



WATER-RIGHT DOCKET

Yucca House National Monument

Docket No: 1

YUCCA HOUSE SPRINGS

State Water Rights Documentation

10-02-1997: letter to solicitor's office from nps regarding water division no. 7 case no. w-1633-76b



U.S. Department of Justice

Environment and Natural Resources Division

90-1-2-1425

Lorrin C. Dyer, Legal Secretary
U.S. Department of Justice
Environment and Natural Resources Division
General Litigation Section
999 18th Street, Suite 945
Denver, Colorado 80202

Telephone: (303) 312-7313
Facsimile: (303) 312-7331
lorrin.dyer@usdoj.gov

October 2, 1997

Peter Fahmy
Solicitor's Office
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

Bill Hansen
National Park Service
1201 Oak Ridge
Fort Collins, Colorado 80525

Re: Water Division No. 7, Case No: W-1633-76B

Dear Sirs:

Enclosed please find Denver's Response to United States' Motion for Leave to Withdraw Application dated 9/19/97 regarding the above matter for your information and files.

Sincerely,

Lorrin C. Dyer
Secretary to Lynn Johnson

Enclosure

U.S. DEPT. OF JUSTICE
ENV. & NAT. RES. DIV.
DENVER, CO

DISTRICT COURT, WATER DIVISION NO. 7, COLORADO
CASE NO. W-1633-76B

97 SEP 22 AM 11:08

DENVER'S RESPONSE TO UNITED STATES' MOTION FOR LEAVE TO WITHDRAW
APPLICATION

CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES
OF AMERICA IN MONTEZUMA COUNTY (Reserved water rights for Yucca
House National Monument)

COMES NOW the City and County of Denver, by and through its
Board of Water Commissioners ("Denver"), by and through its
undersigned attorneys, an Opposer herein, and responds to the
United States' Motion for Leave to Withdraw Application. Denver
does not object to the dismissal of the Application, so long as
it is dismissed with prejudice.

DATED this 14th day of September, 1997.

PATRICIA L. WELLS, No. 10120
MICHAEL L. WALKER, No. 2828
HENRY C. TEIGEN, No. 5936
CASEY S. FUNK, No. 11638
MARY B. RASTALL, No. 12734


Attorneys for City and County of
Denver, acting by and through its
Board of Water Commissioners
1600 West 12th Avenue
Denver, Colorado 80254
(303) 628-6460

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of Sept., 1997, a true and correct copy of the attached OPPOSER'S RESPONSE TO UNITED STATES' MOTION FOR LEAVE TO WITHDRAW APPLICATION was mailed, postage prepaid to the following:

Henry L. Solano, Esq.
Lynn A. Johnson, Esq.
U.S. Department of Justice
Environmental and Natural
Resources Division
999 18th St., Suite 945
Denver, CO 80202

Wendy C. Weiss, Esq.
First Assistant Attorney
General
Natural Resources Section
State of Colorado
1525 Sherman Street, 5th Floor
Denver, CO 80203

Janice C. Sheftel, Esq.
Maynes, Bradford, Shipps & Sheftel
PO Box 2717
Durango, CO 81302-2717

L.W. McDaniel, Esq.
P.O. Box 1157
Durango, CO 81302-1157

David Hallford, Esq.
Colorado River Water
Conservation District
P.O. Box 1120
Glenwood Springs, CO 81602

Clifford C. Fossum, Esq.
Fossum, Hatter & Green, P.C.
P.O. Box 1466
Cortez, CO 81321

Kelly R. McCabe, Esq.
Kelly R. McCabe, P.C.
P.O. Box 1296
Cortez, CO 81321





U.S. Department of Justice

Environment and Natural Resources Division

90-1-2-1425

*Lorrin C. Dyer, Legal Secretary
U.S. Department of Justice
Environment and Natural Resources Division
General Litigation Section
999 18th Street, Suite 945
Denver, Colorado 80202*

*Telephone: (303) 312-7313
Facsimile: (303) 312-7331
lorrin.dyer@usdoj.gov*

September 26, 1997

Peter Fahmy
Solicitor's Office
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

Bill Hansen
National Park Service
1201 Oak Ridge
Fort Collins, Colorado 80525

Re: Water Division No. 7, Case No: W-1633-76B

Dear Sirs:

Enclosed please find the file stamped copy of the executed Motion for Leave to Withdraw Application dated 9/22/97 regarding the above matter for your information and files.

Please note that the water clerk served copies of the executed Motion to the appropriate parties.

Sincerely,

A handwritten signature in black ink, appearing to read "Lorrin C. Dyer", with a stylized flourish at the end.

Lorrin C. Dyer
Secretary to Lynn Johnson

Enclosure

U.S. DEPT. OF JUSTICE
ENV. & NAT. RES. DIV.
DENVER, CO

DISTRICT COURT, WATER DIVISION NO. 7, STATE OF COLORADO

97 SEP 25 AM 10:13

CASE NO. W-1633-76B

ORDER GRANTING WITHDRAWAL OF APPLICATION

CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF
AMERICA IN MONTEZUMA COUNTY (Reserved water rights for Yucca House National
Monument)

THIS MATTER, having come before the Court on the United States' Motion for Leave to
Withdraw Application, and the Court having reviewed the same, the file herein, and being fully
advised in the premises,

DOES ORDER, that the United States' Motion is Granted and the Application is withdrawn.

SIGNED this 22nd day of September, 1997.

BY THE COURT:



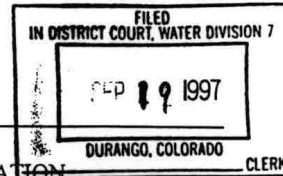
TIMOTHY A. PATALAN, Judge
Water Division No. 7

cc: K. Beegles
H. Simpson
W. Weiss
J. Sheftel
L. W. McDaniel
D. Hallford
P. Wells
C. Fossum
K. McCabe
L. Johnson

FILE

DISTRICT COURT, WATER DIVISION NO. 7, COLORADO

CASE NO. W-1633-76B



UNITED STATES' MOTION FOR LEAVE TO WITHDRAW APPLICATION

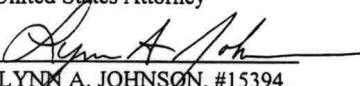
CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA IN MONTEZUMA COUNTY (Reserved water rights for Yucca House National Monument)

COMES NOW Applicant, United States of America ("United States"), by and through its undersigned attorneys, and respectfully moves the Court for an order allowing the United States to withdraw its Application in this case for reserved water rights for Yucca House National Monument. Grounds for the motion are that the United States no longer wishes to pursue the claim and no party will be injured by the withdrawal of the Application.

WHEREFORE, the Court should issue an Order granting the withdrawal of the Application for the reserved water rights for Yucca House National Monument in the above-captioned case.

DATED this 17th day of September, 1997.

HENRY L. SOLANO
United States Attorney

By 
LYNN A. JOHNSON, #15394
U.S. Department of Justice
Environment and Natural
Resources Division
999 18th St., Suite 945
Denver, CO 80202
(303) 312-7315

ATTORNEYS FOR APPLICANT
UNITED STATES OF AMERICA

U.S. DEPT. OF JUSTICE
ENV. & NAT. RES. DIV.
DENVER, CO
97 SEP 25 AM 10:13

CERTIFICATE OF SERVICE

This is to certify that I have duly served the enclosed **United States' Motion for Leave to Withdraw Application** upon all parties herein by depositing copies of same in the United States mail, postage pre-paid, at Denver, Colorado, this 17th day of September, 1997, addressed as follows:

Wendy C. Weiss, Esq.
First Assistant Attorney
General
Natural Resources Section
State of Colorado
1525 Sherman Street, 5th Floor
Denver, CO 80203

Kelly R. McCabe, Esq.
Kelly R. McCabe, P.C.
P.O. Box 1296
Cortez, CO 81321

Janice C. Sheftel, Esq.
Maynes, Bradford, Shipps & Sheftel
Post Office Box 2717
Durango, CO 81302-2717

L.W. McDaniel, Esq.
Post Office Box 1157
Durango, CO 81302-1157

David Hallford, Esq.
Colorado River Water
Conservation District
Post Office Box 1120
Glenwood Springs, CO 81602

Patricia L. Wells, Esq.
Michael L. Walker, Esq.
Casey S. Funk, Esq.
City and County of Denver
1600 West 12th Avenue
Denver, CO 80254

Clifford C. Fossum, Esq.
Fossum, Hatter, & Green, P.C.
P.O. Box 1466
Cortez, CO 81321


Lorrin C. Dyer

Case No. W-1633-76B



U.S. Department of Justice

Environment and Natural Resources Division

90-1-2-1425

*Lorrin C. Dyer, Legal Secretary
U.S. Department of Justice
Environment and Natural Resources Division
General Litigation Section
999 18th Street, Suite 945
Denver, Colorado 80202*

*Telephone: (303) 312-7313
Facsimile: (303) 312-7331
lorrin.dyer@usdoj.gov*

September 17, 1997

Paula Peterson, Water Clerk
La Plata County Courthouse
1060 Second Ave., Room 112
Durango, Colorado 81301

Re: Case No. W-1633-76B, Concerning the Application for Water Rights of the
United States of America in Montezuma County (Reserved water rights for Yucca
House National Monument)

Dear Ms. Peterson:

Enclosed for filing please find the original and four copies of the **United States' Motion for Leave to Withdraw Application** in the above mentioned matter.

Please return a file stamped copy of the additional enclosed Motion in the self-addressed, postage pre-paid envelope.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lorrin C. Dyer", is written over a horizontal line.

Lorrin C. Dyer
Secretary to Lynn A. Johnson

Enclosures

DISTRICT COURT, WATER DIVISION NO. 7, COLORADO

CASE NO. W-1633-76B

UNITED STATES' MOTION FOR LEAVE TO WITHDRAW APPLICATION

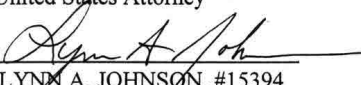
CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA IN MONTEZUMA COUNTY (Reserved water rights for Yucca House National Monument)

COMES NOW Applicant, United States of America ("United States"), by and through its undersigned attorneys, and respectfully moves the Court for an order allowing the United States to withdraw its Application in this case for reserved water rights for Yucca House National Monument. Grounds for the motion are that the United States no longer wishes to pursue the claim and no party will be injured by the withdrawal of the Application.

WHEREFORE, the Court should issue an Order granting the withdrawal of the Application for the reserved water rights for Yucca House National Monument in the above-captioned case.

DATED this 17th day of September, 1997.

HENRY L. SOLANO
United States Attorney

By 
LYNN A. JOHNSON, #15394
U.S. Department of Justice
Environment and Natural
Resources Division
999 18th St., Suite 945
Denver, CO 80202
(303) 312-7315

ATTORNEYS FOR APPLICANT
UNITED STATES OF AMERICA

DISTRICT COURT, WATER DIVISION NO. 7, STATE OF COLORADO

CASE NO. W-1633-76B

ORDER GRANTING WITHDRAWAL OF APPLICATION

CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA IN MONTEZUMA COUNTY (Reserved water rights for Yucca House National Monument)

THIS MATTER, having come before the Court on the United States' Motion for Leave to Withdraw Application, and the Court having reviewed the same, the file herein, and being fully advised in the premises,

DOES ORDER, that the United States' Motion is Granted and the Application is withdrawn.

SIGNED this _____ day of _____, 1997.

BY THE COURT:

TIMOTHY A. PATALAN, Judge
Water Division No. 7

CERTIFICATE OF SERVICE

This is to certify that I have duly served the enclosed **United States' Motion for Leave to Withdraw Application** upon all parties herein by depositing copies of same in the United States mail, postage pre-paid, at Denver, Colorado, this 17th day of September, 1997, addressed as follows:

Wendy C. Weiss, Esq.
First Assistant Attorney
General
Natural Resources Section
State of Colorado
1525 Sherman Street, 5th Floor
Denver, CO 80203

Kelly R. McCabe, Esq.
Kelly R. McCabe, P.C.
P.O. Box 1296
Cortez, CO 81321

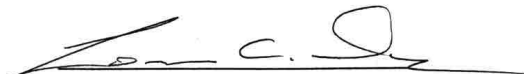
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Durango, CO 81302-2717

L.W. McDaniel, Esq.
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David Hallford, Esq.
Colorado River Water
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City and County of Denver
1600 West 12th Avenue
Denver, CO 80254

Clifford C. Fossum, Esq.
Fossum, Hatter, & Green, P.C.
P.O. Box 1466
Cortez, CO 81321


Lorrin C. Dyer

Case No. W-1633-76B

YUCCA HOUSE NATIONAL MONUMENT.

(Colorado)

By the President of the United States of America

A Proclamation

WHEREAS there is in Montezuma County, Colorado, on the eastern slope of the Sleeping Ute Mountain an imposing pile of masonry of great archaeological value, relic of the prehistoric inhabitants of that part of the country; and

Whereas the ground on which said structure stands has been donated to the United States for the establishment of a national monument with a view to the preservation of said ruins, and such preservation is deemed to be in the public interest:

NOW, THEREFORE, I, WOODROW WILSON, President of the United States of America, by virtue of the power and authority in me vested by section two of the act of Congress entitled "An Act for the Preservation of American Antiquities," approved June 8, 1906 (34 Stat., 225), do proclaim that there is hereby reserved and set apart as a national monument, to be known as the Yucca House National Monument, all that piece or parcel of land in the County of Montezuma, State of Colorado, shown upon the diagram hereto annexed and made a part hereof, and more particularly described as follows: Beginning at a point that bears south $46^{\circ} 45'$ east from the north quarter corner of section 35, township 35 north, range 17 west, New Mexico principal meridian, 1513 feet; thence south 600 feet; thence east 600 feet; thence north 300 feet; thence east 230 feet; thence north 100 feet; thence north $28^{\circ} 53'$ west 228.4 feet; thence west 719.7 feet to place of beginning, containing 10 acres, more or less.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy or remove any of the features or objects included within the boundaries of this Monument and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management and control of this Monument, as provided in the Act of Congress entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (39 Stat., 535).

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE in the District of Columbia This 19th day of December in the year of our Lord one thousand nine hundred and nineteen, and of the Independence of the United States of America the one hundred and forty-fourth.

WOODROW WILSON

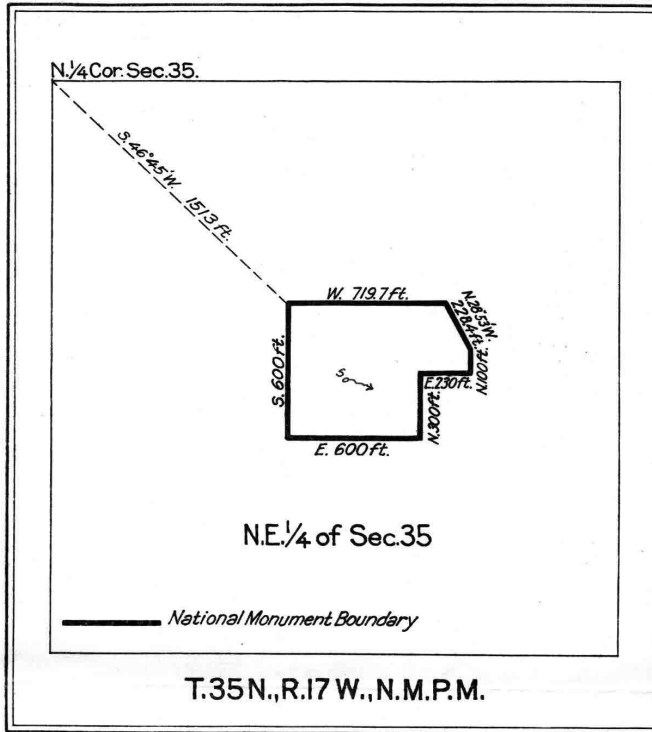
By the President:

ROBERT LANSING
Secretary of State.

[No. 1549.]

DEPARTMENT OF THE INTERIOR
FRANKLIN K. LANE, SECRETARY
NATIONAL PARK SERVICE
STEPHEN T. MATHER, DIRECTOR

COLORADO
(MONTEZUMA COUNTY)



YUCCA HOUSE
NATIONAL MONUMENT

C O P Y

Department of The Interior Washington July 2, 1919. Pursuant to authority conferred by the Act of Congress approved June 8, 1906 (34 Stat-225) entitled "An Act for the preservation of American antiquities," I hereby accept for the United States title to the land conveyed by the foregoing deed.

Allen R. Lane, Secretary.

THIS DEED, Made this Fourth day of June in the year of our Lord one thousand nine hundred and Nineteen between Henry Van Kleeck of the City and County of Denver and State of Colorado, of the first part, and The United States of America of the second part:

WITNESSETH, That the said party of the first part, for and in consideration of the sum of

One Dollar and to promote the public interests to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and its successors, forever, all the following described lot or parcel of land, situate, lying and being in the County of Montezuma, and State of Colorado, to-wit:

Beginning at a point that bears South 46°45' East from the North quarter corner of Section 35 Township 35 North Range 17 West New Mexico Principal Meridian 1513 feet; thence south 600 feet; thence East 600 feet; thence North 300 feet; thence East 230 feet; thence North 100 feet; thence North 28°53' West 228.4 feet; thence West 719.7 feet to the place of beginning containing 10 acres more or less, Known as the Aztec Springs Ruins; together with a right of way for pedec-trians and vehicles, subject to reasonable regulations, from said premises to the public roads, over all private ways, the location and regulation of which at any time shall be designated by said party of the first part his heirs or assigns; with the reservations to the party of the first part his heirs and assigns of all Springs or other sources of water on said premises with right of access thereto and of excavation thereof for purposes of development and use, and to enclose and cover them with suitable structures, and to convey the water therefrom across and from said premises, either through one or more ditches or pipe lines provided however that the party of the second part for its officers, employees and the travelling Public shall be entitled to enough of said water for domestic purposes, Provided that the party of the second part shall at its own expense construct and maintain a suitable fence around said premises, protect them against acts of vandalism and maintain them as a National Monument or Park, and for no other purpose whatsoever.

TOGETHER With all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD The said premises above bargained and described, with the appurtenances, unto The United States of America the said party of the second part, and its successors forever. And the said party of the first part, for himself, his heirs, executors and administrators, does covenant, grant, bargain and agree to and with the said party of the second part, and its successors that at the time of the ensembling and delivery of these presents he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance,

in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same, in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever; subject to all the conditions and reservations contained in a certain Warranty Deed of even date herewith from The Van Kleeck-Bacon Investment Company conveying said premises to the party of the first part, which the party of the second part hereby assumes and agrees to observe and fulfill

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

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in Presence of)	Henry Van Kleeck	(Seal)
Robert S. Laundon		(Seal)
		(Seal)
		(Seal)

STATE OF COLORADO,)
) ss. I, Julia E. Price a Notary Public
City & County of Denver)

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

(Notary) Given under my hand and Notarial seal, this 4th day
 of June, A. D. 1919.
(Seal) My Commission expires Jan 10th A. D. , 1923.

Julia E. Price

Notary Public.

State of Colorado)
County of Montezuma) ss

I, Henry Thorpe, County Clerk and Recorder of said County and State, do hereby certify that the above and foregoing is a true and correct copy of Warranty Deed given by Henry Van Kleeck to The United States of America, as same appears of record in Book 66 at Page 74.

Witness my hand and official seal at Cortez, Colorado, this 27th day of May, A. D. 1944.

(Sgd) Henry Thorpe
County Clerk

No. 33014

WARRANTY DEED

From

Henry Van Kleeck

To

The United States of
America

STATE OF COLORADO,)
COUNTY OF Montezuma) ss.

This Warranty Deed was filed for record
at 6:05 o'clock P. M.,

July 17 19 19

and is duly recorded in Book 66

Page No. 74.

Samuel M. Burke

Recorder.

By _____

Deputy.

Fees, \$ _____

When recorded return to _____

Other Supporting Information

Author: Bill Hansen at NP-WASO-WR
Date: 9/19/97 1:36 PM
Priority: Normal
TO: Art Hutchinson at NP-MEVE
Subject: Yucca House Water Right Withdrawal

----- Message Contents -----

Art,

Sorry it has taken so long to respond to your question. We withdrew our water right claim for Yucca House in Water District 7 because the land owner (I forget her name) severed the water right from the land when the NPS acquired it. Therefore, we have no basis to file a claim or hold a water right. She could hold a water right if she wanted - although I don't believe she filed one. The spring is surrounded by our land and it would be difficult for anyone to use the spring. If we acquire the right to use the water we may want to file for a water right. I hope this brief explanation helps. If we acquire the water let us know and we can investigate options to get a right, if needed.

No word yet on the HOVE agreement with Utah. I will keep you posted. Give me a call at (970) 225-3532 if you still want to discuss YUHO. See ya.

Bill

Charles W. Pettee

W.R. Hansen
WRH

August 26, 1997

L54 (2380)
YUHO/Water Rights

Ms. Lynn Johnson
U.S. Department of Justice
Environment and Natural Resources Division
General Litigation Section
999 18th Street, Suite 945
Denver, Colorado 80202

Re: Water Division No. 7, Case No. W-1633-76B

Dear Lynn:

With this letter we are requesting that you withdraw our claim in Case No. W-1633-76B for Yucca House National Monument. We have reviewed the deed and it is evident that all sources of water, along with access to, and conveyance, excavation and enclosure of same were specifically reserved from transfer. If you have any questions please contact Bill Hansen, of my staff, at (970) 225-3532.

Sincerely,

Chuck Pettee
Acting Water Rights Branch Chief

cc: MEVE - Superintendent
SOL - Fahmy
FNP:BHANSEN:225-3532:ccd:S:\WRB\WRH\YUHO.LET

October 15, 1985

L54 (479)
YUHO Water Rights

Memorandum

To: Lee Garrison, Realty Specialist
Lands Division
Rocky Mountain Region

From: Hydrologist, Water Rights Branch
Water Resources Division

Subject: Aztec Springs (YUHO)

As requested, I have reviewed our files to assess the legal status of two springs at Yucca House NM. It is evident from the deed that all sources of water, along with access to, and conveyance, excavation and enclosure of same were specifically reserved from transfer. An entitlement to the use of enough water for domestic purposes was specifically given to the United States for the use of its officers, employees and the traveling public.

Our records do not indicate if a water right for this appropriation was ever adjudicated. Neither do they indicate that, if so adjudicated, the right to these springs was transferred to the present land owner.

For the sake of clarification the following should be noted. In most western states water which arises and falls on a "person's" land without entering a defined drainageway is regarded as property of the land owner. Further, I feel our entitlement represents a permission to use the water and carries no better right than that of a neighbor taking a drink, with permission, from an individual's well.

If it desires to acquire rights to these springs, the NPS should begin by contacting the Colorado Department of Natural Resources -- Division of Water Resources to determine the existence, if any, of water rights. There is no question that appropriation was made and that a right existed, whether or not recognized by the courts. Acquisition, however, should be predicated upon such recognition to avoid future argument and litigation.

Sincerely,

Owen Williams

Owen Williams

cc: Stan Ponce, Chief, WRB

FNP:OWilliams:pml:10/11/85:221-5341:31011WIL.MMI

Status of Water Rights
Yucca House National Monument
September 18, 1944

1. Yucca House National Monument deeded to the United States June 4, 1919, with reservation of all springs or other sources of water and right of access to convey water through one or more ditches or pipe lines, but granting the officers and employees of the United States and the traveling public the use of enough water for domestic purposes. (From the original deed.)
2. The area was fenced prior to the recorded inspections by National Park Service officials in 1925. (See various memoranda in correspondence files.)
3. New fence built by the Roving Ranger in 1942, apparently without formal survey. (See memorandum from Regional Archeologist, dated June 19, 1942.)
4. Acting Custodian Mahan, by memorandum of June 3, 1944, advises that the Astes Spring, with flow of approximately 4 gpm (5,760 gpd, or 0.009 sec. ft.) lies approximately 178 feet outside the Monument to the north, and that there is a smaller spring near the center of the Monument with a flow of 1 gpm (1,440 gpd, or 0.0022 sec. ft.). The memorandum suggests that fence may not be on true boundary, and the same question is raised by former Superintendent Miller.
5. Personnel Officer Hugh Miller advises, in interview on September 17, 1944, that a ditch extended from one spring to the boundary of the Monument at the time of his visit on October 3, 1941, and delivered water for irrigation and other use on land of Ray Ismay. (The reported available spring flow of 0.0111 sec. ft. from both sources is hardly enough for ditch delivery.)
6. From Mr. Mahan's memorandum of June 3, 1944, Mr. Ismay was using the following water from the spring outside the fenced Monument at that time:

4 people for domestic purposes (allow 100 gpc/d)	400 gpd
500 sheep watered (allow 2.5 gpc/d)	1250 "
No irrigation	0 "
Total	1650 gpd.
7. Mr. Mahan also advised that there is a pipe from spring at center of Monument to an abandoned house east of the Monument, but that it was plugged.
8. There is no Master Plan for the Monument.

9. There is no Project Construction Program for the Monument.
10. There is no water use on the Monument at this time.
11. The Monument is classed as a "reserve area" with minimum of development and no encouragement of attendance. (See letter of Superintendent Frank Pinkley, dated Oct. 24, 1934, and subsequent correspondence.)
12. Monument, if not spring area, was cluttered with refuse including manure as late as 1935 which suggests that none of the water may be suitable for human consumption.
13. Original area of Van Kleeck tract, other than the Monument, has passed to Mr. Ray Ismay.
14. The state water code recognizes preferred right to the use of a spring by the landowner if the water from said spring does not flow off of the owner's land, but states that all water which will ultimately reach a stream is part of the stream flow and subject to appropriation.
15. An adjudication in Water District No. 32 was initiated in 1935, and is still in progress and open for the introduction of further claims, but the scope is limited to water for irrigation purposes. The United States has introduced some water claims. (See letter from E. D. Peters, Referee, dated June 28, 1944.)
16. It is concluded that this Service has no claim to adjudicate and the scope of the pending adjudication does not include water for domestic purposes of the type which might be provided later for the Monument.

C O P Y

DEPARTMENT OF JUSTICE

704 Ernest & Cranmer Building,
Denver, Colorado, July 1, 1944.

Mr. A. van V. Dunn,
Hydraulic Engineer, National Park Service,
601 Sheldon Building,
San Francisco 5, California.

Independent Ditch Co. et al. v.
McDermott Ditch Co. et al.,
New Mexico-- Water Rights,
Aztec Ruins National Monument.

Dear Sir:

I have received a copy of the letter of June 28 written to the Department of the Interior by Mr. E. D. Peters, Referee.

I enclose herewith a copy of a letter which I have this day written to the Attorney General.

It was quite a pleasure to see you again and to have conferred with you a week ago today. I shall be glad to co-operate with you fully in your laudable desire to have your water rights in Rocky Mountain National Park in good order.

Kindly let me have your Chicago address. This letter is being sent to San Francisco because I do not know what the Chicago address is.

With kind regards,

Very truly yours,

P.S.

Please note postscript
on Attorney General's letter.

(Sgd.) Worth Allen.

Worth Allen,
Special Assistant to
the Attorney General.

WA/ELM

C O P Y

704 Ernest & Cranmer Building,

Denver, Colorado, July 1, 1944.

The Attorney General,
Washington, D. C.

Independent Ditch Co., et al. v.
McDermott Ditch Co., et al., New
Mexico-- Water Rights, Aztec
Ruins National Monument.

Sir:

The second paragraph of your letter of February 21, addressed to me, reads as follows:

"Please inform the Department when you receive a reply from Mr. Peters. If you learn that a proceeding is pending, please inform Mr. Dunn that he should submit information regarding the interests of the United States to his superior officers so that they may determine whether to request the Attorney General to appear in the action."

Yesterday I received from Mr. E. D. Peters, Referee in the General Adjudication Proceedings pending in Water District No. 32, Colorado, a copy of a letter addressed to the Department of the Interior. Two copies of that letter are enclosed herewith.

According to your letter of February 21, I presume there is nothing further to be done until and unless Mr. Dunn's superior officers make some request upon you.

Respectfully,

(Sgd.) Worth Allen.
Worth Allen,
Special Assistant to
the Attorney General.

WA/ELM

P.S. I have suggested in a letter to Mr. Dunn that he might have the court files checked in Cortez by some National Park man at Mesa Verde. I have offered to write a letter to the Clerk of the Court if it is desired.

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
AZTEC RUINS NATIONAL MONUMENT
AZTEC, NEW MEXICO

June 3, 1944

MEMORANDUM for the Regional Director, Region Three:

Reference is made to Mr. A. van V. Dunn's memorandum of January 4, 1944 and succeeding correspondence regarding water rights, etc at Yucca House National Monument.

An inspection was made of this area on May 27th and the following facts were ascertained by examination of the records at the Montezuma County Court House and from Mr. Ray Ismay, the present owner of the adjoining land.

The main spring at this area, and the one which Mr. Ismay states is known as Aztec Spring, is about 178 feet north of the present fence bounding Yucca House National Monument. This spring at present flows about 4 gal. per minute but Mr. Ismay stated that by cleaning the spring and lowering the pipe it could be increased to 8 gal. per minute. No land is irrigated by this spring and four people and about 500 head of sheep are dependent on this supply. There is also a small spring about the center of the monument area which according to Mr. Ismay flows about 1 gal. per minute. There is evidence that the water in this spring has been piped to an abandoned house east of the monument. The pipe is plugged at present and the flow could not be measured but could in all probability be increased by development work.

From this investigation it would seem that the main Aztec Spring was not included in the monument or else the present boundary, as fenced, is not correct. There seems to be no doubt that both these springs are in Section 35, as shown by the deed, and Mr. Ismay is of the same opinion. I could find no evidence of adjudication covering these waters.

A certified copy of the "deed of even date" was obtained at a cost of \$1.50 and is attached to this report.

(Sgd.) Russell L. Mahan

(in dup.)

Russell L. Mahan
Acting Custodian.

C O P Y

John B. O'Rourke,
Judge, Sixth Judicial District
Chambers at Durango, Colorado

Counties of
Archuleta, Dolores,
La Plata, Montezuma,
San Juan.

Durango, Colorado.
June 28, 1944.

In re: Case #1077, District Court Montezuma County, Colo.
ADJUDICATION WATER RIGHTS DISTRICT No. 32.

United States Department of Interior,
National Park Service, Water Rights Section,
601 Sheldon Building,
San Francisco 5, California.

Attention: Mr. A. van V. Dunn, Hydraulic Engineer.

Dear Sir:-

Your letter of May 13, 1944, received, relating to above Adjudication Proceedings, and inquiring "whether Harry Van Kluck, or others, have introduced any claims for Aztec Springs, or other springs in Section 35, T. 35 N., R. 17 W., N.M.P.P."

I do not have record of such filing; however, I have not had an opportunity to examine the files of the Clerk of the District Court of Montezuma County, at Cortez, Colorado, to see if "Statements of Claim" have been filed for any such ditches-- but I believe not.

Enclosed herewith copy of published notice for this adjudication proceeding, and under which considerable evidence has been taken up to this time. Time for the introduction of evidence has not been closed as yet. We had anticipated that the proceeding would have been closed sometime ago, but because it has been represented that some claimants, or their material witnesses, are now in the Armed Forces of the United States, the time for the introduction of evidence has been held open --and, likewise, the entry of final decree.

Hon Worth Allen, Special Assistant to the Attorney General, 704 E & C Bldg., Denver (2), Colorado, has represented the Government in several of the Adjudication Proceedings now pending in this Judicial District, and I would suggest that you write me about the matter. Carbon copy of this letter is mailed to Mr Allen today.

Very truly yours,
(Sgd.) E. D. Peters.
E. D. Peters, Referee,
Adj.Proceedings Water Dist.#32.
Montezuma County, Colo.

(P.S. Addressee at)
(Durango, Colorado.)

UNITED STATES
DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
WATER RIGHTS SECTION
SAN FRANCISCO, CALIF.
601 Sheldon Building

May 13, 1944.

Mr. E. D. Peters, Referee,
Water District No. 32,
Durango, Colorado.

Dear Sir:

We understand that you are now adjudicating rights to the waters of the San Juan River in Water District No. 32. Will you please advise us whether Harry Van Kluck, or others, have introduced any claims for Astec Springs, or other springs in Section 35, T. 35 N., R. 17 W., E.N.P.P.

We should also like to know the status of the adjudication, whether any further claims could be introduced, when you expect a decree, and whether the United States has become a party to the adjudication.

Our interest is based on a small water use at Yucca House National Monument. Our interests in the Astec Springs were acquired from Mr. Van Kluck and are considerably involved with his. We do not at the moment contemplate any action with regard to our claims, but having learned of the adjudication we should like to complete our records.

Yours very truly,

A. van V. Dunn,
Hydraulic Engineer.

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

WATER RIGHTS SECTION
601 Sheldon Building
San Francisco 5, California

May 6, 1944.

Clerk of the District Court,
Water District No. 32,
Cortez, Colorado.

Dear Sir:

We are advised by the State Engineer that you obtained copies of the water claims in Water District No. 32 with his letter of December 27, 1935, but that no decree has been received by him since. Will you please advise if an adjudication is in progress, and if so, of its present status. We are particularly interested in knowing if any claim has been introduced by Harry Van Kluck for Aztec, or other springs in Section 35, T. 35 N., R. 17 W., N. M. P. M.

Yours very truly,

(Sgd) A. van V. Dunn

A. van V. Dunn,
Hydraulic Engineer.

Cortez, Colo., May 10, 1944.

Mr. A. van V. Dunn,
San Francisco, Calif.

Dear Sir:

Adjudication in the above is in progress and I suggest that you address your inquiry as to its status to E. D. Peters, Referee, Durango, Colorado.

I find no Statement of Claim filed for Harry Van Kluck.

Respectfully,

(Sgd) C. R. Hickman
Clerk.

C O P Y

M. C. Hinderlider
State Engineer

C. C. Hezmalhalch
Deputy

STATE OF COLORADO
Engineering Department
DENVER

April 3, 1944

L. T. Burgess
Chief Hydrographer
W. T. Blight
Chief Clerk & Draftsman

SUBJECT:

Mr. A. van V. Dunn
Hydraulic Engineer
National Park Service
Water Rights Section
601 Sheldon Building
San Francisco 5, California

Dear Sir:

Replying to your letter of March 28, this is to advise that there has never been any decree issued in Water District No. 32 and if a decree had been awarded this office has never received a copy of the same.

At the request of the Clerk of the District Court of Montezuma County, we mailed to said court on December 27, 1935 a certified list of valid claims and we assumed that an adjudication was pending at that time. However, as stated above, we have heard nothing further regarding this matter and cannot advise as to whether an adjudication is pending or not.

We suggest that you write direct to the Clerk of the District Court of Montezuma County at Cortez, Colorado, requesting this information.

Very truly yours,

(Sgd) W. T. Blight
Chief Clerk

WTB M

C O P Y

DEPARTMENT OF JUSTICE

332 Postoffice Building,

Denver, Colorado, March 24, 1944.

Mr. A. van V. Dunn,
Hydraulic Engineer, National Park Service,
601 Sheldon Building,
San Francisco 5, California.

Dear Mr. Dunn:

Receipt is acknowledged of your letter with respect to unadjudicated water rights for Yucca House National Monument, in which you ask me if I know when the last adjudication was held in the district in which the Monument is located. You state that the spring in question "is apparently in the San Juan drainage in Water District 32 in Colorado."

I confess that I do not know where the Monument or spring is located. I believe the Mancos river probably flows into the San Juan at some point in New Mexico. However, the Mancos river, as well as the head waters of the Dolores, which flows into Utah, are located in Water District No. 34. That part of the San Juan river which is located in Colorado is in Water District No. 29.

There are current adjudication proceedings pending in both districts at the present time. The United States has appeared in both proceedings. Of course you are familiar with our appearance in District No. 34.

If you will give me the exact location of the spring, or, possibly, the Monument, I shall then be able to inform you in what district the spring or the Monument is located.

Since the United States has entered the State courts in these two districts, it would seem that all of its unadjudicated rights should be submitted.

Respectfully,

(Sgd) Worth Allen.

WA/ELM

Worth Allen,
Special Assistant to
the Attorney General.

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WATER RIGHTS SECTION
601 Sheldon Building
San Francisco 5, California

March 7, 1944.

MEMORANDUM for the Director.

Reference is made to Mr. Richey's memorandum of February 2, with regard to water rights at Yucca House National Monument.

We can all probably agree that it is wiser not to define the proportion of the water claim of vendor which was conveyed to the United States until development of the Monument is made, or until some friction develops between this Service and the adjacent land owners over water.

However, there should be a water right covering the diversion of the spring flow as a whole, to establish priority in the Water District. A filing would do until the next adjudication, but would have little value thereafter if not adjudicated. It might be, too, that the United States has other interests in the District and would not care to enter a State court at the time of the adjudication. This seems to be a problem needing legal consideration since neither Mr. Van Kluck or this Service really has any right to the water now.

A. van V. Dunn,
Hydraulic Engineer.

cc: Region Three (2).

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WATER RIGHTS SECTION
601 Sheldon Building
San Francisco 5, California

March 7, 1944.

Mr. Worth Allen,
Special Assistant to the Attorney General,
332 Postoffice Building,
Denver, Colorado.

Dear Mr. Allen:

Many years ago the United States acquired the land comprising Yucca House National Monument. The deed reserved the rights to certain springs and to pipe the water off of the area to the vendor's property, but it granted this Service the right to use such water from the spring as is necessary for the employees and visiting public.

Since discovering this, I have also found that there has been no adjudication of rights to the spring by any one. Also, since the Monument is not yet being developed, and has very limited attendance, we do not care to attempt to define the federal water demand at this time if we do not have to do so. We are merely trying to assemble data for further consideration.

The spring is apparently in the San Juan drainage in Water District 32 in Colorado. We wonder if you know when the last adjudication was held in the District, whether one is expected in the next few years, whether the United States has other active claims in the District, and whether the District is one in which the United States would probably enter State or Federal court to adjudicate its claims. Have you any other ideas on the vulnerability of the small present unrecorded Monument water use?

Yours very truly,

A. van V. Dunn,
Hydraulic Engineer.

cc: Director.
Region Three (2).

C O P Y

M. C. Hinderlider
State Engineer

C. C. Hezmalhalch
Deputy

L. T. Burgess
Chief Hydrographer

W. T. Blight
Chief Clerk & Draftsman

STATE OF COLORADO
Engineering Department
DENVER

January 20, 1944

SUBJECT:

Mr. A. van V. Dunn
Hydraulic Engineer
National Park Service
Water Rights Section
601 Sheldon Building
San Francisco 5, California

Dear Sir:

This will acknowledge receipt of your letter of
January 4, and after a careful search of the records of this
office we are unable to find that Harry Van Kluck or any other
parties have ever filed a right on what is known as Aztec Springs
located in the section described in your letter.

Very truly yours,

(Sgd) W. T. Blight.

Chief Clerk

WTB M

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WATER RIGHTS SECTION
601 Sheldon Building
San Francisco 5, California

January 4, 1944.

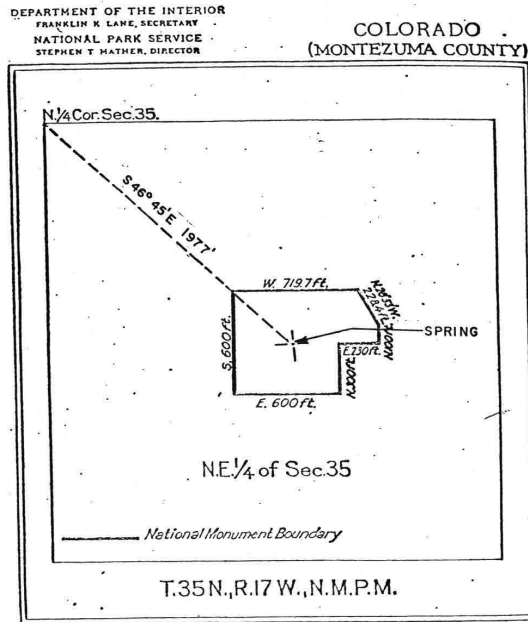
State Engineer,
State Capitol,
Denver, Colorado.

Dear Sir:

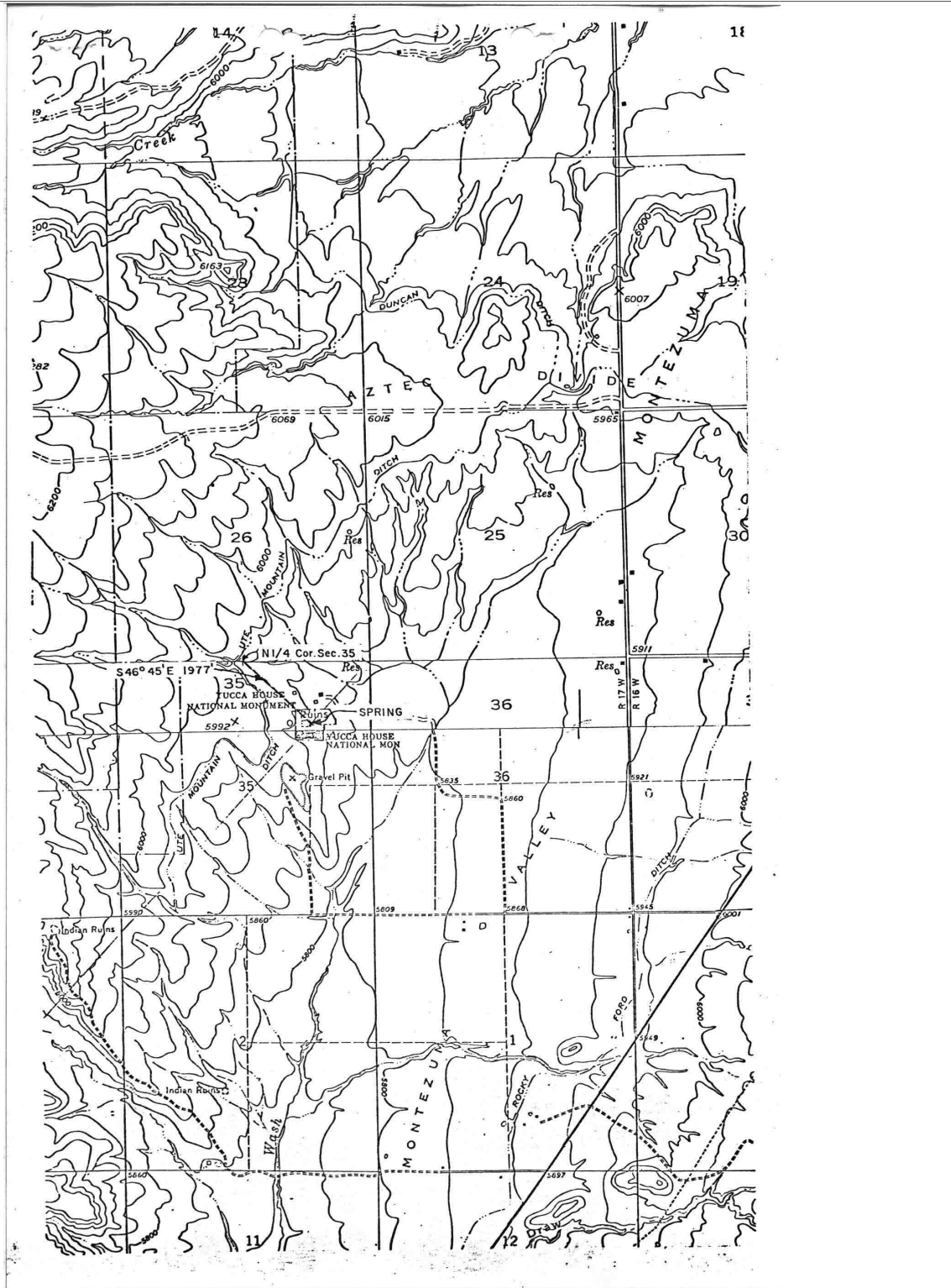
Will you please advise whether Harry Van Kluck, or others, have ever filed claim to, or adjudicated a right to divert the waters of Aztec Springs or other sources in Section 35, T 35 N, R 17 W, N.M.P.M. If so, please give references so that we may order copies of the records.

Yours very truly,

A. van V. Dunn,
Hydraulic Engineer.



YUCCA HOUSE
NATIONAL MONUMENT



Docket Information

Number of Documents in Docket 35

Documents Dated from 8/25/1916 to 10/2/1997

Docket Compiled: 8/3/2011