed a special supplemental form will be supplied by the State Water Rights Board upon request.

3. **The use** to which the water is to be applied is municipal (Domestic, irrigation, power, municipal, mining, industrial, recreational) purposes.

4. **The point of diversion** is to be located 5850 feet N 15° 30' E of the Southwest corner (State bearing and distance or coordinate distances from section or quarter section corner) of Section 18, T 3 S, R 20 E, MDM

being within the SE 1/4, SW 1/4 (State 40-acre subdivision of public land survey or projection thereof) of Section 7, T. 3S, R. 20E, MD B. & M., in the County of Mariposa

5. **The main conduit** terminates in NW 1/4, NW 1/4 (State 40-acre subdivision of U. S. Government survey or projection thereof) Sec. 16, T. 3S, R. 20E, MD B. & M.

Description of Diversion Works

NOTE.—**An application cannot be approved for an amount grossly in excess of the estimated capacity of the diversion works.**

6. **Intake or Headworks** (fill only those blanks which apply)

(*a*) Diversion will be made by pumping from _____ (Sump, offset well, unobstructed channel, etc.)

(*b*) Diversion will be by gravity, the diverting dam being 8 feet in height (stream bed to level of overflow); 30 feet long on top; and constructed of concrete (Concrete, earth, brush, etc.)

(*c*) The storage dam will be _____ feet in height (stream bed to overflow level); _____ feet long on top; have a freeboard of _____ feet, and be constructed of _____ (Concrete, earth, etc.)

7. **Storage Reservoir** two 500,000 gallon steel tanks for regulation and fire protection. (Name)

The storage reservoir will flood lands in _____ (Indicate section or sections, also 40-acre subdivisions unless shown upon map)

It will have a surface area of _____ acres, and a capacity of _____ acre-feet.

☞ In case of insufficient space for answers in form, attach extra sheets at top of page 3 and cross reference.

FORM 1

8. **Conduit System** (describe main conduits only)

(a) Canal, ditch, flume: Width on top (at water line) _____ feet; width at bottom _____
Cross out two not used

feet; depth of water _____ feet; length _____ feet; grade _____ feet per 1,000 feet; materials of construction _____
Earth, rock, timber, etc.

(b) Pipe line: Diameter See supplement inches; length _____ feet; grade _____ feet per 1,000 feet; total $\frac{\text{fall}}{\text{lift}}$ from intake to outlet _____ feet; kind _____
Riveted steel, concrete, wood-stave, etc.

NOTE.—If a combination of different sizes or kinds of conduit is to be used, attach extra sheets with complete description, also show location of each clearly on map.

9. **The estimated capacity** of the diversion conduit or pumping plant proposed is 2.06 cubic feet per second
State cubic feet per second or gallons per minute

The estimated cost of the diversion works proposed is $261,000
Give only cost of intake, or headworks, pumps, storage reservoirs and main conduits described herein

Completion Schedule

10. **Construction work** will begin on or before July 1961 (Land acquisition and construction plans are now in progress)

Construction work will be completed on or before July 1966

The water will be completely applied to the proposed use on or before about July 1971

Description of Proposed Use

11. **Place of Use.** See supplement
State 40-acre subdivisions of the public land survey. If area is unsurveyed indicate the location as if lines of the public land survey were projected. In the case of irrigation use state the number of acres to be irrigated in each 40-acre tract, if space permits. If space does not permit listing of all 40-acre tracts, describe area in a general way and show detail upon map.

Do (es) applicant (s) own the land whereon use of water will be made? Yes (Yes or No) Jointly? _____ (Yes or No)

If applicant does not own land whereon use of water will be made, give name and address of owner and state what arrangements have been made with him.

12. **Other Rights.** Describe all rights except those on file with the State Water Rights Board under which water is served to the above named lands.

Nature of Right (riparian, appropriative, purchased water, etc.)	Year of First Use	Use made in recent years including amount if known	Season of Use	Source of Other Supply
1. See Supplement				
2.				
3.				
4.				

Attach supplement at top of page 3 if necessary.

13. **Irrigation Use.** The area to be irrigated is _____ acres.
State net acreage to be irrigated

The segregation of acreage as to crops is as follows: Rice _____ acres; alfalfa _____ acres; orchard _____ acres; general crops _____ acres; pasture _____ acres.

NOTE.—Care should be taken that the various statements as to acreage are consistent with each other, with the statement in Paragraph 11, and with the map.

The irrigation season will begin about _____ (Beginning date) and end about _____ (Closing date)

14. **Power Use.** The total fall to be utilized is _____ feet.
Difference between nozzle or draft tube water level and first free water surface above

The maximum amount of water to be used through the penstock is _____ cubic feet per second.

The maximum theoretical horsepower capable of being generated by the works is _____ horsepower.
Second feet × fall ÷ 8.8

The use to which the power is to be applied is _____
For distribution and sale or private use, etc.

The nature of the works by means of which power is to be developed is _____
Turbine, Pelton wheel, etc.

The size of the nozzle to be used is _____ inches.

The water $\frac{\text{will}}{\text{will not}}$ be returned to _____ (Name stream) in _____ (State 40-acre subdivision) of

Sec. _____, T. _____, R. _____, _____ B. & M.

SUPPLEMENT

8. (b) Pipeline

Main pipeline from diversion to reservoir to be 2000 lin. ft. of 8-inch diameter pipe with grade 26.3 feet per 1000 feet. Mains from reservoir to places of use will be 20,000 lin. feet of 4-inch to 8-inch diameter pipe.

11. Place of Use

Those federally-owned portions of Sections 16, 17 and 18, T3S, R20E and Section 13, T3S, R19E, MD B&M, which have been established as an Administrative Site, outside of Yosemite National Park, under the Act of September 2, 1958 (72 Stat. 1772).

12. Other Rights

Water is served to the above named lands under the following rights:

A. Water has been used for domestic, irrigation, stock watering, mining and milling and power by riparian owners on the following patented tracts acquired by the United States:

(All in T 3 S, R 20 E, Md B&M)

Location	Acres	Patentee	Patent No.&Date	Recorded
SW 1/4 NW 1/4 Sec. 16) S 1/2 NE 1/4 Sec. 17) SE 1/4 NW 1/4 Sec. 17)	160	Leonidas G. Wharton	Homestead Cert. No. 1578, Aug. 1, 1884	Stockton Vol. 4 Page 460
SE 1/4 NW 1/4 Sec.18) SW 1/4 NE 1/4 Sec. 18) NW 1/4 SE 1/4 Sec. 18) NE 1/4 SW 1/4 Sec. 18)	160	Oliver W. Ward	Homestead Receipt No. 5158, Aug. 17, 1888	
N 1/2 SW 1/4 Sec. 17) SW 1/4 NW 1/4 Sec.17) NE 1/4 SE 1/4 Sec.18)	160	Augustus H. Ward	M.B.L. Warrant No. 80860, Oct. 16, 1890	Warrant Vol. 1130 Page 214

The above patented lands were acquired by the El Portal Mining, and significant portions were leased to residents of what has since constituted the El Portal community. The United States has acquired the lands subject to the leases until they expire, together with those riparian water uses which have been made.

SUPPLEMENT

B. The United States acquired with the purchase of El Portal Mining Company property certain appropriative rights established by use under the following Mariposa County filings:

Date of Filing	Stream	Appropriator	Point of Diversion	Place of Use	Recorded Vol.	Page
Jan.22, 1880	Merced R.	Hennessey & Morrison	In NE1/4SE1/4 Sec. 18	(NE1/4SE1/4Sec 18 (NW1/4SW1/4Sec 17	1	38
Apr. 14, 1884	Merced R.	Wharton & Utter	In SW1/4NW1/4 Sec. 16	(SW1/4NW1/4Sec 16 (S1/2NE1/4 Sec 17 (SE1/4NW1/4Sec 17	1	84
Feb. 27, 1888	Crane Cr.	O. W. Ward	In NW1/4NW1/4 Sec. 16	(SW1/4NW1/4 Sec.16 (S1/2 NE1/4 Sec.17 (SE1/4NW1/4 Sec.17	1	123

The water to which these rights apply is currently used for domestic purposes by lessees at El Portal and is water also covered by the riparian rights of the United States.

The application for the appropriation of water of Moss Creek herewith submitted is for water supplemental to that used under appropriative rights originating with the above county filings.

15. Municipal Use

The El Portal area has been acquired by the United States as an operating base and administrative unit to serve Yosemite National Park. Government and concessioner facilities as listed below including certain operations now based in Yosemite Valley, and including residences, community and commercial establishments and utility services will be supplied with water under this application.

Administrative Offices
Utility Shops
Warehouses
Fire Station
Schools
Medical Center

Residences, Apartments, Dormitory, Trailer Park — Estimated permanent population
1966 700 people
1971 900 "
1976 1100 "

Mess Hall
Community Center
Recreation Hall, Swimming Pool, Park, Vegetable Garden

Commercial Center
Picnic Grounds
Barn and Corral
Incinerator
Garbage Can Washing; Vehicle Washing
Sewage Disposal Plant
Dump
Other Facilities

The estimated average daily consumption by the above facilities during the month of maximum use at the end of each five-year period is as follows:

Year	Gallons per day	Cubic Feet per Second
1966	600,000	0.93
1971	800,000	1.24
1976	1,000,000	1.55

Continued growth is expected beyond 1976.

In addition to the above, residents under government lease in the existing community of El Portal with a present population of 300 will continue to be supplied by a system diverting from Crane Creek and occasionally by pumping from the Merced River.

DO NOT WRITE IN THIS SPACE
ATTACH EXTRA SHEETS HERE

15. **Municipal Use.** This application is made for the purpose of serving the El Portal (Name city or cities, town or towns. Urban areas only) operating base for Yosemite National Park having a present population of See supplement

The estimated average daily consumption during the month of maximum use at the end of each five-year period until the full amount applied for is put to beneficial use is as follows:

See supplement

16. **Mining Use.** The name of the mining property to be served is _____ (Name of claim) and the nature of the mines is _____ (Gold placer, quartz, etc.)

The method of utilizing the water is _____

It is estimated that the ultimate water requirement for this project will be _____ (Cubic feet per second, gallons per minute. State basis of estimate)

The water will / will not be polluted by chemicals or otherwise _____ (Explain nature of pollution, if any) and it will / will not be returned to _____ (Name stream) in _____ (State 40-acre subdivision) of Sec. _____, T. _____, R. _____, _____ B. & M.

17. **Other Uses.** The nature of the use proposed is See supplement (Industrial, recreational, domestic, stockwatering, fish culture, etc.)

State basis of determination of amount needed. _____ (Number of persons, residences, area of domestic lawns and gardens, number and kind of stock, type industrial use, and unit requirements.)

General

18. Are the maps as required by the Rules and Regulations filed with Application? Yes (Yes or No). If not, state specifically the time required for filing same _____

19. Does the applicant own the land at the proposed point of diversion? Yes (Yes or No). If not, give name and address of owner and state what steps have been taken to secure right of access thereto _____

20. What is the name of the post office most used by those living near the proposed point of diversion?
El Portal, California

21. What are the names and addresses of claimants of water from the source of supply below the proposed point of diversion? Merced Irrigation District, P.O. Box 759, Merced, California
Others unknown.

Nothing herein shall constitute a waiver of other rights the United States may have to the same water.

UNITED STATES OF AMERICA

[SIGNATURE OF APPLICANT] _____
By: John C. Preston
Superintendent, Yosemite National Park

APPLICANT MUST NOT FILL IN BLANKS BELOW

PERMIT No._____

This is to certify that the application of which the foregoing is a true and correct copy has been considered and approved by the State Water Rights Board SUBJECT TO VESTED RIGHTS and the following limitations and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used, and shall not exceed

2. The maximum amount herein stated may be reduced in the license if investigation so warrants.

3. Actual construction work shall begin on or before and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

4. Said construction work shall be completed on or before

5. Complete application of the water to the proposed use shall be made on or before

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: STATE WATER RIGHTS BOARD

80686 7-58 15M ⓤ SPO

Director

Application.....
Permit.....
License.....

STATE OF C IFORNIA—STATE WATER RIGHTS BOARD

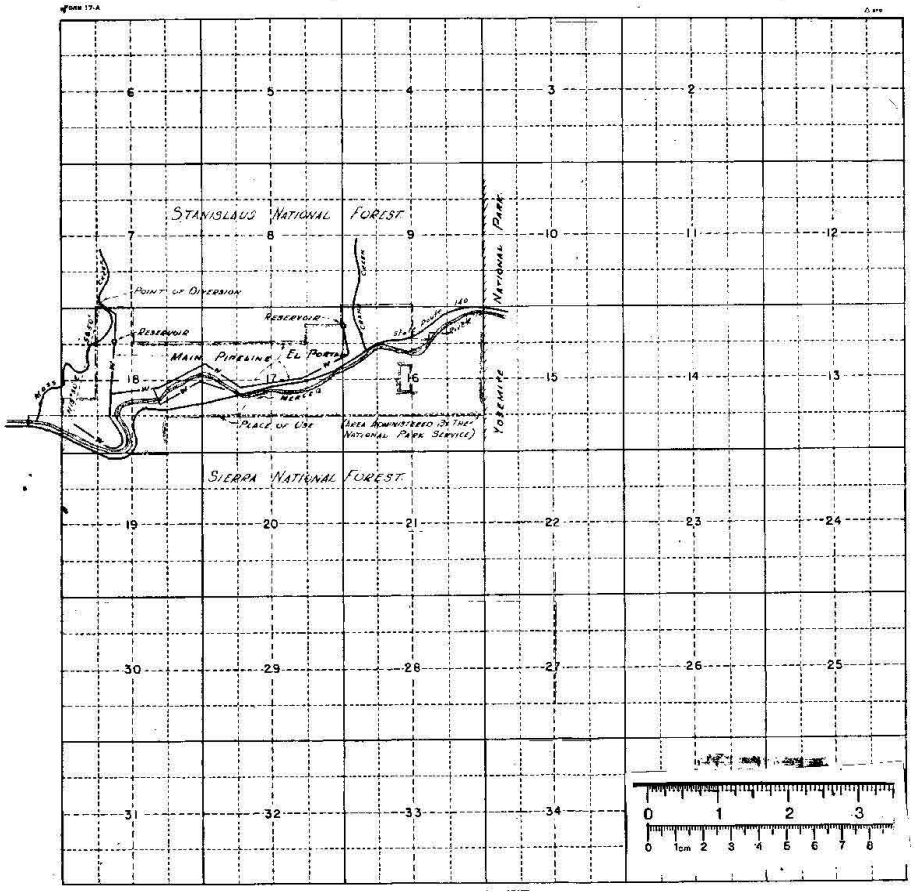
Applicant UNITED STATES OF AMERICA

Sec. 7, 16, 17 and 18 Township 3S Range 20E, MD Meridian

Mapped by SPAULDING AND PUTNAM

County MARIPOSA

NOTE.—Maps are to be drawn on this plat only when total amount of water to be diverted does not exceed three cubic feet per second for direct diversion or does not involve storage in a reservoir having a capacity in excess of 200 acre-feet. For amounts less or reservoirs smaller than those above stated the average applicant can prepare a very satisfactory map without the aid of a surveyor by observing instructions on the reverse side of this plat.



05-04-1959: memorandum to regional director, region four from chief, water resources section regarding map and table relating to

IN REPLY REFER TO:
L54-OBL

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

May 4, 1959

RECEIVED
NPS REGION FOUR OFFICE
MAY 11 '59

	SURNAME	DATE
REG. DIR.		
ASST. R.D.		
OPERATIONS		
ADMIN.		
RECREATION		
WATER		
LEGAL		

Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Section

Subject: Water Rights, El Portal Area, Yosemite

~~Spaulding~~ LSS 7/29

The map and table with the memorandum of February 20 from Mr. Whitworth have been reviewed with the other correspondence relating to the protest by El Portal Water System, Inc., of the Applications 16186 and 16187 of the Merced Irrigation District. I have written a separate memorandum concerning the latter.

See memo 6/23/59 to Supt. w/ all available data by memo of 6/23, application form & memo of 7/29. LSS

The Park Service should probably establish rights for the El Portal development about as it did for the Mariposa Area, claiming quieted title to any possible riparian rights, and any successorship interest in the rights or claims of El Portal Water System, Inc. There are still a number of unresolved questions in my comment on the El Portal Water System, Inc. protest of MID water right applications. We also need the plan of proposed water system.

I believe that Mr. Spaulding will have to prepare the application with as much claim as possible to earlier useage, and then see what treatment the application has when filed. The application should have the Regional Solicitor's approval before filing, and I will be glad to offer suggestions if there are questions.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Yosemite
Chief, WODC

File YOSE ~~Alien WR # 5~~
El Portal Docket
Copy in Alien WR No 5

IN REPLY REFER TO:
L54-OBL

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

RECEIVED
NPS REGION FOUR OFFICE
MAY 11 '59

	SURNAME	DATE
REG. DIR.		
ASST. R.D.		
OPERATIONS		
ADMIN.	✓	
RECREATION	✓	
WATER		
LEGAL		

X Spaulding 5-5 6/23

May 4, 1959

Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Section

Subject: Water Rights, El Portal Community Protest of Merced Irrigation District Applications, Alien Water Right No. 5, Yosemite

see memo To Hart, 6/23/59 Subject

The memorandum of February 24 from Mr. Whitworth, and memorandum of February 19 from Mr. Neilson with copy of letter of February 16 to El Portal Water System, Inc., from the Executive Officer of the State Water Rights Board, were inadvertently lost in other correspondence without reply.

I am filing the Executive Officer's letter above El Portal Water System, Inc., protest, in Part II, Alien Water Right No. 5.

The letter from the Executive Officer constitutes a dismissal of the protest of Applications 16186 and 16187, but may be interpreted two ways. The protest of December 12, 1958, indicates that El Portal Water System, Inc., claims riparian rights initiated prior to the effective date of the present water code on December 19, 1914. If El Portal Water System, Inc., has valid rights, they are senior to those of MID, and the diversions are above the reservoirs of MID, so that the El Portal rights may be exercised before the water reaches the MID reservoirs.

I am not sufficiently familiar with the ramifications of California riparian doctrine to know whether El Portal Water System, Inc., can continue to exercise those rights initiated by earlier land owners, without some form of amendment. I assume that El Portal Water System, Inc., does not own any land except water system easements, if those. The Miller and Lux Case may provide part of the answer. The Federal purchase of Raynor Creek lands and riparian interests, and the subsequent appropriation of the water to which riparian title was quieted, by Application 6729, YOS. Docket 1, is an example of the procedure which I think El Portal Water System, Inc., should have followed.

Planning Copy placed in A.W.-R. No. 5 7/7/59 HAT

The other interpretation of Mr. Hill's letter would be that Section 722 of the rules and regulations applies the still controversial question of preferred use in the "area of origin" of the water. This interpretation, if now established in the State, will permit the State Water Rights Board to honor rights to reasonable upstream water use which are junior to those downstream. This interpretation would be of vital significance to the Park Service both at El Portal, and in defining or establishing all other rights to the use of water in Yosemite and the other California parks.

The latter interpretation seems to be the only one applicable to the proposed NPS development at El Portal, except as the United States acquires established rights. I have previously asked, without apparent reply, whether the United States is to acquire the interests of the El Portal Water System, Inc., but without knowing the name or nature of the organization now providing the water.

clarified by memo of 6/23 transmitting draft of application

The above legal and planning questions should be answered.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Yosemite
Chief, WODC
Field Solicitor McClellan (2)

L-54

February 20, 1959

Spaulding LSS

Manbey

Whitworth

Memorandum (Airmail)

To: Director

From: Acting Regional Chief of Operations, Region Four

Subject: Water Rights, El Portal, Yosemite National Park

Attached are two prints of Drawing NP-YOS 2404 Water Rights of El Portal and two copies of a tabulation of the Chain of Interest in County filings in the El Portal area.

This material supplements the attachments to our memorandum of February 10 and supplies information requested in Mr. Dunn's October 1 memorandum.

G. F. WHITWORTH

George F. Whitworth
Acting Regional Chief of Operations

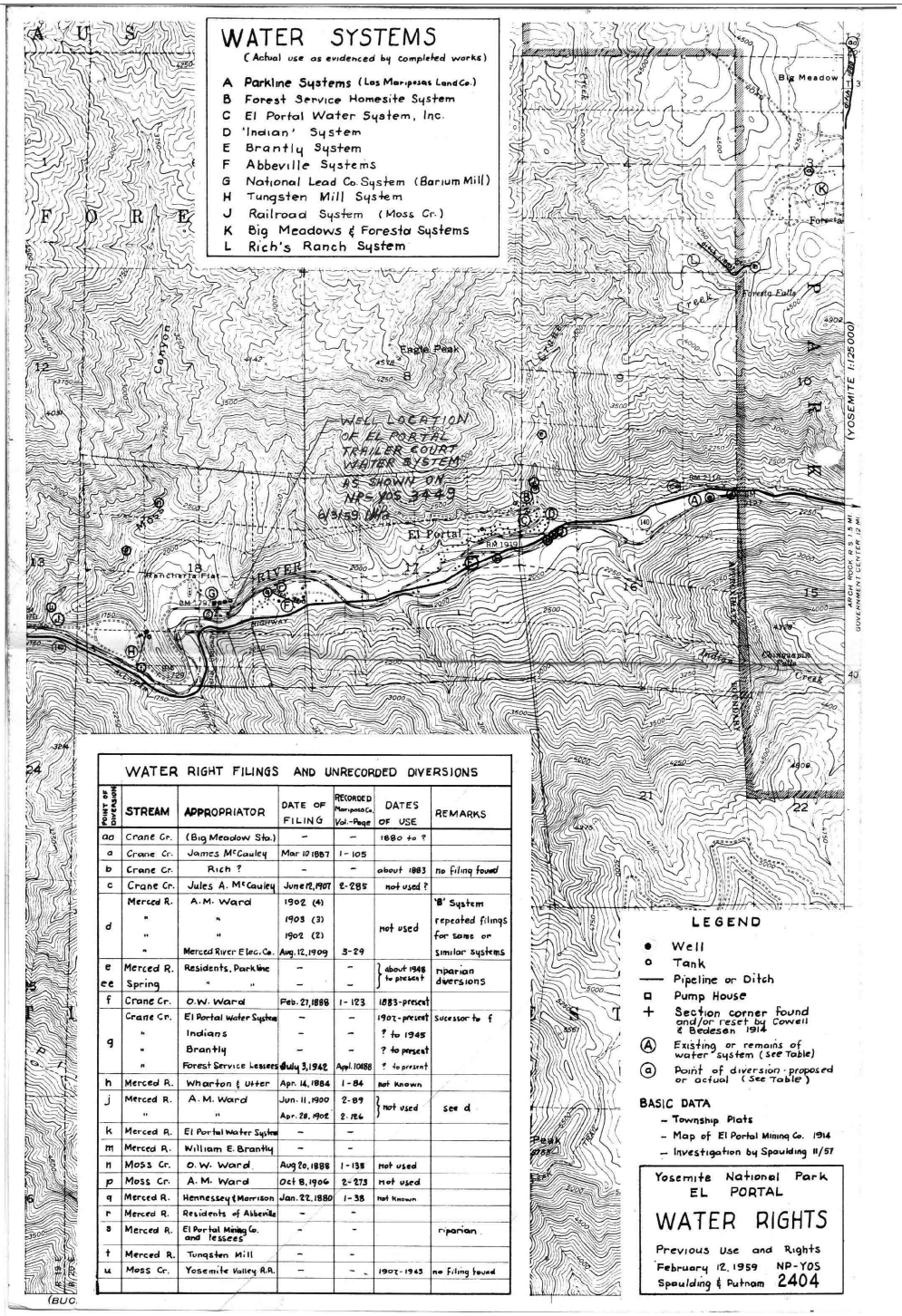
FILE COPY

Attachments

Copy to: Superintendent, Yosemite (w/attach.)
Chief, WORO(w/attach.)

LSSpaulding:hat

02-20-1959: map showing location of water right filings and unrecorded diversion



WATER RIGHT FILINGS AND UNRECORDED DIVERSIONS

POINT OF DIVERSION	STREAM	APPROPRIATOR	DATE OF FILING	RECORDED Mariposa Co. Vol.-Page	DATES OF USE	REMARKS
aa	Crane Cr.	(Big Meadow Sta.)	–	–	1880 to ?	
a	Crane Cr.	James McCauley	Mar 10 1887	1-105		
b	Crane Cr.	Rich ?	–	–	about 1883	no filing found
c	Crane Cr.	Jules A. McCauley	June 12, 1907	2-285	not used ?	
d	Merced R.	A.M. Ward	1902 (4)		not used	'B' System repeated filings for same or similar systems
	"	"	1903 (3)			
	"	"	1902 (2)			
	"	Merced River Elec. Co.	Aug. 12, 1909	3-29		
e	Merced R.	Residents, Parkline	–	–	about 1948 to present	riparian diversions
ee	Spring	" "	–	–		
f	Crane Cr.	O.W. Ward	Feb. 27, 1888	1-123	1883-present	
g	Crane Cr.	El Portal Water System	–	–	1907-present	Successor to f
	"	Indians	–	–	? to 1945	
	"	Brantly	–	–	? to present	
	"	Forest Service Lessees	July 3, 1942	Appl. 10488	? to present	
h	Merced R.	Wharton & Utter	Apr. 14, 1884	1-84	not known	
j	Merced R.	A.M. Ward	Jun. 11, 1900	2-89	not used	see d
	"	"	Apr. 28, 1902	2-186		
k	Merced R.	El Portal Water System	–	–		
m	Merced R.	William E. Brantly	–	–		
n	Moss Cr.	O.W. Ward	Aug 20, 1888	1-138	not used	
p	Moss Cr.	A.M. Ward	Oct 8, 1906	2-273	not used	
q	Merced R.	Hennessey & Morrison	Jan. 22, 1880	1-38	not known	
r	Merced R.	Residents of Abbeville	–	–		
s	Merced R.	El Portal Mining Co. and lessees	–	–		riparian
t	Merced R.	Tungsten Mill	–	–		
u	Moss Cr.	Yosemite Valley R.R.	–	–	1907-1945	no filing found

LEGEND
- Well
- Tank
- Pipeline or Ditch
- Pump House
- Section corner found and/or reset by Cowell & Bedesen 1914
- (A) Existing or remains of water system (see Table)
- (a) Point of diversion proposed or actual (See Table)

BASIC DATA
- Township Plats
- Map of El Portal Mining Co. 1914
- Investigation by Spaulding 11/57

Yosemite National Park
EL PORTAL
WATER RIGHTS
Previous Use and Rights
February 12, 1959 NP-YOS
Spaulding & Putnam 2404

5.

El Portal – Yosemite National Park
COUNTY WATER RIGHT FILINGS

Compiled by Spaulding
February 20, 1959
Revised 1/12/60 ESS

ORIGINAL FILING				CHAIN OF INTEREST				
DATE OF FILING	STREAM	APPROPRIATOR	RECORDED Vol.-Pg.	No.	DATE OF INSTRUMENT	TRANSACTION	RECORDED Book-Vol.-Pg.	REMARKS
Jan. 22, 1880	Merced R.	Hennessey & Morrison	1-38	1.	——	Although filing is not refered to this filing may have been acquired by A.H. Ward and thence to Ward Land Co.		mining & power use probably never made
				2.	Aug. 10, 1908	Right to divert to Hennessy Ranch reserved by Ward Land Co.	Agreements T-200	
				3.	Aug. 10, 1920	Ward Land Co. to El Portal Mining Co.		
				4.	Nov. 7, 1958	El Portal Mining Co. to United States	64-348	
Feb. 27, 1888	Crane Cr.	O.W. Ward	1-123			Although not specifically named in documents the chain of interest in this filing appears to be as follows:		
				1.	1896	O.W. Ward to A.H. Ward		~~no record~~
				2.	Jan 2. 1907	A.H. Ward to Ward Land Co.		~~no record~~
				3.	Aug. 10, 1908	Portion- Ward Land Co. to {T. Prather 2/3, A.H. Ward 1/3} / Portion-reserved by Ward Land Co.	Agreements T-200	
				4.	Nov. 1, 1909	Portion: Prather & Ward to Merced R. Elec.	Deeds 25-192	this portion never used
				5.	Dec. 28, 1911	Portion - Merced R. Elec. Co. to Merced R. E.P. Co.	Deeds 26-60	
				6.	Feb. 8, 1915	Portion - Merced R.E.P. Co. to Merced R. Elec	Deeds 27-181	
				7.		Portion - Merced R. Elec. to Las Mariposas Land		
				8.	Aug 10, 1920	Portion - Ward Land Co. to El Portal Mine		
				9.	Nov. 7, 1958	Portion - El Portal Mining to United States	64-348	
July 15, 1902	Merced R.	Augustus H. Ward	2-134	1.	Jan. 2, 1907	Augustus H. Ward to Ward Land Co.	Deeds 23-153	water under these filings never used
Feb. 11, 1905	"	" " "	2-220	2.	Aug 10, 1908	Ward Land Co. to Prather(2/3) & Ward (1/3) Excess reserved by Ward Land & R.R.	Agreements T-200	
Feb 15, 1905	"	" " "	2-220	3.	Nov. 1, 1909	Prather & Ward to Merced R. Elec. Co.	Deeds 25-192	
Oct. 2, 1911	"			4.	Dec. 22, 1911	Merced R. Elec. to Merced R. Elec. Power	Deeds 26-60	
				5.	Feb 8, 1915	Merced R. Elec. Power to Merced R. Elec.	Deeds 27-181	
				6.		Merced R. Elec. to Las Mariposas Land		
Oct. 6, 1906	Moss Cr.	Augustus H. Ward	2-273	1.	Jan. 2, 1907	Augustus H. Ward to Ward Land Co.	Deeds 23-153	use under this filing never made
				2.	Aug. 10, 1920	Ward Land Co. to El Portal Mining		
				3.	Nov. 7, 1958	El Portal Mining to United States	64-348	

02-16-1959: memorandum to regional director, region four from chief, water resources section regarding draft of feb. 5, 1959, of a

IN REPLY REFER TO:
L54-OBL

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

RECEIVED
NPS REGION FOUR
FEB 24 '59

February 16, 1959

Superintendent
Asst. Supt.
Adm. Officer
Engineer
Chief Ranger
Adm. Asst.
Naturalist
Forester
Mechanic
Landscape Arch.

SURNAME
REG. DIR.
ASST. R.D.
OPERATIONS
RECREATION
LEGAL

Memorandum (AIR MAIL)

To: Regional Director, Region Four

From: Chief, Water Resources Section

Subject: Draft of February 5, 1959, of Application for Appropriation of Moss Creek, El Portal Area, Yosemite

My analyses of the subject draft and Mr. Whitworth's memorandum of February 10, have been based on almost as much ignorance of the situation as those in the State Water Rights Board will have. Consequently, my comments are not entirely in the order of statements on the form.

The Statement 11, Place of Use, refers to the supplement, but I find no specific Statement 11 therein. The colored photostat of Drawing No. 2403 indicates that water systems from Crane, Indian, and Moss Creeks will probably overlap in areas E, F and G, to offer an opportunity to commingle and use any of the waters throughout the Administrative Site with the aid of future pumps, if desirable.

The following statement is suggested for the form or supplement, with corrections if in error, and with bracketed limitation to "federally-owned" land which should only be included if applicable.

> 11. Place of Use - Those federally-owned portions of Sec's. 9, 16, 17 and 18, T 3 S, R 20 E, and Sec. 13, T 3 S, R 19 E, MDB&M, which have been established as an Administrative Site, outside of Yosemite National Park, under the act of September 2, 1958 (72 Stat. 1772).

The boundary of the Administrative Site, and Federal lands therein, and in the adjacent Park and National Forest should be shown. I assume that the $SW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 9, including proposed Crane Creek diversion, and $W\frac{1}{2}$ $NW\frac{1}{4}$ and $NW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 18, T 3 S, R 20 E, are federally-owned, whether in the Administrative Site or National Forest. I believe that past correspondence has included the information that Moss Creek does traverse some private land, in either said Sec. 18, or Sec. 13, T 3 S, R 19 E, which should be shown.

It is not important to show the private land in $N\frac{1}{2}$ $SW\frac{1}{4}$ and $S\frac{1}{2}$ $NW\frac{1}{4}$ Sec. 16, T 3 S, R 20 E, in the file map if it is only

going to be used for the subject application, and there may be Federal acquisition before applications are filed for the appropriation of waters of Crane and Indian Creeks. However, I cannot see the urgency for filing the application for Moss Creek water before the March 10 deadline for comments on the amendment of Federal Power Permit 2179 of the Merced Irrigation District, as Mr. Whitworth suggests, unless necessary applications for new appropriations of Crane and Indian Creek waters are also filed.

The water claim under Statement 2(a) should be increased from 1.21 sec.ft. to 2.0 sec.ft., or any smaller pipe capacity which is being designed. It should certainly be for at least 25% more than the estimated demand given in the supplemental Statement 17 if there is that much August flow in Moss Creek and that capacity is to be provided. This is to provide for unanticipated increases in use before the proof for final license is made, perhaps as far in the future as 1975.

The 2.0 sec.ft. pipe capacity, with total fall of 202 feet, as given in Statement 9, is based on the profile of pipeline "A", with 1700 feet of 10 inch, and 1900 feet of 6 inch pipe. A gross fall of 241 feet would be needed to deliver 2.0 sec.ft. through 2200 feet of 8 inch and 1900 feet of 6 inch pipe, as described in Statement 8(b) of the supplement. On the other hand, there would only be a friction head loss of 94.7 feet to deliver 1.21 sec.ft. through the 2200 feet of 8 inch and 1900 feet of 6 inch pipe, leaving a residual pressure of 107.3 feet at the delivery to the reservoir. The true capacity at somewhere between 1.21 sec.ft. and 2.00 sec.ft., should be determined, and used in Statements 2(a) and 9.

I suggest that the asterisk and related reference to possible loss of riparian rights on $S\frac{1}{2}$ $NE\frac{1}{4}$ Sec. 17 be deleted from supplemental Statement 12-1, which should also be numbered 12 A. I also suggest consideration of the following revision of the next sentence, in order to have a loop-hole through which to balance protested appropriative claim against parallel decreasing riparian uses if necessary.

> The above patented lands were acquired by the El Portal Mining, and significant portions were leased to residents of what has since constituted the El Portal community. The United States has acquired the lands subject to the leases until they expire, together with those riparian water uses which have been made.

In the conferences on State water laws which I attended in Atlanta and Miami, last year, I learned for the first time that

the changing status of riparian lands, through subdivision and sale, is not the same in all states. All states recognize the initial riparian status of tracts patented to include or abut on streams and lakes except where patents are limited by meanders of the shores of navigable waters. If a parcel of such a patented tract which does not include or abut on water is subdivided and sold in some states, it loses its riparian status forever, as Mr. Whitworth and I have apparently both assumed. However, I found at the conferences that the owner of riparian lands in some states can purchase abutting nonriparian lands and thus give them a new riparian status for water use in the drainage of the streams or lakes. The Regional or Field Solicitor should be requested to determine which school of thought is recognized under the California land and water laws.

Statement 12 - 2, which should be 12 B, if included, concerning the use of water under the county filing of O. W. Ward is not clear. If all used on the private land in SE¼ NW¼ and NE¼ SW¼ of Sec. 16, it should not be listed in an application to appropriate Moss Creek water, but should probably be listed in Statement 21 of an application for Crane Creek water. If the system serves part of the federally acquired lands to be served by the Moss Creek supply, the question is whether the United States acquired a partial interest in the right, or its lessees are only purchasing water from the present owner of the system. Mr. Whitworth's separate memorandum, with attachment refers to "El Portal Water System, Inc.".

This brings us back to Statements 3 and 15, in which water is claimed for municipal purposes among others. We should attempt to establish municipal status for the federally developed Administrative Site as a whole, if possible. However, it is not clear to me whether that will conflict with any municipal water service being provided under the county filing of O. W. Ward, or whether the claim forces our hand in connection with the acquisition of the rest of the private land, and a public utility system.

If municipal use is claimed, the rest of the purposes designated in Statement 3 are superfluous, and the rest of the details given in supplemental Statements 13 and 17 should be included in supplemental Statement 15. I also advise against giving the total quantities of daily water use, and particularly against stating that the 1971 use will be "full use". The reason for claiming municipal status would be to establish a recognition of continuing growth. These estimates should be in the Park Service records, but the water right application should stress population trends from now (1959) to 1966, 1971, and possibly later, with corresponding increases in lawns, industrial or sanitary demands.

Except for area H, the municipal development appears to require water from Crane and Indian Creeks nearly as quickly as from Moss Creek, for operating reasons, but there is the suggestion that the entire quantity, can be initially appropriated from Moss Creek as a conflict with the immediate claims of the Merced Irrigation District and others. The file map, by not showing Crane and Indian Creek diversions, supports this suggestion. If the claim to Moss Creek water is adequate, as suggested, the one application may be sufficient at this time. A part of the right can then be transferred to diversions on Crane and Indian Creeks at a later date, with little or no difficulty.

In Statement 10, the beginning of construction should be reasonably prompt. See Article 18, page 42 (Sec. 778) of 1952 edition of Rules and Regulations, if available. If 1961 is used, there might be an interlinear statement to the effect that land acquisition and construction plans are now in progress. I should designate 1964 or even 1966 as time for completing water system (5 years are usually allowed). I should also indicate that complete application of the water for proposed use will be about 1971.

The following statement should be added below Statement 21 - just above signature:

> Nothing herein shall constitute a waiver of other rights the United States may have to the same water.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Yosemite
Chief, WODC

L-54

Spaulding 855

Whittaker

McClellan

Manbey BFM

February 10, 1959

Memorandum (Airmail)

To: Director

From: Acting Regional Chief of Operations, Region Four

Subject: Water Right Application, Moss Creek, El Portal
Yosemite National Park

FILE COPY

Attached are a draft of an application and copies of related papers for the appropriation of water of Moss Creek for National Park Service facilities at El Portal.

The attachments are:

1. Application draft of February 6, 1959.
2. Map to accompany application.
3. Drawing NP-YOS 2403, Water Rights and Tentative Water System, El Portal.
4. Preliminary cost estimate of Moss Creek Water System dated February 5, 1959.
5. Design sheet for Pipeline 'A', a part of the Moss Creek System, dated February 5, 1959

The application has been prepared on the basis of Master Plan Drawing NP-YOS 3415A, dated October 1958, approval of which has been withheld pending revision. The revision, apparently, will change the location of the utility area from the Railroad turn-around to Rancheria Flat. This change will have little effect upon the water right application which can be brought up to date in the final draft. Incidentally, the proposed change will improve the water right situation since it will put the utility area on riparian land.

The application proposes the use of Moss Creek for all water uses at the Utility Area, NPS and Concessioner's residential area, the trailer park, school and the lower additional facilities at El Portal commercial area and community center. Fire protection of the El Portal commercial area and community center as well as the existing residential area are too remote and at too high an elevation to be easily supplied from Moss Creek. These uses will have to be

supplied from Crane Creek or Indian Creek or from both. We expect that development south of the River opposite El Portal will be supplied from Indian Creek with a possible connection to the Crane Creek system, using either two reservoirs at equal elevation on opposite sides of the River or a single reservoir above El Portal. Drawing NP YOS-2403, a copy of which is attached, shows a tentative system serving all areas.

We have investigated the possibility of the existence of previous rights established by the diversion and use of Moss Creek water which the United States might have or acquire. Other than the railroad use which has lapsed and use within the Park at the Merced Grove Ranger Cabin, a Blister Rust Camp and a CCC Spike Camp, we found no evidence of use. Of the Mariposa County filings listed in our transmittal to you of August 26, we believe only the 1887 filing of James McCauley and the 1888 filing of G. W. Ward both on Crane Creek, show continuous use to the present time. The Ward right was divided by a subsequent conveyance, the present holders being, apparently, the United States and the Las Mariposas Land Company. The quantity of this latter right, however, is limited by past use of the El Portal community and could not, we understand, be increased for proposed development. The purchase of rights on upper Crane Creek and more efficient use of this stream offer a possible alternate source.

In the event our Moss Creek application is not successful we could resort to the use of Indian Creek under riparian rights or by purchase of Crane Creek rights. It may be that these sources will be needed in addition to Moss Creek since the late summer flow in the latter stream may be inadequate. These alternate sources are shown on drawing NP-YOS 2403.

By copy of this memorandum we are sending copies of the application and supporting material to Superintendent Preston and to the Chief, WODC. The application and water system described therein should be checked carefully to see that it conforms with present plans.

Upon the receipt of the comments of all concerned and with your approval we will prepare a final draft for submission by Superintendent Preston. It seems to us to be advantageous to have the application filed before expiration of the period for commenting on Federal Power Permit 2179 of the Merced Irrigation District. (The protest period for the MID water right applications apparently elapsed January 17.) Accordingly, we ask that comments be sent to arrive at this office not later than February 25 to allow submission a reasonable time before the March 10 deadline.

George F. Whitworth
Acting Regional Chief of Operations

LSSpaulding:hat

Attachments

Copy to: Supt., Yosemite w/attach.
Chief, WODC w/attach.

FILE IN DUPLICATE

[For full information concerning the filling out of this form refer to Article 4 of Rules and Regulations Pertaining to Appropriation of Water]

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

Draft of 2-5-59

Application No. ____ Filed ____ at ____ M.
(Applicant must not fill in the above blanks)

APPLICATION TO APPROPRIATE UNAPPROPRIATED WATER

I, John C. Preston for the United States of America
Name of applicant

of Yosemite National Park - Box 577, Yosemite County of Mariposa
Address

State of California, do hereby make application for a permit to appropriate the following described unappropriated waters of the State of California, *SUBJECT TO VESTED RIGHTS:*

Source, Amount, Use and Location of Diversion Works

1. The source of the proposed appropriation is Moss Creek
Give name of stream, lake, etc., if named; if unnamed state nature of source and that it is unnamed

located in Mariposa County, tributary to Merced River

2. The amount of water which applicant desires to appropriate under this application is as follows:

(a) For diversion to be directly applied to beneficial use 1.21 cubic feet per second
1 cubic foot per second equals 40 statute miner's inches or 646,317 gallons per day

to be diverted from January 1 to December 31 of each year.
Beginning date Closing date

(b) For diversion to be stored and later applied to beneficial use ____ acre-feet per annum
1 acre-foot equals 325,851 gallons

to be collected between ____ and ____ of each season.
Beginning date Closing date

NOTE.—Answer *(a)* or *(b)* or both *(a)* and *(b)* as may be necessary. If amount under *(a)* is less than .023 cubic foot per second, state in gallons per day. Neither the amount nor the season may be increased after application is filed. If underground storage is proposed a special supplemental form will be supplied by the State Water Rights Board upon request.

3. The use to which the water is to be applied is Domestic, irrigation, municipal and recreational
Domestic, irrigation, power, municipal, mining, industrial, recreational

purposes.

4. The point of diversion is to be located 900 feet South 60° 00' west from the north quarter
State bearing and distance or coordinate distances from section or quarter section corner

corner of Section 18, T 3 S, R 20 E, MDM

being within the NE 1/4, NW 1/4
State 40-acre subdivision of public land survey or projection thereof

of Section 18, T. 3S, R. 20E, MD B. & M., in the County of Mariposa

5. The main conduit terminates in NE 1/4, SW 1/4 of Sec. 18, T. 3S, R. 20E, MD B. & M.
State 40-acre subdivision of U. S. Government survey or projection thereof

Description of Diversion Works

NOTE.—An application cannot be approved for an amount grossly in excess of the estimated capacity of the diversion works.

6. Intake or Headworks (fill only those blanks which apply)

(a) Diversion will be made by pumping from ____
Sump, offset well, unobstructed channel, etc.

(b) Diversion will be by gravity, the diverting dam being 8 feet in height (stream bed to level of overflow); 30 feet long on top; and constructed of concrete
Concrete, earth, brush, etc.

(c) The storage dam will be ____ feet in height (stream bed to overflow level); ____ feet long on top, have a freeboard of ____ feet, and be constructed of ____
Concrete, earth, etc.

7. Storage Reservoir 1,000,000 gallon steel tank for regulation and fire protection
Name

The storage reservoir will flood lands in ____
Indicate section or sections, also 40-acre subdivisions unless shown upon map

Cross out each item above

It will have a surface area of ____ acres, and a capacity of ____ acre-feet.

In case of insufficient space for answers in form, attach extra sheets at top of page 3 and cross reference.

8. Concrete plants (describe where completed)

Form 1

8. **Conduit System** (de crib. .ain conduits only)

(a) Canal, ditch, flume: Width on top (at water line) ..... feet; width at bottom .....
Cross out two not used

feet; depth of water ..... feet; length ..... feet; grade ..... feet per 1,000 feet; materials of construction .....
Earth, rock, timber, etc.

(b) Pipe line: Diameter See supplement inches; length ..... feet; grade ..... feet per 1,000 feet; total $\frac{\text{fall}}{\text{lift}}$ from intake to outlet ..... feet; kind .....
Riveted steel, concrete, wood-stave, etc.

NOTE.—If a combination of different sizes or kinds of conduit is to be used, attach extra sheets with complete description, also show location of each clearly on map.

9. **The estimated capacity** of the diversion conduit or pumping plant proposed is 2.00 cubic feet per second
State cubic feet per second or gallons per minute

The estimated cost of the diversion works proposed is $240,000
Give only cost of intake, or headworks, pumps, storage reservoirs and main conduits described herein

Completion Schedule

10. **Construction work** will begin on or before July 1961

Construction work will be completed on or before October 1962

The water will be completely applied to the proposed use on or before July 1971

Description of Proposed Use

11. **Place of Use.** See supplement
State 40 acre subdivisions of the public land survey. If area is unsurveyed indicate the location as if lines of the public land survey were projected. In the case of irrigation use state the number of acres to be irrigated in each 40 acre tract, if space permits. If space does not permit listing of all 40-acre tracts, describe area in a general way and show detail upon map.

Do(es) applicant(s) own the land whereon use of water will be made? Yes (Yes or No) Jointly? ..... (Yes or No)

If applicant does not own land whereon use of water will be made, give name and address of owner and state what arrangements have been made with him.

12. **Other Rights.** Describe all rights except those on file with the State Water Rights Board under which water is served to the above named lands.

Nature of Right (riparian appropriative, purchased water, etc.)	Year of First Use	Use made in recent years including amount if known	Season of Use	Source of Other Supply
1. See Supplement				
2.				
3.				
4.				

Attach supplement at top of page 3 if necessary.

13. **Irrigation Use.** The area to be irrigated is See supplement acres.
State net acreage to be irrigated

The segregation of acreage as to crops is as follows: Rice ..... acres; alfalfa ..... acres; orchard ..... acres; general crops ..... acres; pasture ..... acres.

NOTE.—Care should be taken that the various statements as to acreage are consistent with each other, with the statement in Paragraph 11, and with the map.

The irrigation season will begin about ..... (Beginning date) and end about ..... (Closing date)

14. **Power Use.** The total fall to be utilized is ..... (Difference between nozzle or draft tube water level and first free water surface above) feet.

The maximum amount of water to be used through the penstock is ..... cubic feet per second.

The maximum theoretical horsepower capable of being generated by the works is ..... (Second feet × fall ÷ 8.8) horsepower.

The use to which the power is to be applied is ..... (For distribution and sale or private use, etc.)

The nature of the works by means of which power is to be developed is ..... (Turbine, Pelton wheel, etc.)

The size of the nozzle to be used is ..... inches.

The water will / will not be returned to ..... (Name stream) in ..... (State 40-acre subdivision) of Sec. ..... T. ....., R. ....., ... B. & M.

SUPPLEMENT

8. (b) Pipeline

Main pipeline from diversion to reservoir to be 2200 lin. ft. of 8-inch diameter steel pipe with grade of 35 feet per 1000 feet and 1900 lin. ft. of 6 inch diameter steel pipe with a net fall of 160 feet. Total fall from intake to outlet is 202 feet.

Distribution Lines

10,000 lin. feet 10-inch diameter pipe from reservoir to El Portal commercial area.
1200 lin. ft. 8-inch diameter from reservoir to Utility Area at site of R. R. turn-around.
800 lin. ft. 8-inch lateral to trailer park.

12. Other Rights

Water is served to the above named lands under the following rights:

1. Water has been used for domestic, irrigation, stock watering, mining and milling and power by riparian owners on the following patented tracts acquired by the United States:

(All in T 3 S, R 20 E, MD B.& M.)

Location	Acres	Patentee	Patent No. and Date	Recorded
SW 1/4,NW 1/4 Sec.16) S 1/2 NE 1/4 Sec. 17*)	160	Leonidas G. Wharton	Homestead Cert. No. 1578 Aug.1,1884	Stockton Vol.4 Page 460
SE 1/4 NW 1/4 Sec.17)				
SE 1/4, NW 1/4 Sec.18) SW 1/4, NE 1/4 Sec.18) NW 1/4, SE 1/4 Sec. 18) NE 1/4, SW 1/4 Sec. 18)	160	Oliver W. Ward	Homestead Receipt No.5158 Aug. 17,1888	
N 1/2,SW 1/4 Sec. 17) SW 1/4 NW 1/4 Sec.17) NE 1/4, SE 1/4 Sec.18)	160	Augustus H.Ward	M.B.L.Warrant No. 80860 Oct.16,1899	Warrant Vol.1130 Page 214

*A portion of this tract may have been divested of riparian rights.

Recent use under riparian rights has been for mining, milling and domestic use by the El Portal Mining Co. and its lessees at various points along the Merced River, the main use being by the El Portal Community.

2. In addition to riparian rights covering the same use, water has been used at El Portal by the appropriation of water of Crane Creek for domestic, irrigation, power and municipal uses.

This right is evidenced by the existing water system and by a water right filing with Mariposa County by O. W. Ward on February 27, 1888 for the use of 1000 miners inches for irrigation and stock watering, recorded in Volume 1, page 123 of Water Rights.

Amount of use is not known.

13. Irrigation Use

Water is to be used for shade trees, lawns, shrubs and vegetable gardens totaling 42 acres. The irrigation season will begin May 15 and end about October 1.

15. Municipal Use

The community of El Portal, with a present population of of 300 is presently being served by a system diverting from Crane Creek and occasionally by pumping from the Merced River.

Only the increased use at the commercial area and community center resulting from National Park Service development is to be supplied under this appropriation. It is expected that the El Portal residential area and part of the commercial area will continue to be supplied by the separate system.

The facilities to be served will include a multi-purpose office building, fire station, community building, medical center and church.

The estimated average daily consumption to be supplied from Moss Creek during the month of maximum use is as follows:

1966	80,000	gallons per day
1971	200,000	gallons per day (full use)

17. Other Use

(next page)

		Population		Unit	Use Gallons Per Day	
(a)	Domestic	1966	1971	Requirement	1966	1971
	NPS & Concessioner Residential Area	250	400	150 G.P.D.	37,500	60,000
	Trailer Park	450	500	50 "	22,500	25,000
	School (day use)	100	150	15 "	1,500	2,250
	Roadside Parks, Picnic Grounds (day)	1,000	2,000	5 "	5,000	10,000
	Community Park & Playground (day)	300	500	5 "	1,500	2,500
					68,000	99,750
(b)	Recreational Use Swimming Pool (Complete change twice a week)				40,000	40,000
(c)	Industrial Use NPS Utility Area, Incinerator, Sewage Disposal Plant, Garbage Can Washing, Vehicle Washing, Equipment Shops				65,000	100,000
(d)	Stock Watering	65 Mules and Horses		15	1,000	1,000

Summary of Use

USE	1966 Gallons per day	1966 Cu. Ft.Per Sec.	1971 G.P.D.	1971 Cu.Ft.Per Sec.
Irrigation	340,000	0.526	340,000	0.526
Municipal	80,000	0.124	200,000	0.310
Domestic	68,000	0.105	100,000	0.155
Recreational	40,000	0.062	40,000	0.062
Industrial	65,000	0.101	100,000	0.155
Stock Watering	1,000	0.002	1,000	0.002
Totals	594,000	0.920	781,000	1.210

DO NOT WRITE IN THIS SPACE
ATTACH EXTRA SHEETS HERE

15. **Municipal Use.** This application is made for the purpose of serving additional use at El Portal
Name city or cities, town or towns. Urban areas only
having a present population of 300

The estimated average daily consumption during the month of maximum use at the end of each five-year period until the full amount applied for is put to beneficial use is as follows:

See supplement

16. **Mining Use.** The name of the mining property to be served is
Name of claim
and the nature of the mines is
Gold placer, quartz, etc.

The method of utilizing the water is

It is estimated that the ultimate water requirement for this project will be
Cubic feet per second, gallons per minute. State basis of estimate

The water will / will not be polluted by chemicals or otherwise
Explain nature of pollution, if any
and it will / will not be returned to
Name stream
in
State 40-acre subdivision
of Sec. , T. , R. , B. & M.

17. **Other Uses.** The nature of the use proposed is See supplement
Industrial, recreational, domestic, stockwatering, fish culture, etc.

State basis of determination of amount needed.
Number of persons, residences, area of domestic lawns and gardens, number and kind of stock, type industrial use, and unit requirements.

General

18. Are the maps as required by the Rules and Regulations filed with Application? Yes
Yes or No
If not, state specifically the time required for filing same

19. Does the applicant own the land at the proposed point of diversion? Yes
Yes or No
If not, give name and address of owner and state what steps have been taken to secure right of access thereto

20. What is the name of the post office most used by those living near the proposed point of diversion?

El Portal, California

21. What are the names and addresses of claimants of water from the source of supply below the proposed point of diversion? Merced Irrigation District, P.O. Box 759, Merced, California

Others unknown.

UNITED STATES OF AMERICA

[Signature of Applicant] BY: John G. Preston

Superintendent, Yosemite National Park

APPLICANT MUST NOT FILL IN BLANKS BELOW

PERMIT No._____

This is to certify that the application of which the foregoing is a true and correct copy has been considered and approved by the State Water Rights Board SUBJECT TO VESTED RIGHTS and the following limitations and conditions:

1. The amount of water appropriated shall be limited to the amount which can be beneficially used, and shall not exceed

2. The maximum amount herein stated may be reduced in the license if investigation so warrants.

3. Actual construction work shall begin on or before and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

4. Said construction work shall be completed on or before

5. Complete application of the water to the proposed use shall be made on or before

6. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Rights Board until license is issued.

7. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

STATE WATER RIGHTS BOARD

Application .....
Permit .....
License .....

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

DRAFT of 2-5-59

Applicant United States of America

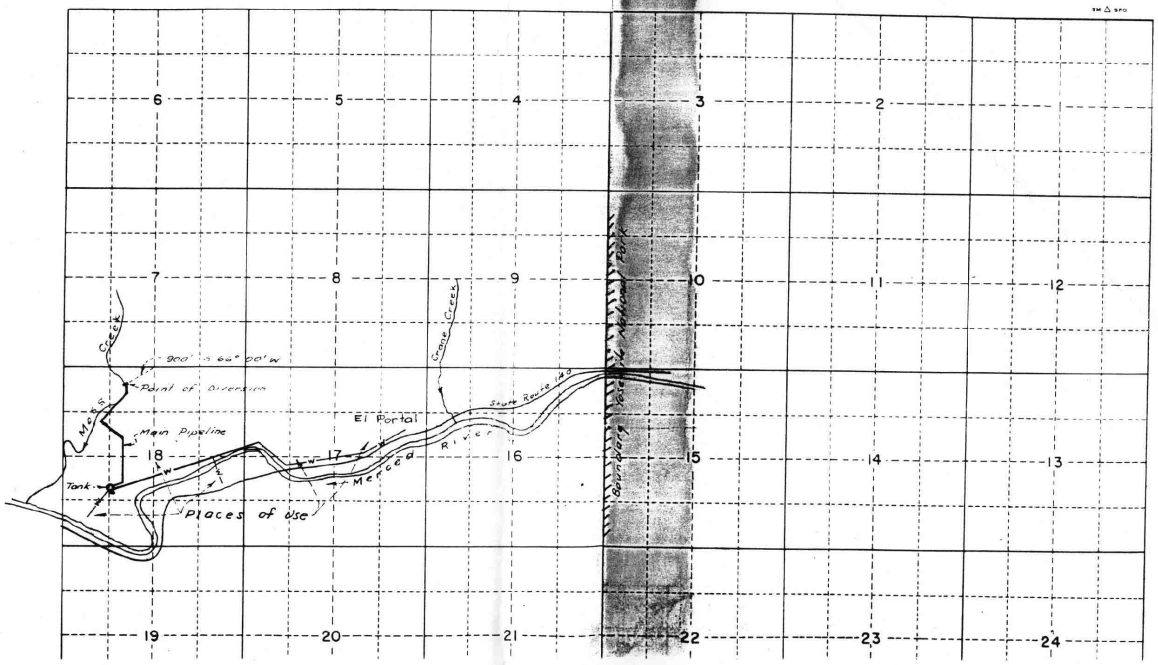
Sec. ..... Township 3S Range 20E, MD Meridian

Mapped by L.S. Spaulding

County Mariposa

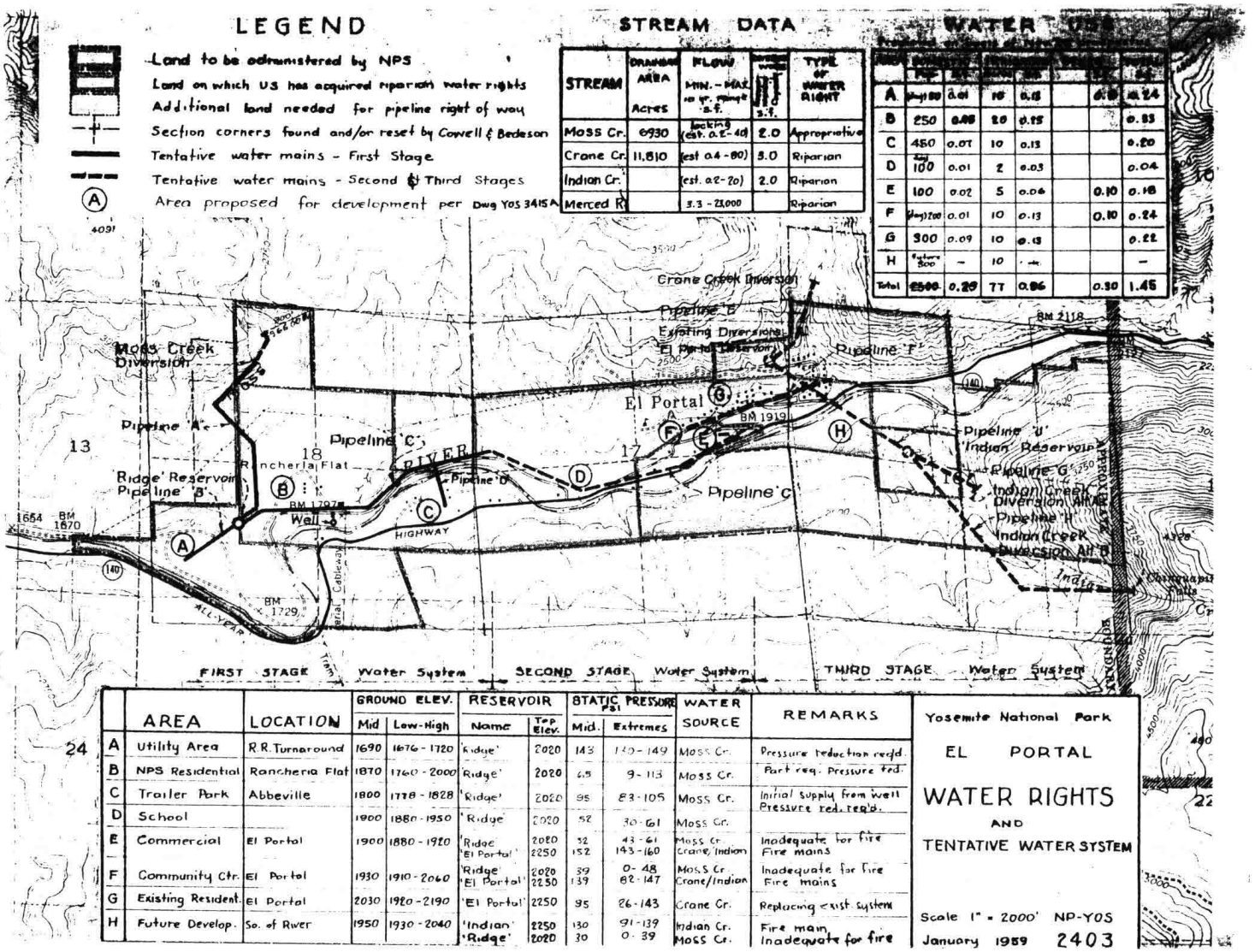
NOTE.—Maps are to be drawn on this plat only when total amount of water to be diverted does not exceed three cubic feet per second for direct diversion or does not involve storage in a reservoir having a capacity in excess of 200 acre-feet. For amounts less or reservoirs smaller than those above stated the average applicant can prepare a very satisfactory map without the aid of a surveyor by observing instructions on the reverse side of this plat.

FORM 17-A



02-10-1959: map showing location of places of use and points of diversion

02-10-1959: topographic map showing pipeline



	AREA	LOCATION	GROUND ELEV. Mid	GROUND ELEV. Low-High	RESERVOIR Name	RESERVOIR Top Elev.	STATIC PRESSURE psi Mid.	STATIC PRESSURE psi Extremes	WATER SOURCE	REMARKS
A	Utility Area	R.R. Turnaround	1690	1676 - 1720	'Ridge'	2020	143	140 - 149	Moss Cr.	Pressure reduction req'd.
B	NPS Residential	Rancheria Flat	1870	1760 - 2000	'Ridge'	2020	65	9 - 113	Moss Cr.	Part req. Pressure red.
C	Trailer Park	Abbeville	1800	1778 - 1828	'Ridge'	2020	95	83 - 105	Moss Cr.	Initial supply from well Pressure red. req'd.
D	School		1900	1880 - 1950	'Ridge'	2020	52	30 - 61	Moss Cr.	
E	Commercial	El Portal	1900	1880 - 1920	'Ridge' 'El Portal'	2020 2250	32 152	43 - 61 143 - 160	Moss Cr. Crane/Indian	Inadequate for fire Fire mains
F	Community Ctr.	El Portal	1930	1910 - 2060	'Ridge' 'El Portal'	2020 2250	39 139	0 - 48 82 - 147	Moss Cr. Crane/Indian	Inadequate for fire Fire mains
G	Existing Resident.	El Portal	2030	1980 - 2190	'El Portal'	2250	95	26 - 143	Crane Cr.	Replacing exist. system
H	Future Develop.	So. of River	1950	1930 - 2040	'Indian' 'Ridge'	2250 2020	130 30	91 - 139 0 - 39	Indian Cr. Moss Cr.	Fire main Inadequate for fire

Yosemite National Park

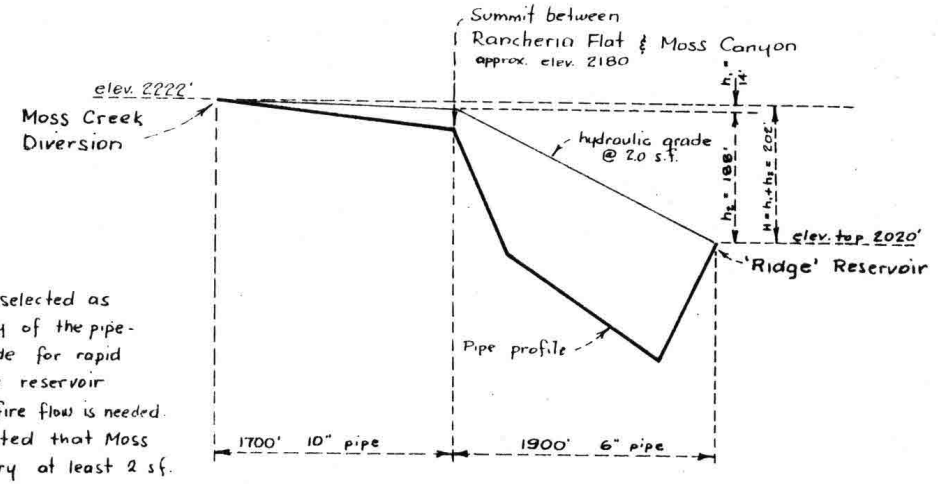
EL PORTAL

WATER RIGHTS AND TENTATIVE WATER SYSTEM

Scale 1" = 2000' NP-YOS

January 1959 2403

02-10-1959: sketch of pipeline 'a'



Notes

1. 2.0 s.f. was selected as design capacity of the pipeline to provide for rapid filling of the reservoir when heavy fire flow is needed. It is expected that Moss Cr. will carry at least 2 s.f. during six months of the year.

2. As an alternate the upper section of the pipeline could be 8" instead of 10". In this case the intake would have to be placed at elev. 2257 to gain needed head. This would require an additional 300' of length but would have the advantage of being higher than the proposed El Portal reservoir.

This alternate selected for appropriative application 2/6/59 LSS

Design Capacity Q = 2.00 s.f.

S, 6" pipe (C = 100) = 99 ft./1000

S, 10" " " = 8.2 "

h_v = 1.7 × 8.2 = 14'

h_f = 1.9 × 99 = 188'

H = 14 + 188 = 202'

Elev. Reservoir (top) = 2020'

Elev. Moss Cr. Intake = 2020 + 202 = 2222'

Yosemite National Park
EL PORTAL

PIPELINE 'A'

Preliminary Design for
Water Right Application
see Dwg. NP YOS 2403
Feb. 5, 1959 L. Spaulding

EL PORTAL WATER SYSTEM
MOSS CREEK DIVERSION

Preliminary Cost Estimate for
WATER RIGHT APPLICATION
See Dwg. NP-YOS 2403

February 5, 1959
L. Spaulding

CONSTRUCTION COST

Diversion Works - Intake Dam & Settling Basin			$10,000
Pipeline 'A'	2200 lin. ft. 8" pipe @ $9.00		19,800
	1900 " " 6" " @ 6.00		11,400
Reservoir	1,000,000 gallons, steel, above ground		100,000
Treatment Plant	Chlorinator		5,000
Distribution Pipeline 'B'	1200 lin. ft., 8-inch @ 7.00		8,400
" " 'C'	10,000 lin. ft. 10-inch @ 8.00		80,000
" " 'D'	800 lin. ft. 8-inch @ 7.00		5,600
Distribution Systems at Places of Use			
	Utility Area 2000' @ $3.00	$6,000	
	Residential Area 6000' @ $3.00	18,000	
	Trailer Park 4000' @ $2.00	8,000	
	School 500' @ $2.00	1,000	
	Commercial Area & Community Center 2000' @ $2.00	4,000	
			37,000
			$277,200

NOTES:

1. Costs of main works only ($240,000) to appear on water right application.
2. This estimate contemplates that only the lower part of the commercial area and community center will be supplied from Moss Creek. All the existing residential area, the higher parts of the community center and all fire protection at El Portal will have to be supplied from a system diverting from Crane Creek or Indian Creek and having a reservoir at suitable elevation.

10-01-1958: memorandum to regional director, region four from chief, water resources section regarding water rights

IN REPLY REFER TO:
L54-L

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

RECEIVED
NPS REGION FOUR OFFICE
OCT -6 '58

	SURNAME	DATE
REG. DIR.		
ASST. R.D.		
OPERATIONS		
ADMIN. [illegible]		
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INTERP.		
LEGAL		

October 1, 1958

Memorandum (AIR MAIL)

To: Regional Director, Region Four

From: Chief, Water Resources Section

Subject: Water Rights, El Portal Area, Yosemite

The copy of Mr. Preston's memorandum to you of September 15 and Mr. Manbey's memorandum of August 25 to us, have come to my attention subsequent to commenting on Mr. Whitworth's memorandum on September 30. My memorandum of September 30 is still applicable to the features which were discussed, except that I think we know who now owns the railroad land discussed by Attorney Harrison.

Mr. Preston's suggestion that I should come out to resolve the matter seems premature. In fact, we do not appear to have received any final, consolidated report or analysis based on the data which was submitted with copy of Mr. Johnston's memorandum of August 26 to the Superintendent.

We need a consolidated map showing the various properties, existing water systems and those which served certain of the former developments such as the El Portal Hotel and railroad watering station. This map by notes, should also show the chain of interests in water, which are discussed by Attorney Harrison, in attachment with Mr. Manbey's memorandum.

I have budgeted 1959 and 1960 acquisition funds for water right surveys, and the budget estimates for Region Four, of which you will receive copy with a separate memorandum, show a predominant part for Yosemite, and the proportion between Yosemite and other California parks can be changed. My original idea was that the first priority survey in California would be to obtain necessary additional data to complete Yosemite water claims to present to the Solicitor's Office (field or Washington) for determination of procedure to be followed in establishing Federal rights for all four of those Parks in compliance with the state water laws. However, the necessary portion can be used for the more specific work in connection with rights for the proposed El Portal area development.

Neither Mr. Spaulding nor I have time to devote to the details of the survey, and I doubt if the Park Engineer or WODC could do so either. The budget estimates provide for temporary survey crews and draftsmen, and their expenses. Work Order 4-WR-59 also provides funds for part time services of an engineering draftsman. Mr. Spaulding should outline the work to be done, arrange for necessary personnel and general supervision of their work with or without the assistance of Park or WODC engineers, submit the necessary work order to cover the costs, for my approval, numbering and distribution, and proceed to get the work done. I realize that some of the personnel may be in scarce category.

The Harrison water right analysis requires both legal study, and an analysis on which I may be able to help. However, Mr. McClellan and Mr. Spaulding or I, need the suggested map before going much further. If actual transit surveys are needed, they should be accurate enough for future use without duplication, but much less accuracy may serve immediate needs if some approximate addition can be made to existing maps by inspection or some pacing and projection.

There is some question of the order of procedure. Mr. Harrison has covered claims to waters of Crane Creek and the Merced River while a preference for Moss Creek water has been suggested. Perhaps WODC should supply a plan for the latter and Mr. Spaulding and I should then proceed with a water right application to see whether it can be supplemented by unprotested permit. On the other hand the design and construction features of supplies from any of the three sources may be so nearly equal that final decision will depend on the further water right survey, mapping and analysis which has just been suggested.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Yosemite
Chief, WODC

IN REPLY REFER TO:
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UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D. C.

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OCT -6 '58

answered in part by Monthly memo Aug memo of Feb 6 transmitting appl

September 30, 1958

	SURNAME	DATE
REG. DIR.		
ASST. R.D.		
OPERATIONS		
~~ADMIN.~~		
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Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Section

Subject: Mr. Whitworth's Memorandum of September 18 Concerning Water Rights for Proposed El Portal Development, Yosemite

Mr. Whitworth is correct in stating that searching county records would not be justified to try to find all water right filings. There is also no justification for searching for claims which have lapsed.

Railroad claims appear to have been unexercised for almost, but not quite, 20 years. My question, in that connection, is now who owns the land where the tanks were located, and how did title pass, if to a private individual. If conveyed to a private individual, with appurtenances, and the pipeline and tank were not removed by the RR, we might be able to purchase and convert the rights, but I doubt if the quantity of water actually used was ever significant.

I do not consider it significant that Ward described one point of diversion, and used another. The question is whether that diversion was made at the time of county filing. Faulty description of point of diversion could be corrected if it could be established that water from specified source (Moss Creek) was made.

The right to divert above patented land under riparian rights, to gain head, is always subject to consent of upper land owner, and to somewhat differing laws of various states. I think the attorney for the State Water Right Board should be consulted on the second point, probably by the Regional Solicitor. However, I think Mr. Spaulding should participate in such discussion.

It is not possible to claim riparian rights to a stream which does not cross the land, even though that stream is tributary to another stream which does cross the land. However, it is possible to purchase or quiet title to riparian lands, and make an appropriative filing for the nonriparian use of that water. I am not enough of an

attorney to know how the state reconciles the failure to return the same water to the same stream, but assume that the notice of appropriation, as posted or advertised, serves to quiet title of other riparian claimants from whom rights were not purchased. The Federal rights to Raynor Creek for the Mariposa Area, Yosemite, Docket 1, were established on that basis, under instructions of Mr. Joseph E. Taylor.

It is also probable that an independent application for a new appropriation of water of Moss Creek would result in a permit from the State Engineer unless he has evidence that the particular creek is far over appropriated. Whether the permit was granted, as that of the Forest Service for Crane Creek water, or blocked by protests, as in the case of the Park Service application for supplemental water at the Big Stump Area of Kings Canyon, Docket 1, would depend on the fate of the posted or advertised notice.

From the data collected to date, subject to Mr. Putnam's investigation, I believe that the next step should be for WODC to prepare its preliminary plan for the development to the extent necessary to define desired point of diversion and approximate pipeline alignment, as a map to support a water right application, and to file such application for the appropriation of the water. If the published notice is protested, we will have to buy or condemn rights of protestant. The action should have prior Solicitor's concurrence, and we better have funds to start construction within statutory period after possible permit is granted.

We are following this course of action

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Yosemite
Chief, WODC
Field Solicitor McClellan

L54

L55

~~Spaulding~~

~~Manley~~ B/F

~~McC~~an

~~Whitworth~~

FILE

A1619

September 18, 1958

Memorandum

To: Director

From: Acting Regional Chief of Operations, Region Four

Subject: Water Rights, El Portal, Yosemite NP

Superintendent Preston by memorandum of September 15 listed the advantages of Moss Creek as a water source in preference to the Merced River. He suggested that Mr. Dunn make a trip to Yosemite to help secure water rights to this creek.

Previously, on August 26 we had informed Mr. Preston that obtaining rights to Moss Creek would be difficult and that initial development should not use the creek as a water source.

In commenting on our August 26 analysis of rights, Mr. Dunn suggested in his memorandum of September 4 that our records may not be sufficient to show that railroad rights to Moss Creek have not lapsed. Mr. Preston now wishes to follow up this lead.

Further investigation of railroad rights could proceed from information collected by Mr. Spaulding in November 1957. At that time a field investigation showed that a diversion dam had been constructed on Moss Creek and that a pipeline had been laid from the dam to an elevated tank next to the railroad. Previous to 1957 the pipeline and tank had been removed. No other field evidence of diversions on Moss Creek were revealed by walking up the first ½ mile and by viewing the stream from the ridge above Rancheria Flat. Local residents said that the railroad rails had been taken up during World War II. Presumably the pipeline and tank on Moss Creek were removed about the same time. The indication is that there has been a 15 year period of non-use.

Examination of records by Mr. Spaulding revealed that O. W. Ward and Augustus H. Ward had filed with Mariposa County for water rights to Moss Creek for mining, milling, power and irrigation uses. The points of diversion of these applications were 3/4 to 1 mile above the actual railroad diversion. No other county filings on Moss Creek were found. However, the method of locating the county filings, consisting of checking the index for names of people known to

have interests in the area, leaves the possibility for filings being overlooked. The county does not index water rights by stream names. Further checking of county records could proceed by finding first the names of owners, or principal stockholders of the Railroad.

We are making arrangements to have the checking of county records done by Engineering Draftsman Putnam, who has had experience in this field. Hydraulic Engineer Spaulding will be at Olympic and Mt. Rainier for the next few weeks and will not be available.

Two other possibilities for securing rights to Moss Creek have occurred to us. First, considering that the land for development (Rancheria Flat) is riparian to the Merced River, but that the available head is such that we wish to make a diversion at a higher elevation, could such a diversion be made on Moss Creek under riparian doctrine? This would mean taking water from a stream which joins the Merced below that portion of the Merced to which the land is riparian. The only parties who could be damaged by such a diversion would be land owners or appropriators on that portion of Moss Creek between the NPS diversion and the junction of the creek with the Merced River. If all of Moss Creek below the diversion were made a part of the Park Service reservation and since there are no diversions on the stream at this time the potential damage may be eliminated. We think riparian rights would not attain in this situation in which the place of use is not riparian to the particular tributary, but we ask your views on the desirability of pursuing this idea further. If warranted we will prepare a map showing the situation and will submit the question of riparian rights to the Regional Solicitor for an opinion.

Secondly, the success of the Forest Service in making an appropriative filing with the State on Crane Creek suggests the possibility of a similar application by the Park Service to Moss Creek. We ask your views on making an application and in the event of protests rely on a hearing before the State Water Rights Board to determine the existence of unappropriated water.

G. F. Whitworth

George F. Whitworth
Acting Regional Chief of Operations

LSpaulding:sh

Copy to: Superintendent, Yosemite
Chief, WODC
Mr. McClellan

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

IN REPLY REFER TO:
L54-L

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SEP 16 '58

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✓ REG. DIR.		9/23
ASST. R.D.		
OPERATIONS		9/24
RECREATION		
INTERP.		
LEGAL		
		9/22
		LSS

September 15, 1958

Memorandum

To: Regional Director, Region Four

From: Superintendent, Yosemite

Subject: Water Rights, El Portal, Yosemite National Park

We have just received a copy of Mr. A. van V. Dunn's memorandum to you commenting on Mr. Spaulding's recent investigation of the subject water rights. In the penultimate paragraph, Mr. Dunn refers to the possible availability of rights to Moss Creek. This source would offer the best solution for the following reasons:

See memo to Director of 9/18

1. Moss Creek has adequate head and volume for a gravity supply system.

2. The alternate or Merced River source would require expensive collection, treatment and pumping installations because it is subject to contamination from our sewage treatment plant and adequate head is not readily available.

3. The Moss Creek system would be much less costly to operate and maintain.

In view of the foregoing, and the paramount importance of settling the water rights so that programmed developments may proceed on schedule, we feel the situation warrants the personal attention of Mr. A. van V. Dunn. His broad experience and background would be of considerable value in working out an immediate solution to our water supply needs. We would like to suggest, therefore, that arrangements be made for a trip to Yosemite by Mr. Dunn, at his earliest convenience. We also suggest that he be accompanied by Mr. Spaulding from your office since his knowledge of existing conditions would be most helpful.

John C. Preston
Superintendent

In duplicate

Copy to: Director
Chief, WODC

L-54

~~Spaulding~~ JSS

McClellan

~~Manley~~ BFM

Johnston

FILE COPY

August 26, 1958

Memorandum

To: Superintendent, Yosemite

From: Regional Chief of Operations, Region Four

Subject: Water Rights, El Portal, Yosemite National Park

Attached is a brief analysis by Hydraulic Engineer Spaulding of water rights for the proposed El Portal Development. The conclusions are tentative and should not be accepted as final until more thorough study and review have been made.

Also attached is a rough copy of data collected by Mr. Spaulding during an inspection of the site and a visit to the Mariposa County Court House in November 1957. The data is being summarized and will soon be submitted in simplified form.

We believe that on the basis of Mr. Spaulding's study the Merced River should be considered as the main source of water for El Portal development. Obtaining rights to Moss Creek may be a long and difficult process, and plans for initial development should not depend on this stream as a source. Initial planning could contemplate using the high water flow of Crane Creek but during the summer months the flow probably would be too low to supply other than the present users.

(SGD) FRED T. JOHNSTON

Fred T. Johnston
Regional Chief of Operations

Attachments

Copy to: Director (w/attachments)
Chief, WSDC (w/analysis)

bc:Whitworth

LSpaulding:hat

EL PORTAL WATER RIGHTS

L. S. Spaulding

August, 1958

I have investigated the possibility of water rights being acquired with the purchase of El Portal Mining Company lands and also rights which might be acquired independent of that purchase. The study included making a brief field examination of water diversions and water use, and examinations of Mariposa County water right filings and Bureau of Land Management records in Washington. The conclusions herein are tentative and should not be accepted as final until more thorough study and review have been made.

TENTATIVE CONCLUSIONS

1. Riparian rights to use water of the Merced River and of Crane Creek upon all but a small portion of the purchased land will be acquired with the El Portal Mining Company property.

2. No usable rights, either riparian or appropriative, to Moss Creek will be acquired with the purchase of the Mining Company land.

3. Except for one possible exception, no appropriative rights to any stream in the area will be acquired with the purchase. The possible exception is the right under the 1888 county filing by Oliver Ward to Crane Creek.

4. Riparian right to use the water of Indian Creek on land south of the Merced River probably will be acquired with the purchase of El Portal Mining Company land.

5. The acquisition of rights independent of the Mining Company purchase may be difficult. Doing so would require either that there be unappropriated water in the Merced River, or its tributaries, or that existing rights be purchased. However, the Forest Service was able to obtain an appropriative permit from the State to Crane Creek and this indicates that the Park Service might possibly establish new appropriative rights in the area.

DISCUSSION - MOSS CREEK

Moss Creek joins the Merced River downstream from the area of proposed development. Its canyon is steep, narrow and rocky, with no room for development within its lower watershed. Two county water right filings are recorded but there is no evidence that diversions described by the filings were actually made. One diversion was made that apparently was not covered by an appropriative filing. This was for a locomotive water tank which was abandoned about 1944. My con-

clusion is that appropriative rights have lapsed because of non-use.

El Portal Mining Company lands may include a short section of Moss Creek. This fact would establish a riparian right to use the water within the tract and, as I understand it, only on the watershed of Moss Creek. Since the only usable land on the particular tract is Rancheria Flat and the railroad turn-around area, both outside the Moss Creek watershed, I have concluded that no usable riparian right exists.

MERCED RIVER

The lands of the El Portal Mining Company border the Merced River and with minor exception have never been separated from the River. With the conditions discussed below I conclude that riparian rights attach to most of the lands to be purchased. It is my understanding that riparian owners may make diversions upstream, provided the water is conveyed and used on riparian lands. This latter is the basis of my conclusion that the water of Crane Creek and Indian Creek may be used on purchased lands bordering the Merced River. In exception, there is a portion of Mining Company land which may not have riparian rights. This is that tract of land in Section 17 which at one time was conveyed, divested of water rights, to the Yosemite Valley Railway Company for use as a terminal. Further, the lands of the Mining Company in Section 16 appear to have lost part of their water rights by action of an earlier owner. The Ward Land Company, predecessor to the El Portal Mining Company, by an agreement dated August 10, 1908, conveyed rights to all the water within Section 16 in both the Merced River and Crane Creek to a second party, making, however, some important reservations and exceptions. The reservations and exceptions seem to leave the El Portal Mining Company land with some appropriative and riparian water rights.

CRANE CREEK

On purchase of the El Portal Mining Company the Park Service may acquire the appropriative right established by Oliver Ward and recorded with Mariposa County on February 27, 1888. The amount of the right will be fixed by the quantity put to beneficial use by users in the past. It is not possible to increase the quantity under this right and the only way the Park Service could use the water would be to decrease the flow to present users.

The Forest Service, in the name of U. S., Stanislaus National Forest made a State water right filing, (Application 10488, filed July 3, 1942) to Little Crane Creek. The diversion apparently is for the existing system serving residential leases at El Portal. The quantity of this appropriation, 6500 gallons per day, is too small to be of much value to the Park Service.

Under riparian rights to Merced River it is my understanding, as stated above, that the Park Service could make a diversion on Crane Creek and convey the water for use on lands bordering the river.

L. Spaulding
Nov. 13, 1957

WATER RIGHTS APPROPRIATIONS - EL PORTAL AREA

Recorded with Mariposa County ✓

	SOURCE	LOCATION OF DIVERSION	APPROPRIATOR	QUANTITY (40 MI = 1 Sec. Ft.)	USE	RECORDED: Date	RECORDED: Vol. Pg.
①*	Merced R.	13 miles below Yo Semite Valley 2 " above Ferguson Co. Mill	James A. Hennessey W. D. Morrison	100 MI	mining power	Jan 28, 1880	1-58
①	Merced R.	1¼ mi above residence of Hennessey	L. G. Wharton E. S. Utter	2000 MI	mining and live stock watering	Apr. 14, 1884	1-84
①*	Crane Cr.	near N. line of Sw¼ Sec. 28, T3N, R20E	James McCauley	800 MI	irrigation	Mar 10, 1887	1-105
①	Crane Cr.	1000' from N. bank Merced R.	O. W. Ward	1000 MI	irrigation stock watering	Feb 27, 1888	1-123
①*	Moss Cr.	1 mile from mouth	O. W. Ward	2000 MI	irrigation stock watering	Aug 20, 1888	1-135
	Merced R.	at mouth of Crane Cr.	Augustus H. Ward	20,000 MI	mining, milling power irrigation	Jun 11, 1900	2-89
	do	do	do	do	do	Apr. 28, 1902	2-126
	do	east boundary of Sec. 16 5/8 mi east of Crane Cr.	do	do	do	May 12, 1902	2-128
①	do	do	do	do	do	Jul. 15, 1902	2-134
	do	do	do	do	do	Sep 10, 1902	2-137
	do	do	do	do	do	Nov. 10, 1902	2-137
	do	do	do	do	do	Jan 9, 1903	2-143
	do	do	do	do	do	Mar 9, 1903	2-147
	do	do	do	do	do	May 21, 1903	2-153
	do	do	do	do	do	Feb 11, 1905	2-220
②	do	do	do	do	do	Feb 15, 1905	2-220
②	Moss Cr.	3/4 mi from Merced R. S18 T3S R20E	do	5000 MI	irrigation mining milling	Oct. 8, 1906	2-273
①*	Crane Cr.	½ mi from mouth	Jules A. McCauley	1000 MI	power	Jun 12, 1907	2-285
②	Merced R.	east boundary of Sec 16 T3S R20E	Merced River Elec. Co.	20,000 MI	power mining, milling mng., manuf	Aug. 12, 1909	3-29

① Photograph of County Record made - * print in appendix
② Copy of county record in Abstract made for Las Mariposas Land Co.

10-29-1957: memorandum to regional director, region four from chief of lands regarding water right for el portal development

IN REPLY REFER TO:
L54-L

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

OCT 29 1957

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✓ LEGAL		

Memorandum

To: Regional Director, Region Four

From: Chief of Lands

Subject: Water Right for El Portal Development, Yosemite

Attached for your information and consideration is a copy of Mr. Dunn's memorandum of October 27 to me concerning proposed studies of the water right problems at the El Portal Area of Yosemite. Mr. Dunn has suggested several ways in which the proposed study can be simplified if developments are to be on patented land. He also points out that most appropriative county filings would probably be in connection with patents under the Desert Land Act although we have found a few cases in which others have elected to base their water claims on county filings rather than their riparian rights.

Donald E. Lee
Chief of Lands

Attachment

Copy to: Superintendent, Yosemite, with attachment
Chief, WODC, with attachment

Note - sent copies to Spaulding at Yosemite 11/4/57 BFM

10-27-1957: memorandum to chief of lands from chief, water resources section regarding water right for el portal development

IN REPLY REFER TO:
L54-L

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

October 27, 1957

Memorandum

To: Chief of Lands

From: Chief, Water Resources Section

Subject: Water Right for El Portal Development, Yosemite

The memorandum of October 17, to Chief, WODC, from the Superintendent indicates that he has determined from the State Water Rights Board that there are no appropriative rights in the subject area which might have been recorded with the State Engineer and Water Rights Board since the present water code was adopted by the act of 1913. He points out that the county records should be searched, and suggests that the work should be done by Regional Hydraulic Engineer Spaulding. He suggests that the work will be discussed here in mid-November.

The proposed discussion will be highly desirable before any work starts. The original question of water rights was raised by me, on the assumption that the Park addition and development would be on public domain or part of the unpatented Forest Service land. It now appears that the United States will acquire considerable patented land. The following discussion may suggest some points which should be considered before Mr. Preston comes to Washington.

The work is one of the functions which Mr. Spaulding should take over from me. During the present transition period, he should consider such work as under general guidance from the Water Resources Section, and should be sure to send copies of all findings to this office, in duplicate.

This is an example of a project where the Park Engineer might do the same work through the Regional Hydraulic Engineer, under the same direction from here, with less travel and per diem expense. Mr. Spaulding should keep such expenses to a minimum.

Since there are no appropriative water rights on record with the State Water Rights Board, the present land owners may be using water under two types of rights. Mr. Preston has suggested that some appropriative rights may be on record in the county. County filings are most probable on the land which was patented under the Desert Land Act of 1877. We should ultimately obtain photostat

negatives of all such county filings from 1878 to 1914 for claims to diversions or use on the lands in the subject area. Photostat positives should then be made for alien water rights, of which some will become dockets as the area of use is acquired by the United States for the Park, WODC, your office and here.

Some of these records may be available from the vendors, or may become parts of abstracts when the land is acquired. Before any land acquisitions are started, whether through the concessioner or otherwise, option forms should provide for all possible definition and assignment of water rights at the expense of the vendors.

All of the land owners also have riparian rights to the use of surface water flowing over, or along the side of their patented land, or in well defined underground channels (usually artesian), and correlative rights to the use of underground percolating water. The only record and definition of those rights to date will be description and capacity of existing water systems, and the population using water for domestic purposes, the acreage irrigated and types of crops, the number of head of stock, and such data.

The riparian and correlative rights are not limited to quantities of past use, but the past water demand based on unit quantities prescribed in the Rules, Regulations and Information for the Appropriation of Water, which is issued by the Water Rights Board, should be determined before the present owners abandon their past use. The same information should be obtained for the past five years in connection with any rights based on county filings, because the claims under county filings are usually excessive and valid rights are based on beneficial use in any case. This Service may be able to develop and use the water under riparian rights but potential controversies may be prevented if it is shown that NPS consumptive use is within the total of previous consumptive use.

From the preceding discussion, one of the first problems is to obtain records of the quantity of water beneficially used by the private land owners for various purposes, while the use is being made. Equally important, the options and deeds to the land should define appurtenant rights which the vendors claim, with specific reference to appropriative claims filed in the county. It may simplify further work if the patents, homestead serial numbers, and Congressional authorization for homesteading or other form of entry are determined to see if any land patents were based on evidence of water rights required by Desert Land Act. From this information the original claimant and the case history of the patent can be obtained from BLM archives. Most of the land status and related appurtenant appropriative rights can be obtained either in the California or Washington offices of BLM. As much as possible should be done at field level unless the travel and per diem costs

become large. Because of the limited Washington Office personnel, it is essential that Mr. Spaulding or the Park Engineer inventory and describe water systems except when the vendors can do so.

The general study should be charged to the Investigation Account 0140 (143.2), which is limited. We are holding more than $12,000 for additional groundwater exploration at Death Valley, and between $100 and $200 can probably be allotted for the limited immediate El Portal study which seems necessary, without seriously reducing the adequacy of the funds for the exploration, or from residual after the 1958 exploration needs are determined. Much of the assembly of records can be treated as part of the "appraisal" and acquisition of the land and water rights, and financed from either the Land Acquisition funds or the Water Right Acquisition funds under Account 347. The final work to convert rights to NPS use should be financed largely from PS&S funds with supplements from Account 347.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Yosemite
Chief, WODC (2)

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

IN REPLY REFER TO:
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August 7, 1957

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Memorandum

To: Regional Director, Region Four

From: Superintendent, Yosemite

Subject: MISSION 66 Development Plan and Related Water Rights

Your memorandum of July 24 which referred to Mr. Dunn's memorandum of July 3 pointed out the need for more data regarding water rights for the proposed development at El Portal. We suggest you refer to the James A. Hopper appraisal of June 1957 on the El Portal Mining Co. properties which gives the status of the water right situation in respect to these lands.

The information requested in your memorandum is as follows:

1. Probable water requirements.

a. Estimated resident population including hotel and auto court guests. 2,500 @ 150 gpd	375,000 gpd
b. Irrigation, 50 acres @ 18.5 gpd/100 sq. ft.	403,000 gpd
c. Utility area and shops	50,000 gpd
d. Incinerator, can washing, etc.	10,000 gpd
e. Stores, gas stations and other commercial developments	100,000 gpd
f. Losses and waste	12,000 gpd
Maximum daily demand	950,000 gpd
Peak hourly demand	1,200 gpm

The above listing of water requirements is strictly an estimate based on probable use in the El Portal area. No allowance has been made for fire use which is essentially a storage problem.

2. Current sources of water use in area.

The El Portal residents and commercial developments obtain water from Crane Creek until this source becomes limited in late summer. Then water is pumped from the Merced River to supplement the Crane Creek source. No records are available on water use in the area.

Except for a filing on Crane Creek by the Stanislaus National Forest for a Forest Service residential site, there are no water right permits or applications for this diversion of water. Refer to the James A. Hopper appraisal for details.

We have been advised by the California Division of Water Resources that Mr. James W. Johnson has filed an application for the appropriation of water from Crane Creek for 200 gallons per day to be diverted from March 1 to December 1 of each year in the Foresta area. This application was protested by Elizabeth and Horace Meyer who claimed riparian rights for the diversion of water from Crane Creek in the Big Meadows and McCauley Ranch areas.

3. Anticipated sources of water.

It is anticipated that sources of water for the El Portal development will be from Crane Creek and Moss Creek, both of which are on U. S. Forest Service land; so there should not be any difficulty in obtaining easements for the transmission of the water from the point of diversion to the point of use. It may also be necessary to make a diversion from the Merced River to supplement the flow from Crane Creek and Moss Creek during periods of low water.

John C. Preston
Superintendent

Whitworth
Manbey
McClelland
Johnston
Merriam
L54

July 24, 1957

Memorandum

To: Superintendent, Yosemite

From: Regional Director, Region Four

Subject: MISSION 66 Development Plan and Related Water Rights, Yosemite NP

This will refer to Mr. Dunn's memorandum to this office of July 3, a copy of which was forwarded to you.

It appears that Mr. Dunn has raised a point that might cause serious difficulties in the proposed development at El Portal. Before any decision as to the seriousness of water rights at this location can be determined more data are necessary. Information required includes the following:

1. Probable water requirements, both as to average flow and demand flow

2. Current sources of water used in area

   a. Amount available

   b. Water rights under which used

3. Anticipated sources of water

If one of such sources is the Merced River with diversion at some point within the park, a determination should be made as to the easement existing, or available, for transmission of such water from the point of diversion to the point of use. If the pipe line for such a system were located entirely on Federal land, there should be no question regarding an easement. However, if it were necessary for such a line to cross private property there might be some difficulty in obtaining an easement.

It is requested that you review this memorandum and Mr. Dunn's memorandum and at your convenience forward us your comments.

GFWhitworth/jd

Lawrence C. Merriam
Regional Director

Copy to Director
Western D&C

FILE COPY

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

IN REPLY REFER TO:
L54-L

RECEIVED
NPS REGION FOUR OFFICE
JUL -8 '57
SURNAME DATE
REG. DIR.
ASST. R.D.
OPERATIONS
ADMIN.
INTERP.

July 3, 1957

Memorandum

To: Regional Director, Region Four

From: Chief, Water Resources Section

Subject: MISSION 66 Development Plan and Related Water Rights, Yosemite

The press release of July 7, concerning proposed expansion at El Portal and limitation of development in Yosemite Valley, outlines a plan which may result in expensive water right problems. The potential problem has already developed in connection with Sequoia-Kings Canyon, where Application 16184 of December 20, 1954, for the appropriation of water at the Big Stump Entrance of Kings Canyon has been protested by lower riparian water users.

Note McClellan has copies. BFM 7/c

The Yosemite Valley and Mariposa Areas were granted to the State in 1864. The Desert Land Act was passed by Congress in 1877. Appropriative water claims first had to be recorded in the County in 1878 but riparian rights were also recognized. The Park was established in 1890, exclusive of the Valley and Mariposa Areas. The State receded those Areas in 1906. The present California appropriative water law, requiring the filing of applications with the State Engineer, was passed in 1913 and became effective on December 19, 1914. The State has not yet abrogated the parallel riparian doctrine, but its State Engineer and Water Rights Board have continuously claimed that the United States abrogated the riparian doctrine in Desert Land States, at least by the Act of 1877 if not by an Act of 1866.

Riparian rights accrue to patented land without regard to the date of first water use. Appropriative rights can be established by adjudication, based on the date of first development and use, or the date of posting and county recording, for some increases in use thereafter, if initiated prior to December 19, 1914. The priority of rights initiated since December 19, 1914, is fixed by the date the application is, or has been filed with the State Engineer or Water Rights Board.

Until about two years ago we were instructed not to file water right applications except in the special cases of the Raynor Creek and Bishop Creek diversions. The Solicitor's Office has now recommended that we at least prepare our claims for legal determination of the best water right procedure.

As I have previously suggested without legal concurrence, the State may recognize some riparian rights to water which is diverted and used within the areas granted to the State in 1864. The State or Federal courts may also recognize some, or all rights based on initial development and use prior to December 19, 1914. We have requested early compilation of records of progressive water use in the Yosemite Valley Grant area for preparation of claims which can be submitted to the Regional Solicitor as typical cases for determination of water right procedure for the four California parks.

The proposed development at El Portal is an entirely different matter. If entirely on patented land which would have to be acquired, part of the water development and use might be under riparian rights. However, a large part would have to be under appropriative rights. The land might be acquired with some appurtenant appropriative rights which could be amended to cover Park uses both in the additional Park area, and further upstream in the Park. However, it might be necessary to acquire some new appropriative rights, and attempts to acquire them by new applications would probably result in protests such as that of Application 16184 at Kings Canyon. The alternative of purchasing and amending established downstream appropriative rights would doubtless be very expensive. In fact, the cost of land with appurtenant rights at El Portal may be higher than purchases heretofore made in the Park.

It is recommended that these factors be fully explored and considered in connection with proposed developments outside the present Park. They should also be considered to only a slightly lesser degree in connection with new developments in the Park.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Yosemite
Superintendent, Sequoia-Kings Canyon
Superintendent, Lassen
Field Solicitor McClellan (2)

Yosemite 600-0

Hayden Rec
file Rec.

February 26, 1947.

MEMORANDUM for the File.

On February 25 the State of California Division of Water Resources office in Sacramento was visited relative to obtaining information respecting water rights on Crane Creek in and near Yosemite National Park. Forestea Subdivisi

The following information was secured from Mr. M. S. Edson, Supervising Hydraulic Engineer:

1. There are no water right applications filed for the entire area of Yosemite National Park.

2. Upon being asked about notices to appropriate water recorded in county courthouses prior to the 1914 Water Commission Act and subsequent non-use of water, Mr. Edson replied that 99 percent of such claims were invalid.

3. The only record the State has respecting waters of Crane Creek outside the Park is the proposed license bearing application number 10488 (copy attached) filed by the U. S. Stanislaus National Forest, which agency is using up to 3,000 gallons per day near El Portal.

emh:mfs

Enclosure.

Elton M. Hilton

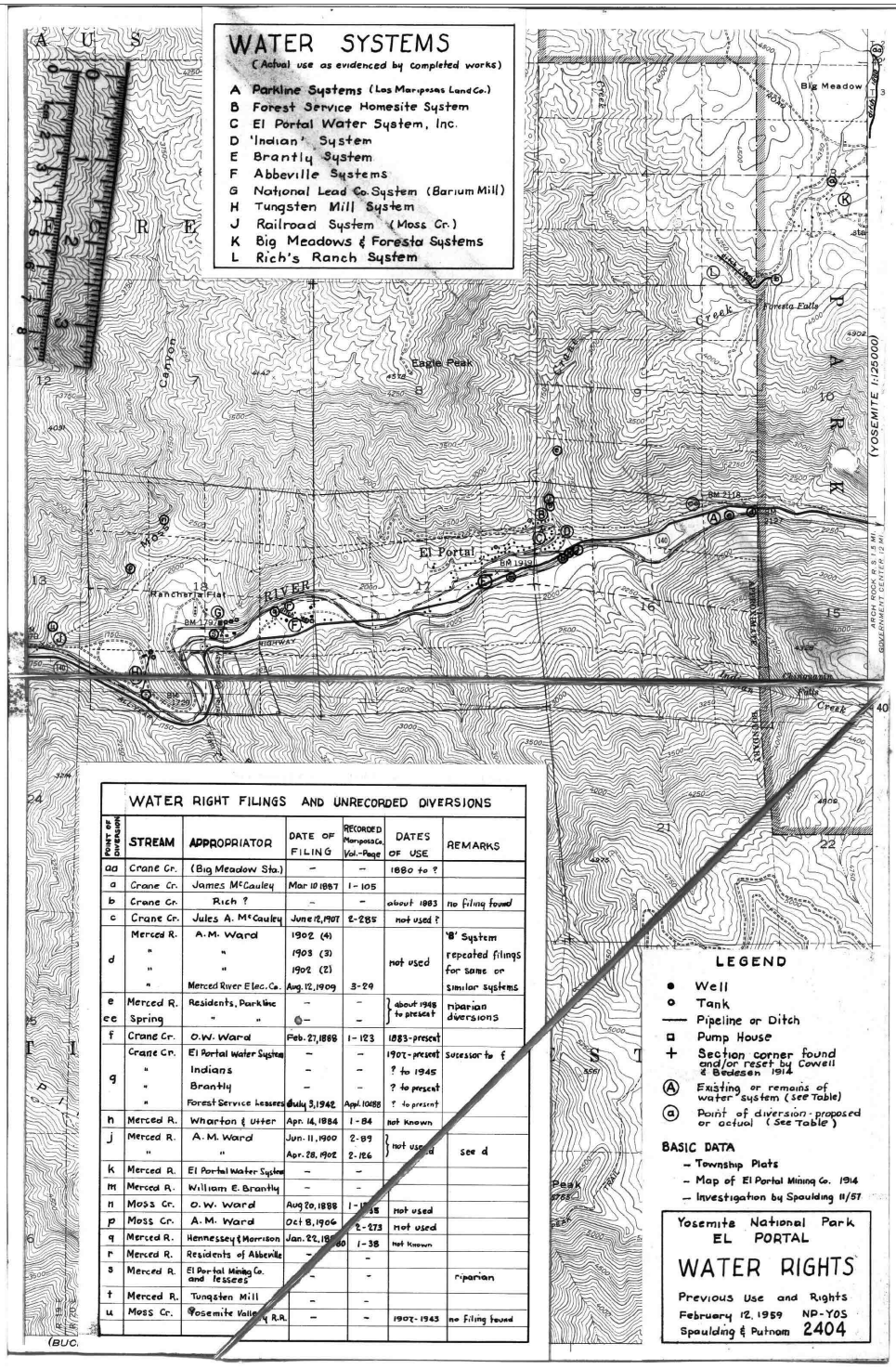
Elton M. Hilton,
Park Planner.

cc McClellan

Manbey

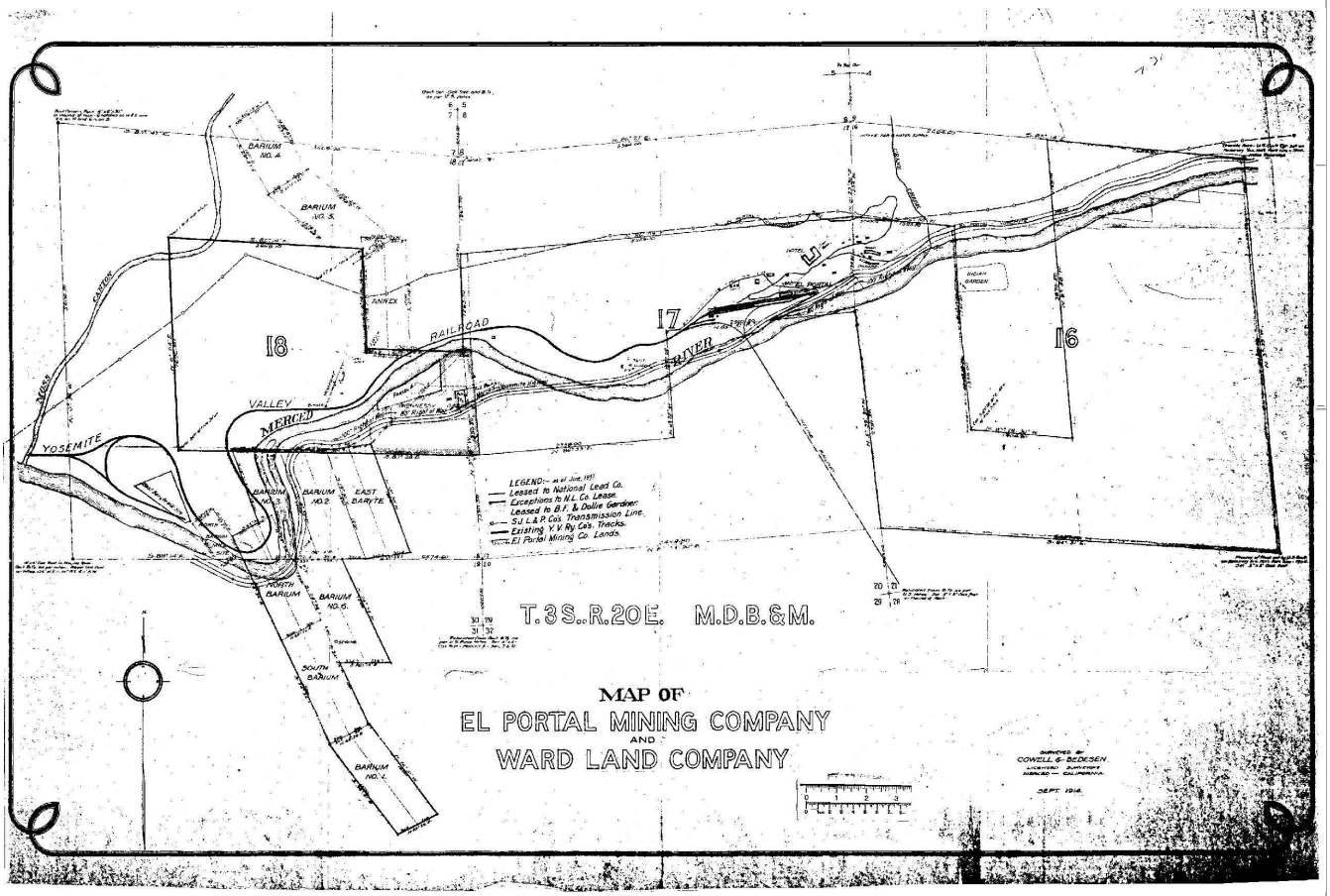
Hilton

Maps and Miscellaneous Information



WATER RIGHT FILINGS AND UNRECORDED DIVERSIONS

POINT OF DIVERSION	STREAM	APPROPRIATOR	DATE OF FILING	RECORDED Mariposa Co. Vol.-Page	DATES OF USE	REMARKS
aa	Crane Cr.	(Big Meadow Sta.)	–	–	1880 to ?	
a	Crane Cr.	James McCauley	Mar 10 1887	1-105		
b	Crane Cr.	Rich ?	–	–	about 1883	no filing found
c	Crane Cr.	Jules A. McCauley	June 12, 1907	2-285	not used ?	
d	Merced R.	A.M. Ward	1902 (4)		not used	'B' System repeated filings for same or similar systems
	"	"	1903 (3)			
	"	"	1902 (2)			
	"	Merced River Elec. Co.	Aug. 12, 1909	3-29		
e	Merced R.	Residents, Parkline	–	–	about 1948 to present	riparian diversions
ee	Spring	" "	–	–		
f	Crane Cr.	O.W. Ward	Feb. 27, 1888	1-123	1883-present	
g	Crane Cr.	El Portal Water System	–	–	1907-present	Successor to f
	"	Indians	–	–	? to 1945	
	"	Brantly	–	–	? to present	
	"	Forest Service lessees	July 3, 1942	Appl. 10088	? to present	
h	Merced R.	Wharton & Utter	Apr. 14, 1884	1-84	not known	
j	Merced R.	A. M. Ward	Jun. 11, 1900	2-89	not used	see d
	"	"	Apr. 28, 1902	2-126		
k	Merced R.	El Portal Water System	–	–		
m	Merced R.	William E. Brantly	–	–		
n	Moss Cr.	O.W. Ward	Aug 20, 1898	1-[illegible]35	not used	
p	Moss Cr.	A.M. Ward	Oct 8, 1906	2-273	not used	
q	Merced R.	Hennessey & Morrison	Jan. 22, 19[illegible]00	1-38	not known	
r	Merced R.	Residents of Abbeville	–	–		
s	Merced R.	El Portal Mining Co. and lessees	–	–		riparian
t	Merced R.	Tungsten Mill	–	–		
u	Moss Cr.	Yosemite Valley R.R.	–	–	1907-1943	no filing found



Docket Information

Number of Documents in Docket 164

Documents Dated from 1/22/1880 to 6/28/1996

Docket Compiled: 7/29/2011