



WATER-RIGHT DOCKET

Zion National Park

Docket No: 8

3.3 SHARES, SPRINGDALE CONSOLIDATED IRRIGATION CO.

State Water Rights Documentation

12-31-1963: certificate of permanent change of point of diversion, place or purpose of use of water

FORM CC-1 8000 ORIGINAL 526

CERTIFICATE OF PERMANENT CHANGE OF POINT OF DIVERSION, PLACE OR PURPOSE OF USE OF WATER
STATE OF UTAH

CHANGE APPLICATION NO. 2-2155 FILED 20th DAY OF APRIL, 1956, CHANGE CERTIFICATE NO. 2-415

NAME AND ADDRESS OF APPROPRIATOR SPRINGDALE CONSOLIDATED IRRIGATION COMPANY, SPRINGDALE, UTAH

SOURCE OF SUPPLY NORTH FORK OF THE VIRGIN RIVER IN WASHINGTON COUNTY, UTAH; COLORADO RIVER DRAINAGE AREA

QUANTITY OF WATER CHANGED 3.97 c.f.s. PRIORITY CLAIMED FOR ORIGINAL RIGHT 1870

PERIOD AND PURPOSE OF CHANGED USE JANUARY 1 to DECEMBER 31 for IRRIGATION PURPOSES

WATER RIGHT ON WHICH CHANGE IS BASED ITEM 68 PAGE 15 OF VIRGIN RIVER DECREE FILED AUGUST 24, 1926

Whereas, It has been made to appear to the satisfaction of the undersigned that the change of water herein described has been perfected in accordance with the Laws of Utah; Therefore, Be it known that I, WAYNE D. CRIDDLE the duly appointed, qualified and acting State Engineer by authority of the Laws of Utah, do hereby certify that said appropriation is entitled to change the POINT OF DIVERSION of water as herein set out, subject to prior rights, if any, (including those junior to the original application or right which might be impaired by the change or changes) for diversion and use as follows, to wit:

Flow, SLEW.
This certificate now entitles the holder the right to divert the same water at a point situated S 550 ft. and E 950 ft. from NW Cor. Sec. 22, T41S, R10W, SLEW.

The water covered in this change was previously diverted at a point situated N 1300 ft. from SE Cor. Sec. 21, T41S, R10W, SLEW.

Entry No. 120543 Recorded at request of Elsa F. Ruesch
Date January 15, 1964, at 10:30 A.M., Book 8-46, Page 528 Fee \$2.50
Deputy Washington County Recorder, By

In Witness Whereof, I have hereunto set my hand and affixed the seal of my office this 31st day of DECEMBER, 1963

Wayne D. Criddle
STATE ENGINEER

When recorded return to:
 LEE GARRISON
 NATIONAL PARK SERVICE
 Room 122 Federal Bldg. Annex
 135 South State Street
 Salt Lake City, Utah 84111

Entry No. **183588** Fee \$5.00
 Recorded at Request of
SOUTHERN UTAH TITLE
 Date **MAY 31 1977** at **1:20P** M
 Book **220** Page **315-316**
 Washington County Recorder

W A R R A N T Y D E E D

The GRANTOR, ZION NATURAL HISTORY ASSOCIATION, a nonprofit Corporation of the State of Utah, does hereby CONVEY and WARRANT, as a DONATION and GIFT in accordance with P.L. 94-578 (90 Stat. 2738, Sec. 318), to the UNITED STATES OF AMERICA and its assigns, GRANTEE, the fee simple title to the following described lands within ZION NATIONAL PARK, to wit:

N.P.S. TRACT NO. 04-126

T. 41 S., R. 10 W., S.L.B.M.

A portion of NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 28, in Washington County, Utah, more particularly described as follows:

Commencing at the Quarter Section corner in the North line of Section 28, Township 41 South, Range 10 West, Salt Lake Meridian in Utah, the same being in the South boundary line of Zion National Park and running thence West along the North section line of said Section 28, Township 41 South, Range 10 West, 37.0 feet, more or less, to a point; thence S. 24°35' W. along the South-easterly boundary line of the right-of-way of Highway U-15, 210.0 feet, more or less, to a point; thence continuing in a Southwesterly direction along the Southeasterly boundary line of the right-of-way of Highway U-15 on a right curve whose radius is 550.0 feet, more or less, 188.94 feet, more or less to a point; thence S. 42°48' E. 338.54 feet, more or less, to a point which is 0.5 feet South of a cross on a stone and 594.0 feet, more or less, South of the point of beginning; thence North 594.0 feet, more or less, to the point of beginning; containing 2.39 acres, more or less.

NE $\frac{1}{4}$ of NW $\frac{1}{4}$

DESCRIPTION
CHECKED

LESS and EXCEPTING a reservation of all oil, gas and mineral rights incidental thereto now known to exist or hereafter discovered, with the sole, exclusive and perpetual right to explore for, remove and dispose of, said minerals by any means or methods suitable to GRANTOR, its successors and assigns, but without entering upon or using the surface of the lands, and in such manner as not to damage the land surface or to interfere with the use thereof by the GRANTEE, its successors or assigns, as recorded in Book S-38, Pages 43, 44, 45 on June 27, 1962.

By Deed recorded February 11, 1976 in Book 187, Pages 251-254, said minerals and rights were conveyed to Los Angeles and Salt Lake Railroad Company.

TO HAVE AND TO HOLD the above granted and described premises together with all and singular the tenements, hereditaments, and appurtenances thereto belonging, or in any wise appertaining unto the UNITED STATES OF AMERICA, and its assigns, forever.

The GRANTOR further remises, releases and forever quitclaims to the UNITED STATES OF AMERICA, and its assigns, 3.3 shares of water according to Springdale Consolidated Irrigation Company, Certificate No. 111, and all right, title and interests which the GRANTOR may have in other water rights, banks, beds, and waters of any stream or river bordering or traversing the said lands and also any interests in any alleys, roads, streets, ways, strips, gores, or other rights-of-way abutting or adjoining said lands and in any means of ingress or egress appurtenant thereto.

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ZION N. P. DEED #76

These lands are DONATED to the UNITED STATES OF AMERICA for the NATIONAL PARK SERVICE.

IN WITNESS WHEREOF, the undersigned GRANTOR has caused this Deed to be executed on its behalf by its respective officer thereto duly authorized this 24th day of May, 1977.



ZION NATURAL HISTORY ASSOCIATION,
A nonprofit Corporation of the
State of Utah

Victor L. Jackson
By: VICTOR L. JACKSON
Executive Secretary

A C K N O W L E D G M E N T

STATE OF Utah)
COUNTY OF Washington) SS

On this 24th day of May, 1977,
personally appeared before me, a notary public in and for the said County
and State, VICTOR L. JACKSON, known to me to be the Executive Secretary
of the ZION NATURAL HISTORY ASSOCIATION, a nonprofit Corporation of the
State of Utah, the Corporation that executed the foregoing instrument and
upon oath did depose and say that he is the officer of the Corporation as
above designated, that he is acquainted with the seal of the Corporation,
and that he signed and sealed said instrument on behalf of said Corporation
by authority of its Board of Directors, and that the Corporation executed
the instrument freely and voluntarily and for the use and purposes therein
mentioned.

WITNESS my hand and seal the day and year above written.

Heidi Church
Notary Public in and for said County

My Commission expires:

Nov. 8, 1980



183588

316



UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Southwest Region
Santa Fe, New Mexico

IN REPLY REFER TO:
154-RLW

MAR 4 1964

Memorandum

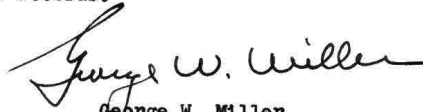
To: Director

From: Acting Regional Director

Subject: Memorandum of Agreement, Springdale Consolidated
Irrigation Company, Zion

Enclosed for your information is a copy of a Memorandum of Agreement dated February 7, 1964 between the Springdale Consolidated Irrigation Company and the United States of America acting through Superintendent, Zion National Park.

Prior to the execution of the agreement the Superintendent furnished sufficient evidence that the Springdale Consolidated Irrigation Company was a company organized under the laws of Utah and recognized by the State Engineer. The agreement in draft form, prior to execution, was reviewed by representatives of the Field Solicitor's office in Santa Fe. A signed copy has been given to the Field Finance Office here in this office for our records.


George W. Miller

In duplicate

Enclosure 

cc: Superintendent, Zion
FFO (Alarid), SWR

10-3-10-64

SLW

~~SLW~~

ENC
3/12/64

MEMORANDUM OF AGREEMENT

This memorandum of agreement, made and entered into this
7th day of February, 1964, by and between the
SPRINGDALE CONSOLIDATED IRRIGATION COMPANY, hereinafter called the
Company, and the UNITED STATES OF AMERICA, acting by and through the
Superintendent, Zion National Park, acting in accordance with
the Act of August 8, 1953 (67 Stat. 495), hereinafter called the
Government, witnesseth:

That, whereas the Company and the Government jointly use
a portion of an irrigation canal in the proportion hereinafter out-
lined, the canal being approximately 4,400 feet in length from point
of diversion to point of separation, the point of diversion being
South 550 feet and East 950 feet from NW corner, Section 22,
T41S, R10W, S18E, and whereas it is necessary at time to expend
moneys for labor, materials and supplies upon said canal to clean
after floods, etc., and whereas each of the parties hereto now
desire to enter into an agreement to apportion the costs of main-
taining and operating said canal and diversion works used jointly
by them as hereinafter set forth;

Flanigan
Ditch

NOW THEREFORE, for and in consideration of the promises
and covenants each to the other given, it is agreed by both Company
and Government that all work and estimated costs for maintaining,
repairing, operating, improving or enlarging the section of canal
and diversion works jointly used by the two parties hereto will be
jointly agreed upon before work is done, and detailed accounts will
be kept of all costs for such jointly approved work.

The Company, which uses the canal to transport 3.97 c.f.s. of
water, shall pay 73 per cent of all moneys expended upon said jointly-
used canal as aforesaid, and for which the users of the portion of the
canal shall be responsible. The Government, which transports 1.47 c.f.s.
of water through the jointly-used section of the canal shall pay 27
per cent of said amount. Any contribution received from another

Government agency such as the Agriculture Stabilization Service will be deducted from total project costs before charges are prorated in accordance with the above mentioned percentages.

Settlement of the accounts shall be made annually, or more often if the Company and the Government desire.

The Company agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under this agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Company involving transactions related to this agreement.

This agreement shall remain in effect for a period of ten (10) years, provided that nothing herein contained shall be construed as binding the Government to expend in any one fiscal year any sum in excess of appropriations made by Congress for that fiscal year, and available for use by the Superintendent, Zion National Park, in furtherance of the subject matter of this agreement or to involve the United States in any agreement or other obligation for the further expenditure of money in excess of such appropriations.

At any time during the term of this agreement, the Government, by written notice to the Company from the Superintendent, Zion National Park, may terminate this agreement in whole or in part, when it is in the interest of the Government. If this agreement is terminated, all costs actually incurred prior to the date of termination will be determined and a settlement of the account shall be made as of the date of the termination.

IN WITNESS WHEREOF, the parties hereto have set their hands the
day and year first above written.

SPRINGDALE CONSOLIDATED IRRIGATION COMPANY

By Walter Hoesy
Walter Hoesy, President

ATTEST:

Elsa F. Buesch
Elsa F. Buesch, Secretary-Treasurer

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

By Frank R. Oberhansley
Frank R. Oberhansley, Superintendent
Zion National Park

Other Supporting Information

Alice Johns
Owen Williams *OW*
5/17

May 16, 1989

LS4(479)
ZION/Water Rights

Memorandum

To: Superintendent, Zion National Park
From: Chief, Water Rights Branch, Water Resources Division
Subject: Water Rights in the North Fork Virgin River, within Zion National Park

In an April 14, 1989, meeting at Zion National Park, you requested a summary of water rights in the North Fork Virgin River, within Zion National Park. A hydrologist's summary titled "Water Rights of the United States and Springdale Consolidated Irrigation Company in the North Fork Virgin River, within Zion National Park" is attached. However, there are still a number of questions concerning the water rights which remain.

With your concurrence, the Water Resources Division will inquire at the County Recorder's and Water Commissioner's offices to further define the water rights, and by June 7, 1989, the hydrologist's summary will be revised or supplemented. Until then, the hydrologist's summary should be considered provisional.

If you have any questions please contact Alice Johns or me at (303) 221-8304 and (303) 221-8301, respectively.

Owen Williams

Attachment

cc: DOJ - Hill
RMR - Hermance
WRD - Hughes

FNP:AJOHNS:jr:221-8304:05/09/89:WANG #461

**Provisional
Hydrologist's Summary**

**Water Rights of the United States
and Springdale Consolidated Irrigation Company
in the North Fork Virgin River,
within Zion National Park**

May 1, 1989

Executive Summary

At the request of the Superintendent, Zion National Park (ZION), a summary of the water rights of the United States and of Springdale Consolidated Irrigation Company (SCIC), to the waters of the North Fork Virgin River within ZION, is presented. At one time there were four ditches which carried water from the North Fork Virgin River within what is now ZION; the Crawford, the Gifford, the Flanigan, and SCIC's ditch. Presently, there are three: the Gifford, the Crawford, and SCIC's pipeline.

The United States holds water rights in the Crawford and Gifford Ditches. These rights were acquired from various parties over the years, after which time the United States filed applications with the State of Utah to change the point of diversion, place, and nature of use associated with the rights.

SCIC holds a water right for 3.97 cfs. The United States holds 3.3 shares in the SCIC. In 1956, the Flanigan Ditch Company and SCIC began using the same headgate, that being the headgate of the Flanigan Ditch. After the United States acquired the lands formerly served by the Flanigan Ditch Company, SCIC and the National Park Service (NPS) entered a Memorandum of Agreement concerning maintenance of the jointly-used Flanigan Ditch. In 1988, SCIC completed the installation of a pipeline to replace the open ditch. No agreement between SCIC and the NPS concerning the pipeline has been entered.

The NPS has been diverting 1.47 cfs from the Flanigan Ditch or SCIC Pipeline headgate since the mid 1960's. However, based on information in the Water Resources Division's (WRD) water right dockets, it is not certain whether the United States holds appropriative water rights which would allow this diversion. Based on minimal information obtained from the State's records, it does not appear that the United States holds any water rights once owned by the Flanigan Ditch Company. However, because of the scant information upon which this conclusion is based, it remains uncertain. Further inquiry at the County Recorder's and Water Commissioner's offices is warranted to ascertain what rights were sold and to whom. After this task is accomplished (mid to late May, 1989), this Hydrologist's summary will be revised (June 7, 1989). Therefore, the information presented herein should be considered PROVISIONAL and subject to revision.

Hydrologist's Summary
Water Rights of the United States
and Springdale Consolidated Irrigation Company
in the North Fork Virgin River,
within Zion National Park

May 1, 1989

Introduction

At the request of the Superintendent, Zion National Park (ZION), a summary of the water rights of the United States and of Springdale Consolidated Irrigation Company (SCIC), to the waters of the North Fork Virgin River within ZION, is presented. The summary describes water rights, locations of ditches, diversion points, and places of use associated with the Crawford, Gifford, and Flanigan ditches, and SCIC's pipeline.

Historical Overview

The locations of ditches and pipelines into which waters of the North Fork Virgin River are or were, at some time in the recent past (past 40 years) diverted, are shown on the attached map. Prior to 1956, there were four ditches which carried water from the North Fork Virgin River within what is now ZION; the Crawford, the Gifford, the Flanigan, and SCIC's ditch. The Flanigan and the SCIC ditches were east of the river, and the Crawford and Gifford ditches were west. In 1956, SCIC was granted by the State Engineer a change in diversion point to the headgate of the Flanigan Ditch. Presently, there are three ditches along the North Fork within Zion: the Crawford, the Gifford, and SCIC's pipeline located approximately at the former location of the Flanigan Ditch.

Described below is a summary of the water rights and use history associated with the Crawford Ditch, Gifford Ditch, and the Flanigan Ditch/SCIC Pipeline.

Crawford Ditch

The Crawford Ditch headgate is presently located on the west bank of the North Fork Virgin River, and south of the Gifford Ditch Headgate, also located on the west bank of the river. Prior to acquisition of the associated water rights by the United States, water from the Crawford Ditch was used to irrigate land within Sections 21, 22, and 28, T41S R10 W, SLB&M.

The water rights associated with the Crawford Ditch were established by decree entered December 12, 1925, as amended by the supplemental decree entered December 12, 1930. These original rights are referred to as Awards 63 and 66 of the Virgin River Decree. Award Number 66 is for diversion of 1.21 cfs with a priority date of 1877. In 1931, the NPS purchased 0.034 cfs of Award No. 66, from Winder and Reusch, and in 1941, purchased the remainder (van V. Dunn, 1942).

Award 63, for 0.53 cfs and a priority date of 1881, was used by the Crawford family until 1931 or 1932, when their land was purchased by the United States. In 1935, the water right was purchased by the Utah Parks Company and transferred from the Pine Creek Ditch to the Crawford Ditch, as evidenced by Certificate 54, dated August 6, 1938. Approximately 1 year later, the right was deeded to the United States (van V. Dunn, 1942).

In 1943, the United States applied to the State Engineer for applications for Permanent Change of Point of Diversion, Place and Nature of Use of Water associated with Awards numbered 63 and 66 (as well as the rights originally associated with the Gifford Ditch, described below, and an unnamed spring). In 1946, the applications were approved. Following completion of physical works and filing of proofs, certificates of Permanent Change of Point of Diversion, Place, or Purpose of Use of Water, numbers a222 and a224 for Awards numbered 66 and 63 respectively, were signed by the State Engineer in 1957. The changes in these water rights (as well as the rights originally associated with the Gifford Ditch, described below, and an unnamed spring), as documented in the certificates, entitled the United States to "...divert the water at any, each, or all of the...described points of diversion...." The legal descriptions for these alternate points of diversion correspond to the following locations: Crawford Ditch, Gifford Ditch, Oak Creek spring area, Birch Creek spring area, Sinawava Springs, Scout Lookout pipeline, Upper Grotto Spring area, Lower Grotto spring, and Wylie Retreat spring area. The purpose of use was changed to municipal, with a period of use year-round. The NPS currently uses water from the Crawford Ditch to irrigate South Campground.

The United States has claimed these Crawford Ditch water rights in the ongoing Virgin River Adjudication (Civil No. 7496, in the District Court, 5th Judicial District, Washington County, State of Utah).

Gifford Ditch

As explained above, the Gifford Ditch headgate is located on the west bank of the North Fork Virgin River, north of the Crawford Ditch headgate. For unknown reasons, the headgate for the Gifford Ditch is no longer used. However, in 1952, and for some years thereafter, water was pumped from the Crawford Ditch to the Gifford Ditch (See memorandum of April 2, 1964, attached). The Gifford Ditch runs by the Pine Creek residential area and terminates at Oak Creek. Water in the Gifford Ditch may have been used by the NPS to irrigate developed areas along its course.

Sometime prior to NPS acquisition in 1931 of the Gifford Ditch water rights, the Gifford Ditch had two headgates, one on the North Fork and one on Oak Creek. The water was used to irrigate 10.1 acres of land south of Oak Creek and 14.6 acres north of Oak Creek (van V. Dunn, 1942).

Like the Crawford Ditch, the water rights associated with the Gifford Ditch were established by decree entered December 12, 1925, as amended by the supplemental decree entered December 12, 1930. This original right is referred to as Award 65 of the Virgin River Decree and is for diversion of 0.53 cfs with a priority date of 1894.

As with the Crawford Ditch water rights, in 1943, the United States applied to the State Engineer for an application for Permanent Change of Point of Diversion, Place and Nature of Use of Water associated with Award Number 65. In 1946, the application was approved. Following completion of physical works and filing of proofs, a certificate of Permanent Change of Point of Diversion, Place, or Purpose of Use of Water, number a223, was signed by the State Engineer in 1957. The changes in this water right (as well as the rights originally associated with the Crawford Ditch, described above, and an unnamed spring), as documented in the certificate, entitled the United States to "...divert the water at any, each, or all of the...described points of diversion...." The legal descriptions for these alternate points of diversion correspond to the following locations: Crawford Ditch, Gifford Ditch, Oak Creek spring area, Birch Creek spring area, Sinawava Springs, Scout Lookout pipeline, Upper Grotto Spring area, Lower Grotto spring, and Wylie Retreat spring area. The purpose of use was changed to municipal with a year-round period of use.

The United States has claimed the Gifford Ditch water rights in the on-going Virgin River Adjudication (Civil No. 7496, in the District Court, 5th Judicial District, Washington County, State of Utah).

Flanigan Ditch/SCIC Pipeline

The headgate for the SCIC diversion was at one time located "...at a point situated N 1320 ft. from the SE Cor. Sec. 21, T41S, R10W, SLBM." (Change Certificate No. a415) which is south of the Flanigan Ditch. SCIC's water right is Award Number 68 of the Virgin River Decree, for 3.97 cfs, for irrigation purposes, from January 1 to December 31, with a priority date of 1870.

With the acquisition of land in 1977 from the Zion Natural History Association, the United States acquired "...3.3 shares of water according to Springdale Consolidated Irrigation Company, Certificate No. 111..." (Deed No. 76, Tract 04-126, copy attached). The quantity of water which equates to 3.3 shares is not documented in the WRD's records. The water is some portion of SCIC's 3.97 cfs right. SCIC can provide a determination of the quantity of water which equates to 3.3 shares.

SCIC changed their diversion point to the Flanigan Ditch Headgate in 1956. At that time, a verbal agreement between the Flanigan Ditch Company and SCIC settled the method of operation and maintenance of the jointly used ditch and diversion works (See Memorandum of January 7, 1964, attached). In December 1963, SCIC was issued a Certificate of Permanent Change of Point of Diversion, Place, or Purpose of Use of Water, numbered a415, which evidences the change. By 1964, the United States apparently acquired the lands formerly irrigated by waters supplied by the Flanigan Ditch Company; on February 7, 1964, the SCIC and the United States entered into a Memorandum of Agreement concerning maintenance of the jointly-used ditch. Costs for jointly-approved work on the ditch were to be divided based on the amount each party diverted. SCIC used the ditch to transport 3.97 cfs and the United States used the ditch to transport 1.47 cfs. Therefore, within the jointly-used section of the ditch, SCIC was to pay 73 percent, and the United States, 27 percent of the maintenance costs. The agreement remained in effect for 10 years, and in

1974, a similar agreement was signed and remained in effect for 10 years. In 1988, SCIC replaced the open ditch with a pipeline. No agreement concerning pipeline use and maintenance has been entered between the United States and SCIC.

The United States uses the 1.47 cfs to irrigate the Watchman Campground. However, at this time, the United States' right to diversion of 1.47 cfs from the Flanigan Ditch is uncertain, as explained below.

According to the 1925 Virgin River Decree, the waters of the Flanigan Ditch Company were used to irrigate 90.6 acres of land in Sections 21, 22, and 28, T41S R 10W. "Said water to be divided among the following owners named hereinafter in the ratios of their respective individual acres to the total acreage as follows: John R Crawford 3.1 acres; Samuel K. Crawford 15.2 acres; John Reusch 5.1 acres; John Dennet 19.2 acres; Oscar Demille 7.1 acres; Walter Reusch 2.2 acres; Isaac Langston 10.2 acres; Don Jolley 5.2 acres; William H. Gifford 15.2 acres; John Winder 8.1 acres." (Decree entered December 12, 1925, in the District Court, 5th Judicial District, Washington County, State of Utah).

Based on a review of the WRD's records, it is uncertain whether the United States holds any appropriative water rights formerly in the name of the Flanigan Ditch Company. The NPS had, as of April 2, 1964, planned to contact the State Engineer after all the lands served by the Flanigan Ditch Company were acquired, to effect transfer of the water rights to the United States (See memorandum of April 2, 1964, attached). However, there is no evidence in the WRD's water right dockets that any water rights of the Flanigan Ditch Company were purchased by the United States. According to the memorandum of April 2, 1964, referred to previously, a permanent Docket Number 5 was to be established to document the United States' water rights in the Flanigan Ditch. Upon review of two duplicate sets of the NPS's dockets, the WRD concludes that no such Docket Number 5 was established. The April 2, 1964, memorandum notes that the water rights information contained in Docket Number 5 would also be filed in an alien (non-NPS water rights) docket. In the alien water right docket, ZION ALIEN #8 Flanigan Ditch, there is a quit claim transfer affidavit for 5.2 shares of water in the Flanigan Ditch Company, signed March 3, 1958: "The said water right was obtained by the said Albert E. Jones from Avarad Fairbanks in 1950, pursuant to a verbal agreement whereby Jones was to obtain the use of said water for a period of **twenty years** in exchange for certain services performed by Jones." (emphasis added). As evidenced by the affidavit, this 20-year interest was transferred from Albert and Hilda Jones to Arden and Lucy Schiefer. Presumably, this interest expired in 1969, 20 years from the date of the agreement.

In 1986, the WRD obtained, from the State of Utah, a listing of water rights in the Virgin River Basin for Townships and Ranges within, tributary, or directly adjacent to ZION. A search revealed no water rights with diversion points at the Flanigan Ditch headgate, aside from SCIC's. However, there is a listing for a water right in the name of Ardell and Mary Jane Demille, for 0.27 cfs, downstream from the Town of Springdale, on the North Fork Virgin River. This right is a portion of the original Flanigan Ditch water right. Also obtained from the State of Utah is a copy of selected sections of the 1925 decree, which contains handwritten notations indicating changes in the decreed rights subsequent to issuance of the decree. Notations include change

applications filed in subsequent years. The accuracy of these handwritten notations is not known. The rights associated with the Flanigan Ditch Company are identified with the Water Use Claim Number 81-1135. Although it is not clearly legible, handwritten corrections appear to indicate that the right is for irrigation of 77.28 acres, in the amount of 1.38 cfs, and that, in February 1968, (the last digit of the year is fuzzy) the right was deeded to: Board of Water Resources, 1/2 interest, and Ardelle and Mary Jane Demille, 1/2 interest. Under the entry for Award Number 67, Flanigan Ditch Company, there is no reference to the United States or the NPS. Based on this information, it would appear that the United States holds no rights which were once the Flanigan Ditch Company's. However, because of the nature of the information upon which this conclusion is based (xeroxed handwritten notations) this question remains open. Further inquiry at the County Recorder's and Water Commissioner's offices is warranted to ascertain what rights were sold and to whom.

Conclusions and Recommendations

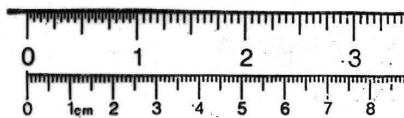
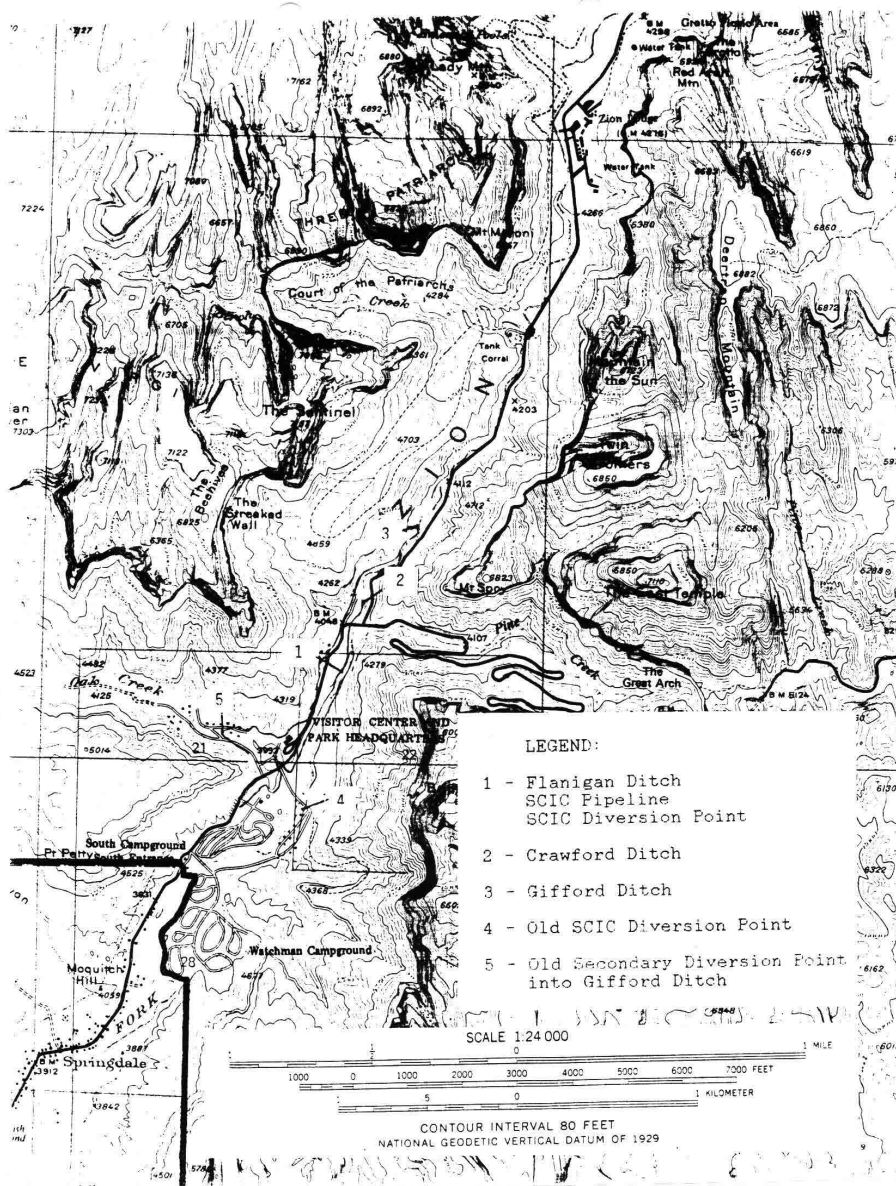
The United States' appropriative water rights for the Crawford and Gifford Ditches are well established. In 1957, the State Engineer signed certificates which approved changes in the Crawford and Gifford Ditch water rights. The changes in these rights (as well as the rights originally associated with an unnamed spring), entitled the United States to "...divert the water at any, each, or all of the...described points of diversion...." The legal descriptions for these alternate points of diversion correspond to: Crawford Ditch, Gifford Ditch, Oak Creek spring area, Birch Creek spring area, Sinawava Springs, Scout Lookout pipeline, Upper Grotto Spring area, Lower Grotto spring, and Wylie Retreat spring area. The purpose of use was changed to municipal, with a period of use running from January 1 to December 31, each year.

SCIC's rights to 3.97 cfs are well established, 3.3 shares of which are held by the NPS, having acquired same with land from Zion National History Association. From the mid-1960's to the mid 1980's, SCIC and the NPS jointly used the Flanigan Ditch, with maintenance costs divided as detailed in a Memorandum of Agreement. In 1988, SCIC replaced the open ditch with a pipeline. No agreement concerning pipeline use and maintenance has been entered between the United States and SCIC.

The NPS has been diverting 1.47 cfs from the Flanigan Ditch or SCIC Pipeline headgate since the mid 1960's. However, based on information in the WRD's water right dockets, it is not certain whether the United States holds appropriative water rights which allow this diversion. From the scant information obtained from the State's records, it does not appear that the United States holds any water rights once owned by the Flanigan Ditch Company, however, this conclusion is far from certain.

The WRD should inquire at the County Recorder's and Water Commissioner's offices to further define what rights were sold and to whom. With the concurrence of ZION, this task will be accomplished by mid- to late- May 1989, after which time this Hydrologist's summary will be revised or supplemented. Until this additional investigation can be completed, this report should be considered PROVISIONAL.

Alvin E. Johns



Southwest Region
Santa Fe, New Mexico

APR 2 1964

154
Zion

Memorandum

To: Director

From: Assistant Regional Director

Subject: Memorandum of Agreement, Springdale Consolidated
Irrigation Company, Zion

The memorandum from the Chief, Branch of Water Resources on the above subject dated March 18 poses a question about the volume of water which is covered under the subject agreement.

The memorandum of agreement includes all of the water belonging to the Springdale Consolidated Irrigation Company (3.97 cfs) and the Government owned Flanigan Ditch (1.47 cfs). On December 31, 1963 the Springdale Consolidated Irrigation Company acquired a Certificate of Permanent Change of Point of Diversion, Place or Purpose of Use of Water. This change certificate is numbered A-415 and relates to Application A-3135 filed on April 20, 1956 which diverts water from the North Fork of the Virgin River in the amount of 3.97 cfs. During the interim period between filing the application and issuance of the certificate the two ditch companies operated under a verbal agreement encompassing use of water and maintenance of facilities. After we purchased all of the Flanigan Ditch rights it was decided to enter into a formal agreement with the Springdale Consolidated Ditch Company and the memorandum of agreement of February 7, 1964, was the result.

You will note that we have agreed to pay 27% of all maintenance costs. This figure was arrived at as the percentage of water we are entitled to in the combined flow of the ditch. Chief Ranger Jim Felton's report of February 23, 1962 discussed only the Flanigan Ditch water rights and made no mention of the Springdale water. This is the reason that the amount of water mentioned in the memorandum of agreement is almost three times the amount of water mentioned in Ranger Felton's report.

W O D C
APR 3 1964

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2

We have enclosed a print of NP-ZIO-6981-B prepared by Mr. Dunn December 9, 1943, and revised in the Regional Office May, 1952. On this print we have marked in red the point of diversion which is in the NW 1/4 NW 1/4 of Section 22, T. 41 S., R. 10 W. This was formerly the point of diversion for the Flanigan Ditch. By a blue arrow we have shown the approximate location of the former point of diversion for the Springdale Consolidated Irrigation Company. This point of diversion, from the North Fork Virgin River, is approximately on the section line common to Sections 21 and 22.

In 1956 the Springdale Consolidated Irrigation Company and the Flanigan Ditch Company combined their diversion points from the Virgin River. At the present time there is joint use of the ditch (what used to be the old Flanigan Ditch) for a distance of 4400' from the point of diversion to a point east of the south part of the south entrance campground. At this point (probably the SE 1/4 SE 1/4 of Section 21) there is a mechanical arrangement which divides the water conveyed by the common ditch.

From this point of division the Springdale water goes under the river by siphon, flows through the campground, and leaves the park near the park entrance sign at the south park boundary. The Flanigan Ditch water flows southward, irrigates the Schiefer property and all of the other tracts south of the old park boundary and east of the river. This is the area at the South Entrance added to Zion by P.L. 86-387 of February 20, 1960, and is the area marked in red on the enclosed letter size print that shows the location of Tract No. 31, currently under acquisition. On the enclosed print of NP-ZIO-6981-B we have made a rough sketch, from memory, showing the approximate arrangement for the division of water from the two ditches.

In a telephone conversation with Assistant Superintendent Dickenson on March 31 he advised that the State Engineer of Utah will transfer the Flanigan Ditch rights to the National Park Service when we have completed acquisition of all of the land under the Flanigan Ditch. The State Engineer's office will require copies of the various deeds in order to make the transfer of the Flanigan Ditch Rights to the United States. This will be the subject of a separate memorandum after the last tract of land in this area has been acquired.

3

As time permits, we will prepare a new map showing the present status of the combined ditch, a detailed drawing of the diversion works which separate the two ditches, the location of the individual ditches after they are separated and the acreage irrigated by the Flanigan Ditch. We will then prepare an Alien Water Right Docket for the Springdale Ditch and incorporate all available pertinent information in the docket and make distribution. We will also include the above information in Docket No. 5, Flanigan Ditch.

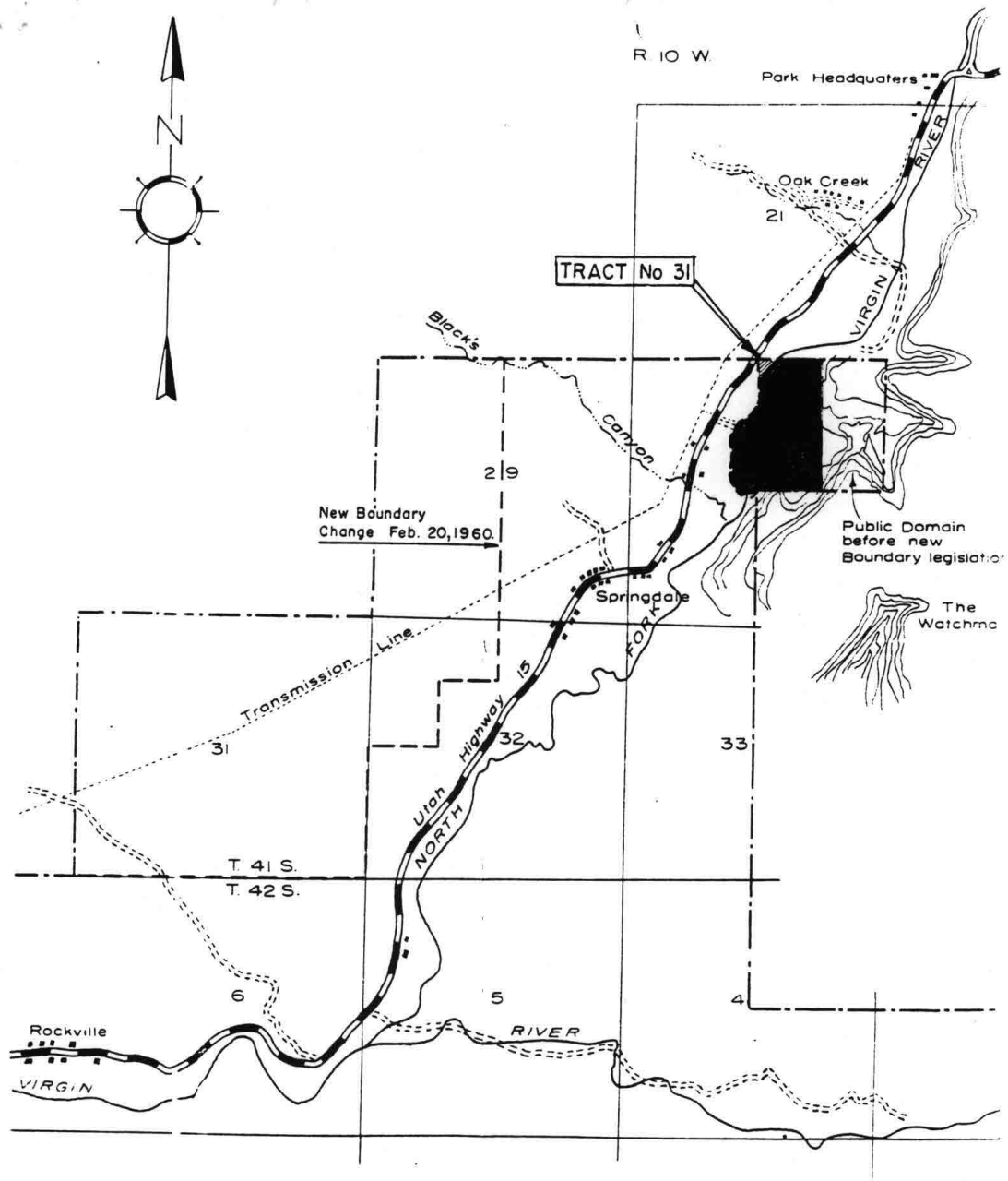
George W. Miller

(SIGNED)

In duplicate

Enclosure

cc: WODC (2) w/enc ✓
Superintendent, Zion w/enc



ZION NATIONAL PARK
 Alienated Lands Pattern in
 Township 41 South., Range 10 West
 Section 28, Tract No. 31, Owner Zion Natural History Association
 in Relation to Park Boundaries

Oct. 31, 1960 L.S.
 Rev. 1/30/64 L.S.



IN REPLY REFER TO:

L54

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Zion National Park
Springdale, Utah 84767

January 7, 1964

RECEIVED		
NPS SOUTHWEST REGIONAL OFFICE		
JAN 9 1964		
	Surname	Date
Regional Director		
Cons., Interp & Use		
Administration		
Resource Planning		
Public Affairs		
Program Coord.		
Operations		
Concessions		
Natural History		
Hist & Archaeology		
Ranger Services		

Handwritten: Zell, JCR, 1-30

Memorandum

To: Regional Director, Southwest Region
From: Acting Superintendent, Zion
Subject: Memorandum of agreement, Springdale Consolidated Irrigation Company

Reference is made to previous correspondence which we originated on the above subject during the latter part of October. We now enclose a copy of a Certificate that the water right and point of diversion exercised by the Springdale Consolidated Irrigation Company is approved and recognized by the State Engineer. We have also enclosed a draft copy of a Memorandum of Agreement proposed by the Company, the purpose of the agreement being the apportionment of maintenance and operating costs on an irrigation canal used jointly by the Company and Zion National Park.

In 1956 when the Springdale Consolidated Irrigation Company and the Flannigan Ditch Company combined their diversion point in the Virgin River, it appears that a verbal agreement between the two companies settled method of operation and maintenance of the jointly used canal and diversion works. A written agreement was never signed.

In 1962, the officers of the two companies had an attorney prepare a written agreement for signature, but due to imminent sale of land to the Service by Flannigan Ditch Company stockholders and other disorganization, the written agreement was not consummated. As the Flannigan Ditch water rights have now been optioned or purchased by the National Park Service, it is our desire to enter into a written agreement regarding apportionment of costs.

We will appreciate staff review and comment regarding the proposed agreement. As it is desirable to accomplish certain work on the diversion point this winter, action to expedite review by your office will be appreciated.

Russell E. Dickenson
Russell E. Dickenson

In triplicate

Enclosures

L54 Zion

When recorded return to:
 LEE GARRISON
 NATIONAL PARK SERVICE
 Room 122 Federal Bldg. Annex
 135 South State Street
 Salt Lake City, Utah 84111

Entry No. **183588** Fee \$5.00
 Recorded at Request of
SOUTHERN UTAH TITLE
 Date **MAY 31 1977** at **1:20P M**
 Book **220** Page **315-316**
 Washington County Recorder

WARRANTY DEED

The GRANTOR, ZION NATURAL HISTORY ASSOCIATION, a nonprofit Corporation of the State of Utah, does hereby CONVEY and WARRANT, as a DONATION and GIFT in accordance with P.L. 94-578 (90 Stat. 2738, Sec. 318), to the UNITED STATES OF AMERICA and its assigns, GRANTEE, the fee simple title to the following described lands within ZION NATIONAL PARK, to wit:

N.P.S. TRACT NO. 04-126

T. 41 S., R. 10 W., S.L.B.M.

A portion of NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 28, in Washington County, Utah, more particularly described as follows:

Commencing at the Quarter Section corner in the North line of Section 28, Township 41 South, Range 10 West, Salt Lake Meridian in Utah, the same being in the South boundary line of Zion National Park and running thence West along the North section line of said Section 28, Township 41 South, Range 10 west, 37.0 feet, more or less, to a point; thence S. 24°35' W. along the Southeasterly boundary line of the right-of-way of Highway U-15, 210.0 feet, more or less, to a point; thence continuing in a Southwesterly direction along the Southeasterly boundary line of the right-of-way of Highway U-15 on a right curve whose radius is 550.0 feet, more or less, 188.94 feet, more or less to a point; thence S. 42°48' E. 338.54 feet, more or less, to a point which is 0.5 feet South of a cross on a stone and 594.0 feet, more or less, South of the point of beginning; thence North 594.0 feet, more or less, to the point of beginning; containing 2.39 acres, more or less.

NE $\frac{1}{4}$ NW $\frac{1}{4}$

DESCRIPTION
CHECKED

LESS and EXCEPTING a reservation of all oil, gas and mineral rights incidental thereto now known to exist or hereafter discovered, with the sole, exclusive and perpetual right to explore for, remove and dispose of, said minerals by any means or methods suitable to GRANTOR, its successors and assigns, but without entering upon or using the surface of the lands, and in such manner as not to damage the land surface or to interfere with the use thereof by the GRANTEE, its successors or assigns, as recorded in Book S-38, Pages 43, 44, 45 on June 27, 1962.

By Deed recorded February 11, 1976 in Book 187, Pages 251-254, said minerals and rights were conveyed to Los Angeles and Salt Lake Railroad Company.

TO HAVE AND TO HOLD the above granted and described premises together with all and singular the tenements, hereditaments, and appurtenances thereto belonging, or in any wise appertaining unto the UNITED STATES OF AMERICA, and its assigns, forever.

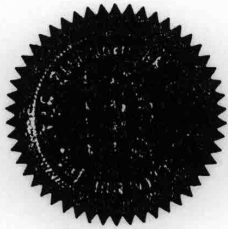
The GRANTOR further remises, releases and forever quitclaims to the UNITED STATES OF AMERICA, and its assigns, 3.3 shares of water according to Springdale Consolidated Irrigation Company, Certificate No. 111, and all right, title and interests which the GRANTOR may have in other water rights, banks, beds, and waters of any stream or river bordering or traversing the said lands and also any interests in any alleys, roads, streets, ways, strips, gores, or other rights-of-way abutting or adjoining said lands and in any means of ingress or egress appurtenant thereto.

315

ZION N. P. DEED #76

These lands are DONATED to the UNITED STATES OF AMERICA for the NATIONAL PARK SERVICE.

IN WITNESS WHEREOF, the undersigned GRANTOR has caused this Deed to be executed on its behalf by its respective officer thereto duly authorized this 24th day of May, 1977.



ZION NATURAL HISTORY ASSOCIATION,
A nonprofit Corporation of the
State of Utah

Vito L. Jackson
By: VICTOR L. JACKSON
Executive Secretary

A C K N O W L E D G M E N T

STATE OF Utah)
COUNTY OF Washington) SS

On this 24th day of May, 1977,
personally appeared before me, a notary public in and for the said County
and State, VICTOR L. JACKSON, known to me to be the Executive Secretary
of the ZION NATURAL HISTORY ASSOCIATION, a nonprofit Corporation of the
State of Utah, the Corporation that executed the foregoing instrument and
upon oath did depose and say that he is the officer of the Corporation as
above designated, that he is acquainted with the seal of the Corporation,
and that he signed and sealed said instrument on behalf of said Corporation
by authority of its Board of Directors, and that the Corporation executed
the instrument freely and voluntarily and for the use and purposes therein
mentioned.

WITNESS my hand and seal the day and year above written.

Heidi V. Church
Notary Public in and for said County

My Commission expires:

Nov. 8, 1980



183588

316

L1425 (RMR)ML
ZION Tr. 04-126

DEC 12 1977

Memorandum

To: Associate Director, Management and Operations, WASO

Attention: Chief, Land Acquisition Division

From: Acting Associate Regional Director, Park Operations, RMR

Subject: Retirement of land records, Deed No. 76, Tract 04-126,
Zion Natural History Association, Zion National Park

Enclosed are the following documents for retirement of the subject tract:

1. Warranty Deed (Donation)
2. Final Title Opinion from Regional Solicitor, Salt Lake City
3. Policy of Title Insurance
4. Certificate of Inspection and Possession
5. Administrative Determination
6. Superintendent's Letter, February 25, 1977
7. Minutes of Annual Meeting

/s/ WES WOLFE

Enclosures 7

cc:
Supt., Zion N.P., w/all attachments

RMR-Bill Mekeel, w/cy of Deed
RMR-AC-Olson, w/cy of Deed

LLGARRISON:slm 12/8/77

222-4-6-6x
WR Copy
FWR
GWR.

Southwest Region
Santa Fe, New Mexico

L54
Zion

APR 2 1964 1

Memorandum

To: Director

From: Assistant Regional Director

Subject: Memorandum of Agreement, Springdale Consolidated
Irrigation Company, Zion

The memorandum from the Chief, Branch of Water Resources on the above subject dated March 18 poses a question about the volume of water which is covered under the subject agreement.

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ENCLOSED MAPS

Filed IN ~~the~~ Docket 5
(FLANIGAN DITCH) 3/29/66

2

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George W. Miller

(SIGNED)

In duplicate ✓

Enclosure

cc: WODC (2) w/enc
Superintendent, Zion w/enc

HOLD - TO ASK FIELDS OR KELL ANYTIME
THE OPPORTUNITY PRESENTS ITSELF

March 13, 1964

Does the "big shift" of facilities at Zion (campground etc.) call for an application for change of place of use?

(See Master Plan 3306E)

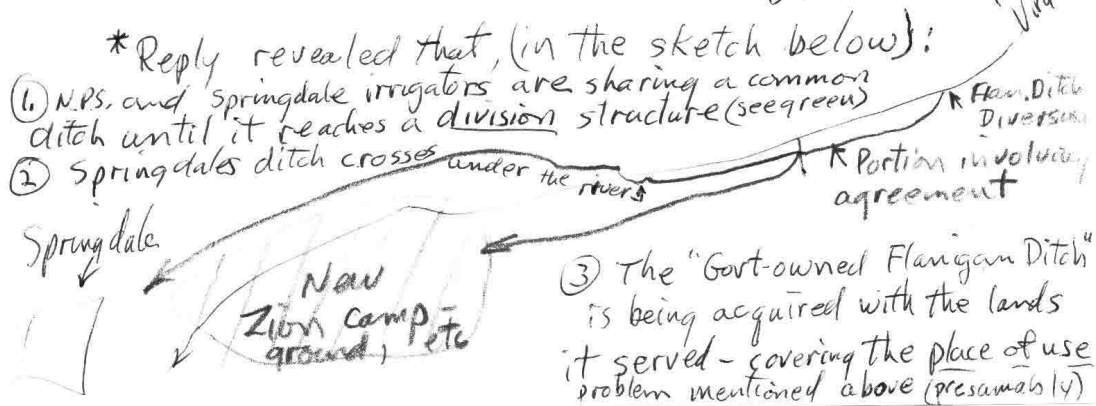
April 1, 1964

On April 1, when Mr. Kell was on the telephone with Messrs. Sanders and Garrett, I "appended" the above suspended inquiry to the call when Mr. Kell was about to hang up.

His reply strongly involved the Agreement to use water from a ditch which was not named, but has a point of diversion described in the agreement identical to that of Flanigan Ditch on our Zion Water Right Map. This was the subject and content of Mr. Reed's memorandum to Southwest Region, March 18. However, the Agreement involves our sharing use with a private company near Springdale whereas Mr. Kell stated that we have practically completed the purchase of Flanigan Ditch with its lands and that "we are talking about two different ditches." He felt this would be cleared up in their reply to Mr. Reed's memorandum.

The lands to be occupied by the new campground will be superimposed on the lands to be acquired, coinciding Mr. Kell thinks, with the place of use of the permit being acquired.

Gordon W. Robertson 2.



March 18, 1964

L54-SLW

WR Copy
3/23/64
JWB

Memorandum

To: Regional Director, Southwest Region
From: Chief, Branch of Water Resources
Subject: Memorandum of Agreement, Springdale Consolidated Irrigation Company, Zion

Thank you for the copy of the above agreement transmitted by Mr. Miller's memorandum of March 4. However, this Office is lacking background information leading to this agreement. Apparently the agreement refers to the Flanigan ditch, but calls for a flow three times the amount stated in Chief Ranger Felton's report of February 23, 1962. The rights to that amount of water and the Service's position regarding those rights are not clear.

We have no objections to the agreement, but would appreciate a memorandum bringing us up to date on the water-rights developments in this area.

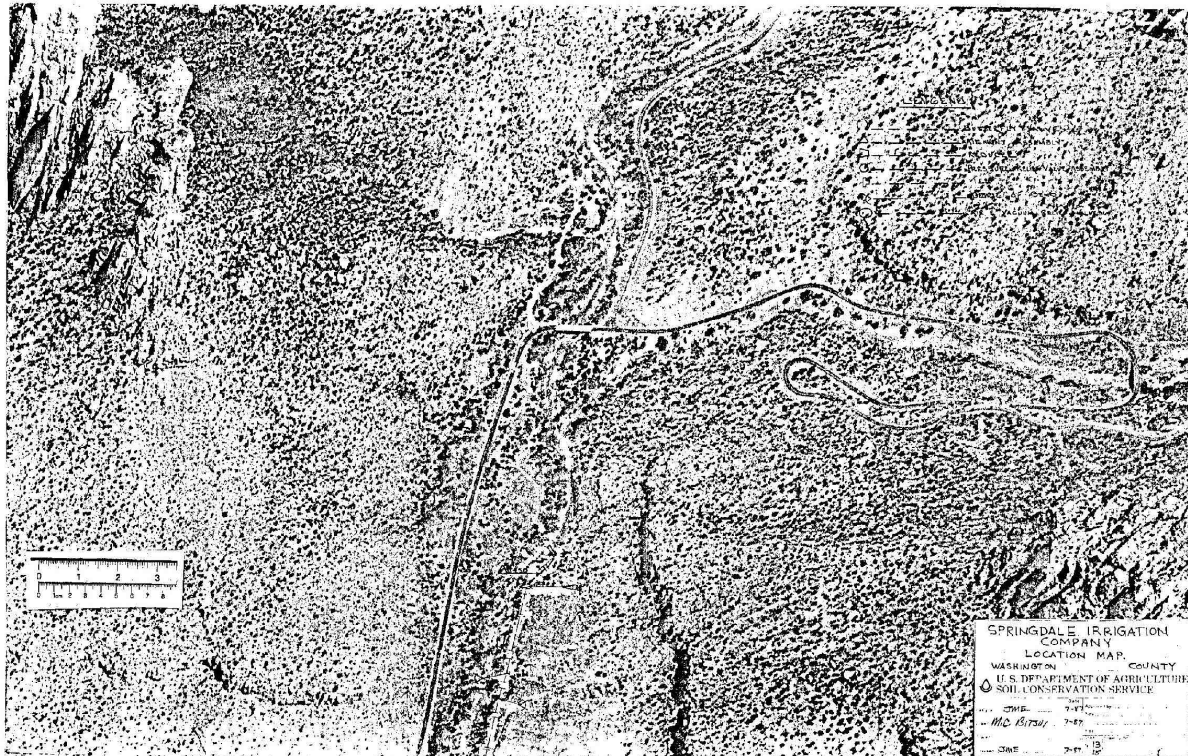
E. W. Reed

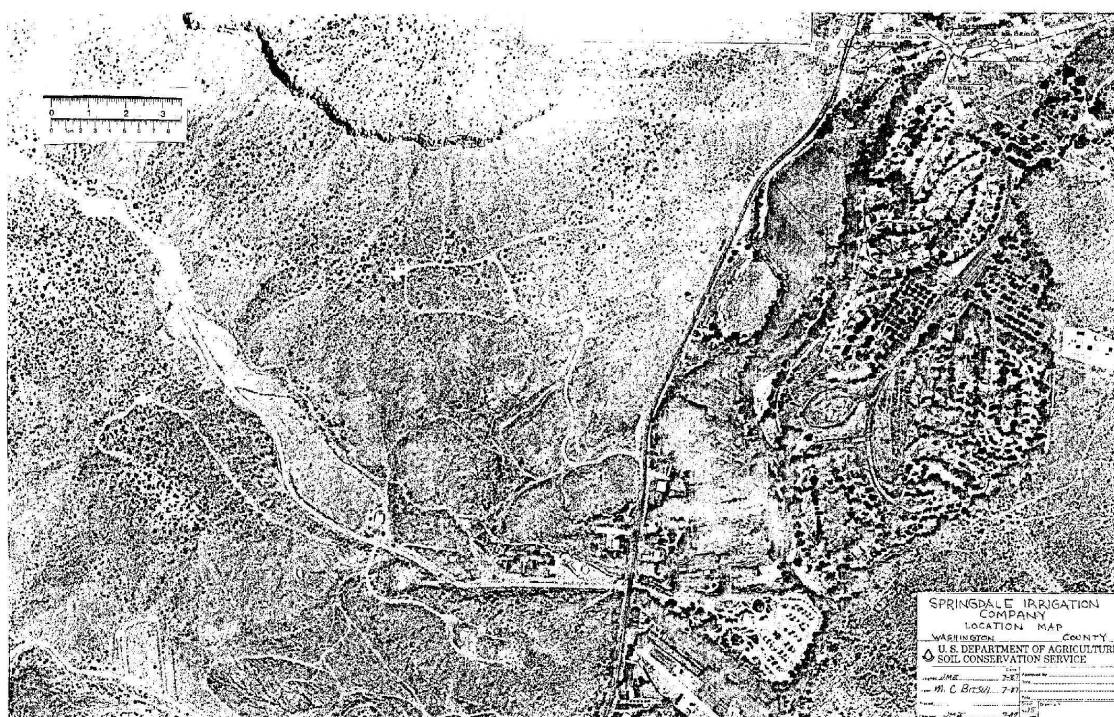
cc:
Superintendent, Zion
Chief, WDC (2)
Mr. Reed

EWReed:GWR:ljc

See memo
of April 2, 1964
filed in Water Rights







II

I

The maps 1 of 15 through 12 of 15 can be found in the other ZION files located in the Water Resources Division, Water Rights Branch document storage facility.

J.C. Hughes, 1 October 1996

Docket Information