WATER-RIGHT DOCKET

Florissant Fossil Beds National Monument

Docket No: 11

SAWMILL TRAIL WELL

Preliminary Docket Information

05-21-1996: notes to the file; flfo 011 and 012.

NOTES TO THE FILE FLFO 011 and 012 May 21, 1996

FLFO Docket 011 contains documentation pertaining to Sawmill Trail Well. FLFO Docket 012 contains documentation pertaining to Visitor Center Well #12. Both wells are covered by the same Judgment and Decree of the Water Court concerning underground water rights, a plan for augmentation, including exchanges, and change of water rights (Case No. 94CW083).

Docket 12 contains more complete documentation of the process of obtaining the decreed right than does Docket 11, although both dockets contain the essential information to document the water right. Docket 11 contains some early correspondence and internal documents that apply to the need for a plan of augmentation for Sawmill Trail Well only, which are not found in Docket 12.

For a summary of the water rights situation, please refer to:

1. The Judgment and Decree of the Water Court, signed February 28, 1996.

2. A February 21, 1996, Memorandum to the Superintendent, FLFO, Subject: Referee's Ruling Concerning Underground Water Rights, a Plan for Augmentation, Including Exchanges, and Change of Water Rights (Case No. 94CW083)

3. December 7, 1993 summary report attached to a December 7, 1993 letter to Mike Gheleta, Attorney

Alice Johns

Alice Johns
Hydrologist
Water Rights Branch
Water Resources Division
National Park Service

State Water Rights Documentation

Form No. GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

1155

WELL PERMIT NUMBER 76213 -F -
DIV. 1 WD 23 DES. BASIN MD

APPLICANT

FLORISSANT FOSSIL BEDS NATIONAL MONUMENT
NATIONAL PARK SERVICE
PO BOX 185
FLORISSANT, CO 80816-

(970) 225-3505

APPROVED WELL LOCATION
TELLER COUNTY
NE 1/4 SW 1/4 Section 23
Township 13 S Range 71 W Sixth P.M.

DISTANCES FROM SECTION LINES
2405 Ft. from South Section Line
1973 Ft. from West Section Line

UTM COORDINATES (Meters,Zone:13,NAD83)
Easting: Northing:

PERMIT TO USE AN EXISTING WELL

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT

CONDITIONS OF APPROVAL

1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of this permit does not ensure that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
3) Approved pursuant to CRS 37-90-137(2) on the condition that this well is operated in accordance with the United States of America Augmentation Plan approved by the Division 1 Water Court in case no. 1994CW83. If this well is not operated in accordance with the terms of said decree, it will be subject to administration including orders to cease diverting water.
4) Approved for the use of an existing well, constructed under monitoring hole notice no. 15812-MH and permitted under well permit no. 44784-F. Upon issuance of this permit, permit no. 44784-F shall be cancelled by Order of the State Engineer.
5) The use of ground water from this well is limited to domestic and commercial purposes, including drinking water, restroom use, maintenance and irrigation, at a visitor center, administrative offices, and residences.
6) The pumping rate of this well shall not exceed 20 GPM.
7) The average annual amount of ground water to be withdrawn by this well, in combination with all other wells operating under the plan for augmentation decreed in case no. 1994CW83, shall not exceed 3.5 acre-feet.
8) The owner shall mark the well in a conspicuous place with well permit number(s), name of the aquifer, and court case number(s) as appropriate. The owner shall take necessary means and precautions to preserve these markings.
9) A totalizing flow meter must be installed on this well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (recorded at least monthly) and submitted to the Division Engineer upon request.
10) This well shall be constructed at least 600 feet from any existing well, completed in the same aquifer, that is not owned by the applicant.
11) This well shall be constructed not more than 200 feet from the location specified on this permit and not more than 200 feet from the location decreed for the Sawmill Trail Well in case no. 1994CW83 (decreed location is 2405 feet from the south section line and 1973 feet from the west section line).
12) This well is subject to administration by the Division Engineer in accordance with applicable decrees, statutes, rules, and regulations.

APPROVED
SKR

Dick Wolfe
State Engineer

By

Receipt No. 3655763 DATE ISSUED 07-10-2012 EXPIRATION DATE NA



"Robinson, Karmen (ENRD)" <Karmen.Robinson@usdoj.gov>

09/08/2010 02:18 PM AST

To <jeff_hughes@nps.gov>
cc
bcc
Subject WD1 Case No. 09cw161 Summary of Consultation

<<Report 09CW161[1].pdf>>
Jeff,

I've attached the Summary of Consultation that was filed in the above referenced case. Please let me know if you have any difficulty opening this document.

Karmen Robinson
Paralegal Specialist
US DOJ - ENRD
NRS
P: 303.844.1481
F: 303.844.1350



Report 09CW161[1].pdf

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

Filed In District Court
2009CW161
CO Weld County District Court 19th JD
Filing Date: Aug 31 2010 8:00AM MDT
Filing ID: 32885643

Bill Ritter, Jr.
Governor

Mike King
Executive Director

Dick Wolfe, P.E.
Director/State Engineer

David L. Nettles, P.E.
Acting Division Engineer

August 31, 2010

SUMMARY OF CONSULTATION HELD AUGUST 19, 2010

MAY 2010 RESUME

CASE NO. 09CW161, United States of America (Applicant), Teller County

Applicant hereby seeks to amend a previously filed application. The amendment corrects the location of the Sawmill Trail Well to Section 23, Township 13 South, Range 71 West, 6th Principal Meridian.

Applicant is not required to respond to this Summary of Consultation. If there are questions regarding this letter, contact John Cowan at john.cowan@judicial.state.co.us or telephone number (970) 351-7300, Ext. 5405.

1. The Division Engineer reiterates the concerns raised in the Summary of Consultation.

David L. Nettles

David L. Nettles, P.E.
Acting Division One Engineer

DLN:MDH/JD

xc: Dick Wolfe, P.E., Director/State Engineer
Garver Brown, Water Commissioner

Water Division 1 □ Greeley
810 9th Street, Suite 200 □Greeley, CO 80631 □Phone: 970-352-8712 □Fax: 970-392-1816
www.water.state.co.us

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

Bill Ritter, Jr.
Governor

James B. Martin
Executive Director

Dick Wolfe, P.E.
Director/State Engineer

James R. Hall, P.E.
Division Engineer

CERTIFICATE OF MAILING

Case No. 09CW161

I hereby certify that on August 31, 2010 a copy of the foregoing Summary of Consultation of the Division Engineer has been served through LexisNexis to the individuals listed below:

Dick Wolfe, P.E., State Engineer
Division of Water Resources
1313 Sherman Street Room 818
Denver, Colorado 80203

James J. DuBois
U.S. Department of Justice
1961 Stout Street, 8th floor P.O. Box 25547
Denver, CO 80225-0547

And all objectors of record for the above case.

Maggie Mudge

Maggie Mudge

Water Division 1 • Greeley
810 9th Street, Suite 200 • Greeley, CO 80631 • Phone: 970-352-8712 • Fax: 970-392-1816
www.water.state.co.us

DISTRICT COURT, WATER DIVISION 1, COLORADO 901 Ninth Avenue, Greeley, CO 80631 (970) 351-7300	
CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA **IN TELLER COUNTY, COLORADO**	▲ COURT USE ONLY ▲
Attorney for Applicant United States of America James J. DuBois, #13206 U.S. Department of Justice Environment and Natural Resource Division 1961 Stout Street, 8th Floor Denver, CO 80294 Phone: (303) 844-1375 FAX: (303) 844-1350 james.dubois@usdoj.gov	Case Number: _____ Water Court

APPLICATION FOR FINDING OF REASONABLE DILIGENCE

1. Name, address, telephone number(s) (residence and business) of applicant(s)

National Park Service
Water Resources Division
1201 Oakridge Dr. Suite 250,
Fort Collins, CO
Attn: Chief, Water Rights Branch
(970) 225-3505

2. Name of structure: (well, spring, ditch, reservoir): Sawmill Trail Well

3. Describe conditional water right (as to each structure) giving the following from the Referee's Ruling and Judgment and Decree:

A. Date of Original Decree: February 28, 1996.

Case No.: 94CW083 Court: Water Division No. 1

B. Subsequent decrees awarding findings of diligence (Case No. and date of decree): 02CW024, October 21, 2003.

C. Legal description: include distance and bearing from established government section corner or quarter corner; or distances from section lines, and indicate ¼ ¼, section number, township, range and meridian; include map). The location may include UTM coordinates based on Zone 13 and NAD27(CONUS) datum. In urban areas, include street address, lot, block, and subdivision:

Required Description: Teller County	NE 1/4 of the	SW 1/4	Section 23	Township 14 South	Range 71 West	Principal Meridian NMPM
Distance from section lines (section lines are typically not property lines) 2,405 Feet from South and 1,973 Feet from West.						
Street Address: Florissant Fossil Beds National Monument, P. O. Box 185, Florissant, Colorado 8081.						

Optional Additional Description: GPS location information in UTM format Required settings for GPS units are as follows: Format must be UTM; Zone must be 13; Units must be Meters Datum must be NAD27 (CONUS) and; Units must be set to true north.

Were points averaged? YES NO	Northing _____ Easting _____

D. Source: Groundwater, tributary to Grape Creek, tributary to Twin Creek, tributary to South Platte River.

E Appropriation Date: February, 1990. Amount: 20 g.p.m, 3.5 af/yr.

F. Use: Domestic and commercial uses, including drinking water, restroom use, maintenance and irrigation.

G. Depth: (if well) 220 feet.

4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: (add additional sheets if necessary)

In anticipation of the construction of a new visitor center complex, the Sawmill Trail well was completed on May 30, 1990. A 12-hour pump test was completed on June 5, 1990. As

provided for in the Findings of Fact, Conclusions of Law, Judgment and Decree of the Water Court Approving Underground Water Rights, a Plan for Augmentation, including Exchanges, and Change of Water Rights, signed by the District Court, Water Division 1 on February 28, 1996 for Case Number 94CW083 (94CW083), the Sawmill Trail well was granted a conditional water right for 20 gallons per minute, not to exceed 3.5 acre-feet per year to provide water for use at the new visitor center and other National Park Service facilities.

During 1989, development plans for maintenance, research, interpretation, and administration facilities, including the visitor center, were completed at a cost of nearly $500,000. The plans include 52 pages of blueprints outlining the details of each building. In 1995, the complex was the fourth priority in the region to be funded and about 15th in the nation. National Park Service criteria for line-item construction subsequently changed in 1995 and this request disappeared from the national listing. Since the existing request to construct the facilities did not meet the new criteria, the package was revised. This new package included an administrative, research, interpretive and visitor facility, permanent stump shelters (to protect large fossil tree stumps), amphitheater and an outdoor exhibit area, while eliminating the housing and maintenance areas and the entrance station. This request was submitted each year from 1995 through 2001. In 2001, the Stump shelters were funded and are now completed. At that time, the construction date for the Resource Protection, Education and Museum and Visitor Center was scheduled to be funded, and construction begun, in fiscal year 2005.

The construction year was delayed to 2006 and the project was capped at $3,000,000 by Congress. This amount was much less than the estimated cost of the project, requiring the project to be drastically redesigned and scaled down to meet available funding.

Preliminary and schematic design for the scaled down facility was completed in August 2006, at a cost of just under $150,000, plus substantial staff time for value analysis, plan review and comment input to the design. The revised design included research, interpretive and visitor facilities, and cooperating association sales area. Studies to assure compliance with the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act were undertaken and concluded at the construction site in 2006. Those studies included soil borings to determine and map locations of any buried paleontological resources and the preparation of an environmental assessment. A Finding of No Significant Impact statement (FONSI) was prepared in 2007 and placed on public review for comment. The borings, mapping, and environmental documentation were done at a cost of approximately $9,500. At that time, construction was scheduled for 2009, pending approval and recommendation of the project by the National Park Service Development Advisory Board (DAB). DAB approval and recommendation was secured in June 2007. Shortly thereafter, the Line Item Construction program moved the construction date back to 2010 due to lack of available funding. Responses to review comments about the FONSI were made and submitted for NPS Intermountain Regional Office approval in September 2009 to

be timely with the current construction schedule. Regional Office approval of the FONSI is expected in October 2009.

By mid-2008, the construction date was moved back again, this time to 2011, due to continued lack of available funding. The Monument has taken this opportunity to refine the design to mesh with the energy policies of the current administration and fine-tune the previous design to make the building a more sustainable, green, energy- and water-efficient design concept that incorporates passive alternative energy sources such as photovoltaics and solar hot water. An architecture and engineering consortium (A/E) has been retained at a cost of $61,194.12. The new concept will be completed in October 2009 and forwarded for DAB approval in December 2009. The project will then proceed to design and construction document preparation in 2010, with no adverse impact to the current schedule for construction in 2011.

As stated in 94CW083, Florissant Fossil Beds National Monument has an agreement in place for purchasing water from North Fork Associates and the Mountain Mutual Reservoir Company. This water will be used as replacement water for expected depletions to the stream system from use of the Sawmill Trail well for the new facilities described above. The National Park Service has been paying an annual assessment for 19.3 shares of stock in the Mountain Mutual Reservoir Company.

Florissant Fossil Beds National Monument has every intention to construct the facilities that will require water from the Sawmill Trail well under this conditional water right. Unforeseen circumstances have prevented this construction to date. However, funding is thought to be available in fiscal year 2011 and every effort to begin construction, and to put the water to use, will be made at that time.

5. Names(s) and address(es) of owner(s) of the land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.

Florissant Fossil Beds National Monument
P. O. Box 185
Florissant, CO 80816

Dated this 30th Day of October, 2009.

JOHN C. CRUDEN
Acting Assistant Attorney General

PURSUANT TO CRCP RULE 121, SECTION 1-26(9), A DULY SIGNED COPY OF THIS DOCUMENT IS ON FILE AT THE OFFICES OF THE DEPARTMENT OF JUSTICE.

JAMES J. DUBOIS, #13206
U.S. Department of Justice
Environment and Natural Resources Division

ATTORNEYS FOR APPLICANT
UNITED STATES OF AMERICA

VERIFICATION

I, Jeffrey C. Hughes, Hydrologist, National Park Service, Water Resources Division, state under oath that I have read the foregoing Application for Finding of Reasonable Diligence, and verify that the information contained therein is true and correct to the best of my knowledge, information and belief.

Jeffrey C. Hughes

County of Larimer)
) ss.
State of Colorado)

Subscribed, sworn to and acknowledged before me this 23rd day of October, 2009.

WITNESS my hand and official seal.

My commission expires: January 20, 2013

Louise Kordalski
Notary Public

(SEAL)

U. S. DEPARTMENT OF JUSTICE

ENVIRONMENT AND NATURAL RESOURCES DIVISION

KJH:JATetreault

REPLY TO:
Judy A.. Tetreault, Paralegal
General Litigation Section
Suite 945, North Tower
999 Eighteenth Street
Denver, CO 80202

Telephone: (303) 312-7351
Telecopier: (303) 312-7379

TELEFAX COVER SHEET

Date: January 13, 2004

From: Judy Tetreault

TO: DAN MCGLOTHLIN
JEFF HUGHES (970) 225-9965

RE: Water Division No. 1
Case No. 02CW024

Pursuant to your request, attached is the Decree in the afore-mentioned case.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If you have received this communication in error, please notify us immediately by telephone (collect), and return the original message to us at the above address by mail.

FILE

DISTRICT COURT, WATER DIVISION 1, COLORADO 901 Ninth Avenue, Greeley, CO 80631 (970) 351-7300	
CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA – IN TELLER COUNTY, COLORADO.	COURT USE ONLY
Attorney for Applicant United States of America: James J. DuBois, #13206 U.S. Department of Justice Environment and Natural Resource Division 999 18th St., Suite 945 Denver, CO 80202 james.dubois@usdoj.gov Phone: (303) 312-7341 Fax: (303) 312-7379	Case Number: **02CW024** Water Court
FINDINGS AND RULINGS OF THE REFEREE AND JUDGMENT AND DECREE OF THE WATER COURT	

This matter has come before the Water Referee, Water Division No. 1, upon the Application for Finding of Diligence of the United States of America. The Referee, having considered the pleadings, and the evidence presented, and being fully advised in the premises hereby makes the following Findings of Fact, and Ruling of the Referee:

FINDINGS OF FACT

1. The application herein was filed with the Water Clerk for Water Division No. 1 on February 26, 2002. The name and address of the applicant are as follows:

United States of America
Department of the Interior
National Park Service,
1201 Oakridge Dr., Suite 250
Fort Collins, CO 80525
(970) 225-3500

2. Timely and adequate notice of these proceedings has been given in the manner required by law. The time for filing statements of opposition and for seeking leave to intervene has expired. The Court has jurisdiction over all persons who have standing to appear herein, whether they have appeared or not.

3. No person or entity has filed a Statement of Opposition or sought to intervene in this matter. The Division Engineer filed a Summary of Consultation on July 3, 2002 recommending approval of the application.

4. Neither the land nor the water which is the subject of this application is located within the boundaries of any designated ground water basin.

5. The water rights that are the subject of this application are as follows:

Sawmill Trail Well

a) Location: Well is located on public lands in the NW1/4, SW1/4, Sec. 23, T.14S, R.71W, NMPM, in the Florissant Fossil Beds National Monument. Distances from protracted section lines: 2,405 feet from South section line and 1,973 feet from West section line.

b) Source: Groundwater, tributary to Grape Creek, tributary to Twin Creek, Tributary to South Platte River.

c) Appropriation Date: February, 1990

d) Amount: 3.5 acre-feet/yr (20.0 gallons per minute)

e) Use: Domestic and commercial uses, including drinking water, restroom use, maintenance and irrigation.

f) Depth: 220 feet.

6. The Florissant Fossil Beds National Monument, National Park Service is the owner of the land on which the point of diversion is located.

7. The Sawmill Well was completed in May, 1990, but the Visitor's Center and Museum which it is to serve had not been constructed, and water was not immediately placed to beneficial use for the intended purposes. During the diligence period, the National Park Service

("NPS") has revised the development plans for the facilities to be served by the well in order to meet changed federal funding criteria. In addition, the NPS has actively sought Congressional funding for facilities necessary to the completion of the appropriation. In 2001, funding was obtained and construction begun for Stump shelters which are part of the development to be served by the well. In addition, during the diligence period the United States pursued legal action to secure approval of a plan for augmentation necessary to allow out-of-priority use of the Sawmill Well.

CONCLUSIONS OF LAW

8. The application herein is one contemplated by law, and this Court has jurisdiction over the subject matter of this proceeding.

9. The Application herein was filed with the Water Clerk in accordance with the provisions of §37-92-302(1)(a) 10 C.R.S. and referred to the Water Referee in accordance with the provisions of §37-92-203(7), 10 C.R.S.

10. Timely and adequate notice of the filing and of the contents of the application herein was given in the manner provided by law, and this Court has jurisdiction over all persons or entities affected hereby, whether they have appeared or not. §37-92-302, 10 C.R.S.

11. During the diligence period the United States has been diligent in seeking to complete the appropriation and apply water from the Sawmill Well to beneficial use within a reasonable time.

RULING OF THE REFEREE

IT IS, THEREFORE, THE RULING OF THE REFEREE:

12. The Application of the United States of America for a Finding of Reasonable Diligence is approved, and the conditional water rights continued as described in Paragraph 5.

13. This water right shall be administered in priority with respect to other water rights.

14. Each of the foregoing findings of fact and conclusions of law is incorporated herein as if set out in full and is hereby modified to the extent necessary to make it a Ruling of the Referee.

O-JT

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

03 NOV -3 PM 12: 24

Dated October 10, 2003

BY THE REFEREE:

RAYMOND S. LIESMAN
Water Referee
Water Division No. 1
State of Colorado

NO PROTEST HAVING BEEN TIMELY FILED IN THIS MATTER, THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.

Prior to or during the month of October, 2009 and every six years thereafter until the conditional right is decreed absolute, the owner or user thereof, if it is desired to maintain the same, shall file an application for finding of reasonable diligence with this Court. Applicant shall notify this Court of any change in mailing address.

Dated: 10/21/03

BY THE COURT:

ROGER A. KLEIN
Water Court Judge
Water Division 1
State of Colorado

U.S. Departm. . of Justice

Environment and Natural Resources Division

Lori Montano
General Litigation Section
999 Eighteenth Street
Suite 945, North Tower
Denver, Colorado 80202

Telephone (303) 312-7343
Facsimile (303) 312-7331
lori.montano@usdoj.gov

FILE COPY

February 25, 2002

via Federal Express

Clerk of the Court
Water Court - Division No. 1
P.O. Box 2038
Greeley, CO 80632

Re: Water Division 1 - Case No. 94CW083/02CW024

Dear Clerk of the Court: new file

Enclosed for filing, please find an original and three copies of the **APPLICATION FOR FINDING OF DILIGENCE** in the above mentioned case. A check for $91.00 has been included for the filing fee.

I have also provided one additional copy of the document which I would appreciate you file stamping and returning to me in the envelope provided herewith.

If you have any questions, please do not hesitate to contact me at 303/312-7343.

Sincerely,

Lori Montano

Lori Montano
Legal Support Assistant

Enclosures

Submit original plus three cop

ORIG: JT

☒ District Court
Water Division No. 1, Colorado
Court Address: P. O. Box 2038
Greeley, CO 80632

COPY

FILE

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:
Applicant: United States of America

IN TELLER COUNTY.

COURT USE ONLY

Case Number: 94CW083

If Represented by an Attorney, Attorney's Name and Address:
James DuBois
U.S. Department of Justice
Environment and Natural Resources Division
999 18th Street, Suite 945
Denver, CO 80202

Division No. 1 Courtroom

Phone Number: (303) 312-7341 E-mail: james.dubois@usdoj.gov
FAX Number: (303) 312-7379 Atty. Reg. #: 13206

APPLICATION: ☒ FOR FINDING OF DILIGENCE
☐ TO MAKE ABSOLUTE

1. Name, address, telephone number(s) (residence and business) of applicant(s)

   National Park Service
   Water Resources Division
   1201 Oakridge Dr. Suite 250,
   Fort Collins, CO 80525
   Attn: Chief, Water Rights Branch
   (970) 225-3505

2. Name of structure: (well, spring, ditch, reservoir): Sawmill Trail Well

3. Describe conditional water right (as to each structure) giving the following from the Referee's Ruling and Judgment and Decree:

   A. Date of Original Decree: February 28, 1996 Case No.: 94CW083 Court: Water Division No. 1

   B. Legal description: include distance and bearing from established government section corner or quarter corner; or distances from section lines, and indicate ¼ ¼, section number, township, range and meridian; include map). The location may include UTM coordinates based on Zone 13 and NAD27(CONUS) datum. In urban areas, include street address, lot, block, and subdivision:

Submit original plus three cop

Required Description: County	NE 1/4 of the	SW 1/4	Section 23	Township 13 N or S ☐ ☒	Range 71 E or W ☐ ☒	Principal Meridian 6th Principle Baseline and Meridian

Distance from section lines (section lines are typically not property lines)

2,405 Feet from ☐ N ☒ S and 1,973 Feet from ☐ E ☒ W

Street Address: Florissant Fossil Beds National Monument, P. O. Box 185, Florissant, Colorado 80816

Subdivision:	Lot	Block

Optional Additional Description: GPS location information in UTM format
Required settings for GPS units are as follows: Format must be UTM; Zone must be 13; Units must be Meters Datum must be NAD27 (CONUS) and; Units must be set to true north.

Were points averaged? ☐ YES ☐ NO	Northing _____ Easting _____

C. Source: Groundwater, tributary to Grape Creek, tributary to Twin Creek, Tributary to South Platte River.

D. Appropriation Date: February, 1990 Amount: 20 g.p.m, 3.5 af/yr

E. Use: Domestic and commercial uses, including drinking water, restroom use, maintenance and irrigation

F. Depth: (if well) 220 feet

4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: (add additional sheets if necessary)

Please see attached affidavit. Funding for this development has been submitted and actively sought each year from 1995 through 2001. In 2001, the Stump shelters, which are part of the Monument development that will ultimately be served by the well, were funded and are presently under construction. The Resource Protection, Education and Museum and Visitor Center are scheduled to be funded and construction begun in fiscal year 2005.

5. If claim to make absolute
Water applied to beneficial use:
A. Date: _____ Amount: _____

Use: _____

Submit original plus three cop

B. Description of place of use where water is applied to beneficial use:

6. Names(s) and address(es) of owner(s) of the land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.

Florissant Fossil Beds National Monument
P. O. Box 185
Florissant, CO 80816

**PLEASE NOTE: The owner of any conditional water right shall notify the clerk of the court that decreed the conditional water right of any change in mailing address.

THOMAS L. SANSONETTI
Assistant Attorney General
JOHN W. SUTHERS
United States Attorney

James J. DuBois, #13206
U.S. Department of Justice
Environment and Natural Resources Division
999 18th Street, Suite 945
Denver, Colorado 80202
(303) 312-7341

Attorneys for United States of America

Submit original plus three cop

VERIFICATION

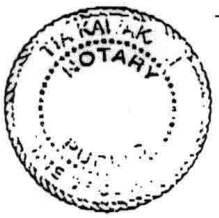
I, Jean H. Rodeck, Superintendent, Florissant Fossil Beds National Monument, state under oath that I have read this application and verify its content.

Jean H. Rodeck, Superintendent,
Florissant Fossil Beds National Monument

Subscribed and affirmed, or sworn to before me in the County of Denver, State of Colorado, this 22nd day of February, 2002.

My commission expires: September 30 2003

Notary Public



AFFIDAVIT

I, Jean H. Rodeck being first duly sworn upon oath, depose and state:

1. I am Superintendent of Florissant Fossil Beds National Monument, located in Florissant, Colorado.

2. I have been employed by the National Park Service on a permanent basis since November of 1960 and have been employed as Superintendent of Florissant Fossil Beds National Monument since September 1, 1995.

3. In my role as Superintendent, I have been responsible for the management and operation of Florissant Fossil Beds National Monument. This includes providing for the enjoyment of visitors to the Monument.

4. Florissant Fossil Beds National Monument was created on August 20, 1969 "to preserve and interpret for the benefit and enjoyment of present and future generations the excellently preserved insect and leaf fossils and related geologic sites and objects at the Florissant lakebeds..."(Public Law 91-60, 83 Stat. 101).

5. In anticipation of the construction of a new visitor center complex, the Sawmill Trail well was completed on May 30, 1990. A 12-hour pump test was completed on June 5, 1990. As provided for in the Findings of Fact, Conclusions of Law, Judgment and Decree of the Water Court Approving Underground Water Rights, a Plan for Augmentation, including Exchanges, and Change of Water Rights, signed by the District Court, Water Division 1 on February 28, 1996 for Case Number 94CW083 (94CW083), the Sawmill Trail well was granted a conditional water right for 20 gallons per minute, not to exceed 3.5 acre-feet per year to provide water for use at the new visitor center and other facilities.

6. Development plans for maintenance, research, interpretation, and administration, facilities, including the visitor center, were completed in 1989 at a cost of nearly $500,000. National Park Service criteria for line-item construction subsequently changed in 1995 and this request disappeared from the national listing. In order to meet new criteria, the development package was revised in 1995. This new package includes an administrative, research, interpretive and visitor facility, permanent stump shelters (to protect large fossil tree stumps), amphitheater and an outdoor exhibit area. Funding for this development has been submitted and actively sought each year from 1995 through 2001. In 2001, the Stump shelters, which are part of the Monument development that will ultimately be served by the well, were funded and are presently under construction. The Resource Protection, Education and Museum and Visitor Center are scheduled to be funded and construction begun in fiscal year 2005.

7. As stated in 94CW083, Florissant Fossil Beds National Monument has an agreement in place for purchasing water from North Fork Associates. This water will be used as replacement water for expected depletions to the stream system.

8. Florissant Fossil Beds National Monument continues to pursue the construction and completion of the facilities that will require water under this conditional water right. Circumstances and fiscal constraints beyond the control of the Monument have prevented this construction to date. The National Park Service continues to seek the necessary funding and make every effort to begin construction, and to put the water to use.

Dated this 22nd day of February, 2002

Jean H. Rodeck, Superintendent,
Florissant Fossil Beds National Monument

Subscribed and affirmed, or sworn to before me in the County of Denver, State of Colorado, this 22nd day of February, 2002.

My commission expires: September 30, 2003

Notary Public

STATE OF COLORADO PUBLIC

U.S. Department of Justice

Environment and Natural Resources Division

KJH:HMEngelhart

Helena Engelhart
General Litigation Section
999 Eighteenth Street
Suite 945, North Tower
Denver, Colorado 80202

Telephone (303) 312-7307
Facsimile (303) 312-7379
Helena.Engelhart@usdoj.gov

July 15, 2002

Jean H. Rodeck, Superintendent
Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, CO 80816

Jeff Hughes, Hydrologist
NPS - Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525

Peter A. Fahmy, Esq.
USDOI - Office of the Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, CO 80215

Re: Concerning the Application for Water Rights of: Applicant United States of America, National Park Service, in Teller County, Case No. 02CW024

Dear Jean, Jeff and Peter:

Enclosed for your records is the following document regarding Summary of Consultation held June 24th, 2002.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,

Helena Engelhart

Helena Engelhart
Legal Support Assistant

Enclosures

FILE FILE 0-JT JNB

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

STATE OF COLORADO

02 JUL -5 AM 10: 52

WATER DIVISION ONE
OFFICE OF THE STATE ENGINEER
Division of Water Resources
Department of Natural Resources

810 9th Street, Suite 200
Greeley, Colorado 80631
Phone: (970) 352-8712
FAX: (970) 392-1816

www.water.state.co.us

Bill Owens
Governor

Greg E. Walcher
Executive Director

Hal D. Simpson, P.E.
State Engineer

Richard L. Stenzel
Division Engineer

July 3, 2002

SUMMARY OF CONSULTATION HELD JUNE 24, 2002

CASE NO. 02CW024, United States of America, National Park Service, Teller County WD 1

FEBRUARY 2002 RESUME

The applicant is seeking a finding of reasonable diligence for the Sawmill Trail Well located in Section 23, T13S, R71W. The date of appropriation is February, 1990 for the amount of 20 gpm and 3.5 acre feet per year. The uses include domestic, commercial and irrigation purposes. This structure was previously decreed in Water Court Case No. 94CW083.

Please provide a written response to the following concerns to Water Court, P.O. Box 2038, Greeley, Colorado 80632. If there are questions regarding this letter, telephone Raymond Liesman at (970) 351-7300, Ext. 4598.

The Division Engineer recommends approval of this application.

CRS 1973, 37-92-302(4), SIGNED INTO LAW MAY 17, 1988, PROVIDES THAT THE APPLICANT OR THE APPLICANT'S ATTORNEY SHALL MAIL OR DELIVER A COPY OF THIS CONSULTATION TO ALL PARTIES OF RECORD WHO FILED A STATEMENT OF OPPOSITION TO THIS APPLICATION, IF ANY. THE STATUTE ALSO REQUIRES THAT THE APPLICANT OR HIS ATTORNEY SHALL FILE A CERTIFICATE OF MAILING WITH THE WATER CLERK OF DIVISION 1 IF THIS SUMMARY OF CONSULTATION IS MAILED TO OPPOSING PARTIES.

David L Nettles for
Richard L. Stenzel, P.E.
Division Engineer

RLS:DLN/lrk

xc: Hal D. Simpson, State Engineer
Mike Eytel, Water Commissioner

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525-5596

IN REPLY REFER TO:

February 21, 1996 ← Date is incorrect. Should be May 6, 1996

L54(2380)
FLFO/Water Rights

Memorandum

To: Superintendent, Florissant Fossil Beds National Monument

From: Acting Chief, Water Rights Branch

Subject: Judgment and Decree of the Water Court Concerning Underground Water Rights, a Plan For Augmentation, Including Exchanges, and Change of Water Rights (Case No. 94CW083) at Florissant Fossil Beds National Monument

A copy of the above-captioned judgment and decree is attached for your records. The judgment and decree is identical to the referee's ruling (a copy of which was attached to a February 21, 1996, memorandum to you) with the exception of the last page. The last page of the judgment and decree contains the signature of the water judge for Colorado Water Division 1 (South Platte River Basin), confirming and approving the referee's ruling and making the ruling the judgment and decree of the court.

For further explanation of this decreed water right and Florissant Fossil Beds National Monument's reporting requirements, please refer to my memorandum of February 21, 1996. And, if you have any questions, please feel free to call me or Alice Johns of my staff at (970)225-3505 and (970)225-3534, respectively.

Chuck Pettis

Attachment

cc: Deputy Field Director, Intermountain Field Area - Everhardt (w/o attachment)
Rocky Mountain Cluster - Nickels (GRTE) (w/o attachment)
Rocky Mountain SSO - Superintendent (Snyder) (w/o attachment)
Rocky Mountain SSO - Wylie (w/o attachment)
SOL (Denver) - Canaday (w/attachment)
DoJ (Washington) - Rumsey (w/o attachment)
Blatchley Associates - Bill Blatchley (w/o attachment)

bcc: Dockets, FLFO (w/o ATTACHMENT

FILED IN
DISTRICT COURT
FEB 06 '96
WELD COUNTY, COLO

DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO

CASE NO. 94CW083

FINDINGS OF FACT, CONCLUSIONS OF LAW, JUDGMENT AND DECREE OF THE WATER COURT APPROVING UNDERGROUND WATER RIGHTS, A PLAN FOR AUGMENTATION, INCLUDING EXCHANGES, AND CHANGE OF WATER RIGHTS.

CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA

IN TELLER AND PARK COUNTIES

This matter, comes before the Water Referee upon the Application of the United States of America for Approval of Underground Water Rights, a Plan for Augmentation, including Exchanges, and Change of Water Right. The Referee having considered the pleadings, the filings herein, the evidence presented and the comments of the Division Engineer makes the following findings and the Court does hereby confirm and decree:

FINDINGS OF FACT

1. The Application was filed with the Water Clerk, Water Division No. 1, on June 15, 1994. All notices required by law of the filing of this Application have been fulfilled, and the Referee has jurisdiction over the subject matter of this proceeding and over all parties affected hereby, whether they have appeared or not. The land and water rights involved herein are not included within the boundaries of any designated groundwater basin.

2. Statements of Opposition to the Application were filed by the Highland Lakes Water District, August 29, 1994, and the State Engineer on August 26, 1994. No other statements of opposition have been filed and the time for filing such statements has now expired.

3. The State Engineer and Highland Lakes Water District have stipulated to the entry of this decree. See Stipulation Attached.

4. The Applicant is the United States of America. The Applicant's address is:

Allison B. Rumsey
United States Department of Justice
Environment and Natural Resources Division
P.O. Box 663

Washington, D.C. 20044

5. This decree addresses water needs at Florissant Fossil Beds National Monument ("National Monument"). The National Monument is administered by the National Park Service ("NPS") and contains approximately 6000 acres located in Water Division 1, Township 13 South, Range 70 West, Sections 18, 19, and 30, and Township 13 South, Range 71 West, Sections 11, 12, 13, 14, 15, 22, 23, 24, 25, and 26, 6th P.M. in Teller County, Colorado. The National Monument is within the drainage of Grape Creek. The National Monument's mailing address is as follows:

Address: Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, CO 80816-0185
(719)748-3253

6. To meet increasing visitor use, NPS is constructing a new visitor center, the equivalent of six single family dwellings, and four summer staff housing units. To provide water for the planned visitor center and other facilities, the NPS drilled a new well, Sawmill Trail Well, and the United States submitted an application to transfer a water right for a commercial exempt well from Visitor Center Well #12 to Sawmill Trail Well. In Case No. 91CW019, it was decreed that the water right would be transferred and, when the NPS began using Sawmill Trail Well, Visitor Center Well #12 would be plugged. The Sawmill Trail Well is not yet operational because the planned facilities have not yet been constructed.

However, since that decree was issued, water use for Visitor Center #12 has been exceeding the amount permitted for a commercial exempt well under Permit No. 1-54810-A and the NPS now wishes to use both wells, and to have the option to use additional wells if necessary. Water is now being supplied under a substitute supply plan approved by the State Engineer, which allows for diversion from Visitor Center #12 and Sawmill Trail Well. Therefore, the United States seeks to augment both Sawmill Trail Well and Visitor Center Well #12.

a. Confirmation of an absolute underground water right for Visitor Center Well #12 is requested by the United States. Visitor Center Well #12, is located in the NW 1/4 NW 1/4 of Section 24, Township 13 South, Range 71 West, 6th P.M., Teller County, Colorado, and 390 feet from the north section line and 880 feet from the west section line of said section. Application for a well permit for Visitor Center Well #12 was approved by the State Engineer on January 17, 1995 (Permit No. 044471-F). The date of appropriation of the Visitor Center Well #12 is

October 31, 1951. The pumping rate for Visitor Center Well #12 will not exceed 18 gpm.

b. A conditional underground water right for Sawmill Trial Well is requested by the United States. The Sawmill Trail Well is located in the NE 1/4 SW 1/4 of Section 23, Township 13 South, Range 71 West, 6th P.M., Teller County, Colorado, 2,405 feet from the south section line and 1,973 feet from the west section line. Application for a well permit for Sawmill Trail Well approved by the State Engineer on April 14, 1995 (Permit No. 044784-F). The date of appropriation of the Sawmill Trail Well is February 1990. The pumping rate at Sawmill Trail Well will not exceed 20 gpm.

c. If the Sawmill Trail Well and Visitor Center Well #12 do not meet the needs of the NPS, as described herein, the United States will need up to three additional wells in the National Monument in the Grape Creek drainage. No well will be within 600 feet of any other well not owned by the United States. The date of appropriation would be the installation date of the wells. Total diversions and consumptive use of all wells would not exceed the total amount requested in this decree.

7. The source of water for the wells is groundwater which is tributary to Grape Creek, a tributary of Twin Creek, a tributary of the South Platte River.

8. Water is used by park visitors and employees for domestic and commercial purposes, including drinking water, restroom use, maintenance and irrigation, at a visitor center, administrative offices, and residences.

9. The NPS's engineering consultants have estimated that the gross annual water requirements of the National Monument will not exceed 3.5 acre feet. 0.3 af of the water diverted by the NPS each year is anticipated to be used for irrigation.

10. The volume of water projected to be consumed at the National Monument to meet both current and projected needs is 0.579 af. This figure is based on 10% consumptive use of the in-building water and subsequent treatment by a septic tank - leach field system. There is a possibility of developing a mechanical water treatment system or tying into the Florissant Water and Sanitation District waste water system. In this event, the consumptive use rate would be 5% for a mechanical waste water treatment system or as required by the Florissant Water and Sanitation District's waste water treatment system. The United States seeks: (1) recognition of the option to convert waste water treatment systems; and (2) to receive appropriate credits

to the quantity of augmentation water required with the lower consumptive use rate.

It is further assumed that irrigation of lawn grass within the National Monument will consume 1.66 af of water per irrigated acre, and that the application rate is 2.2 af per irrigated acre. Garden water is based on 0.41 af of water per acre irrigation and that the application rate is 0.60 af per irrigated acre. Six thousand square feet of turf or 24,000 square feet of garden may be irrigated until such time as the water is needed for other National Monument uses. In the event that future summer water use at the Visitor Center exceeds the present projected in-building uses, allocation of water for irrigation of lawn grass will be reduced proportionally to compensate for the increase.

11. In order to provide the necessary replacement water to the stream system, the United States has purchased from North Fork Associates ("North Fork"), 19.3 shares of the capital stock of the Mountain Mutual Reservoir Company ("Mountain Mutual"). Mountain Mutual Reservoir Company is a non-profit corporation which has been created for the following principal purposes:

i. To receive and hold title to direct flow and storage water rights, reservoirs and interests therein, lands easements, rights-of-way, and other related facilities in trust for its stockholders, and

ii. To administer, for its stockholders, water rights and operate Mountain Mutual Reservoir Company facilities in accordance with individual plans for augmentation approved by the Water Court, such as the plan herein proposed.

The 19.3 shares represent the right to receive 0.606 acre-feet of augmentation water per year from the water rights and storage facilities Mountain Mutual holds for the benefit of its shareholders.

12. North Fork and Mountain Mutual own the following water rights which will be used to meet the annual augmentation requirements for the out-of-priority depletions from the above-mentioned wells operated by the NPS at the National Monument:

a. Guiraud 3T Ditch: North Fork and Mountain Mutual own 2.556 cfs of the water rights decreed to the Guiraud 3T Ditch as follows:

Adjudication Date	Appropriation Date	Amount

October 18, 1889 (Original Adjudication, Water District 23)	July 1, 1867	20 cfs

The Guiraud 3T Ditch headgate is located on the South bank of the Middle Fork of the South Platte River in the NE 1/4, Section 8, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado, at a point whence the Northeast Corner of the NE 1/4 of said Section 8 bears North 63° 35' East, 1,305 feet. Originally decreed for irrigation uses, this water right has been subject to various change proceedings. A decree authorizing a change of the point of diversion and place of use was entered on May 15, 1954, in Civil Action No. 3376, Park County District Court. Subsequent to 1954, various change of water right and plan for augmentation proceedings have either been decreed or are pending which are anticipated to reduce the quantity of water left at the Guiraud 3T Ditch headgate to 0 cfs. Historically, water diverted through the Guiraud 3T Ditch was used to irrigate 276.28 acres of hay meadows in Sections 9, 10 and 15, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado. Past decrees have determined the average annual consumptive use under the Guiraud 3T Ditch to be 1.5 acre feet per acre. The owner of the lands historically irrigated by the 2.556 cfs now owned by North Fork Associates and Mountain Mutual Reservoir Company has contracted to remove and has removed 37.19 acres of land from irrigation. Said acreage has been surveyed and monumented in the field.

b. Spinney Mountain Reservoir: North Fork and Mountain Mutual are the owners by deed of an annual delivery of 80 af of water stored in Spinney Mountain Reservoir. Said Reservoir is located on the South Platte River, with the left abutment of the dam being at a point whence the Southwest Corner of Section 36, Township 12 South, Range 74 West, 6th P.M., Park County, Colorado, bears South 23° 26' West, a distance of 8,314.3 feet. A storage decree for the reservoir has been entered for domestic, irrigation, municipal and all other beneficial uses as follows:

Adjudication Date	Appropriation Date	Amount

1973: Case No. W-7395 March 26, 1973 86,000 AF

In addition, various decreed direct flow water rights have been transferred to storage in the structure by the Water Division No. 1 Water Court and provide the basic yield of the annual allotment of 80 af.

c. Lower Sacramento Creek Reservoir No. 1: North Fork owns a 25.2 percent interest in the Lower Sacramento Creek Reservoir No. 1. The Reservoir has been constructed and holds the following decree for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River or its tributaries:

Adjudication Date	Appropriation Date	Amount
1974: Case No. W-7741-74	July 25, 1974	40 AF

The Reservoir is located in the NE 1/4 NW 1/4, Section 32 and SE 1/4 SW 1/4, Section 29, Township 9 South, Range 77 West, 6th P.M., Park County Colorado. Releases from the Reservoir are made pursuant to the decrees issued in Case Nos. 84CW250 and 85CW465.

d. Woodside Reservoir: North Fork Associates and Mountain Mutual Reservoir Company own all of the physical facilities and the water rights decreed to the Woodside Reservoir as follows:

Adjudication Date	Appropriation Date	Amount
1978: Case No. W-8771-77	September 1, 1977	50 AF

The Reservoir is decreed for domestic, municipal, commercial, irrigation, recreation, light industrial, piscatorial, fire fighting, exchange and all other beneficial uses. It is not yet constructed but will be located in the Elk Creek drainage basin in the E 1/2 SW 1/4 of Section 26, Township 6 South, Range 72 West, 6th P.M., Park County, Colorado.

13. In order to assure that sufficient augmentation water will be available for the Applicants, North Fork has agreed to assign to Mountain Mutual for the benefit of the United States and its assigns, and for use in their augmentation plan, up to 0.021 of a cfs of the Guiraud 3T Ditch priority, yielding 0.462 acre-feet of water per year, from the 2.556 cfs described above. In addition, North Fork has agreed to assign to Mountain Mutual, up to 0.144 acre-feet of its right to annual water deliveries from Spinney Mountain Reservoir. In order to provide augmentation water from the Guiraud 3T Ditch for use in this plan, North Fork and Mountain Mutual have caused 0.667 of an acre of the grounds historically irrigated by the Guiraud 3T Ditch to be removed from irrigation for each acre-foot of consumptive use water under the Ditch. Sufficient acreage has previously been monumented in the field and set aside for the benefit of plans for augmentation administered by Mountain Mutual. The approval and monumentation of the dried up lands are on the basis of criteria which have been approved and accepted by the Water Court in prior plans for augmentation and which have been adopted by the State Engineer. Deliveries from Spinney Mountain Reservoir and the Guirard 3T Ditch which are committed to other augmentation plans and stockholders of Mountain Mutual Reservoir Company are set forth in the attached Exhibits A and B.

14. Depletions to the stream system which are attributable to water use within the National Monument will primarily be augmented during the period May through September, inclusive, by leaving the above-referenced Guiraud 3T Ditch water rights in the stream. During times when the Guiraud 3T Ditch is not in priority and during the months of October through April, inclusive, depletions will be augmented by releasing water from Spinney Mountain Reservoir and Sacramento Creek Reservoir No. 1. Transportation charges from the point where water is released from the Mountain Mutual's facilities to the stream system, to the point of replacement, will be computed on the basis of 0.13 percent per mile.

15. It is anticipated that the augmentation requirements for the National Monument, plus any water to offset transportation charges allocable to this plan, will not exceed 0.606 acre-feet (0.021 cfs of the Guiraud 3T Ditch water right and 0.144 acre-feet of storage water in Spinney Mountain Reservoir).

16. To provide the necessary augmentation water for this and other augmentation plans, Mountain Mutual will attempt to fill Lower Sacramento Creek Reservoir No. 1 under the Reservoir's own priority. If the structure cannot be so filled, Mountain

Mutual may elect to exchange water from Spinney Mountain Reservoir to storage in Lower Sacramento Creek Reservoir No. 1. The exchange has been decreed in prior plans for augmentation. Mountain Mutual has previously agreed to limit the exchange between Spinney Mountain Reservoir and Lower Sacramento Creek Reservoir No. 1 to those times when all vested water rights with priority dates senior to February 29, 1980, which divert water from Sacramento Creek and/or the Middle Fork of the South Platte River between the point of diversion for Lower Sacramento Creek Reservoir No. 1 and Spinney Mountain Reservoir, are either in priority and fully satisfied or are out-of-priority because of a downstream call initiated by a more senior water right which can be at least partially satisfied by the release of Spinney Mountain water. The decreed rate of exchange into Lower Sacramento Creek Reservoir No. 1 is limited to 2 cfs. Evaporation losses incurred by Lower Sacramento Creek Reservoir No. 1 will be made by exchange of Spinney Mountain Reservoir water to storage.

17. Out-of-priority depletions associated with water diverted from the United States' wells will be calculated on a regular basis. The total irrigated area within the National Monument irrigated by said wells will be surveyed annually. The volume of water delivered for outside irrigation will be estimated and subtracted from the total well diversions. Seventy-five percent of water applied to irrigation will be considered consumed by the irrigation process. The balance of the water pumped will be assumed to be consumed at a rate of ten percent of the volume pumped. Mountain Mutual will include such depletions in the reports which are presently being made to the State water officials for other plans for augmentation which utilize Mountain Mutual augmentation water supplies. On the basis of the submitted reports, not only for this plan but other plans administered by Mountain Mutual, and in accordance with the directives of the Division Engineer, Mountain Mutual will make the required release of augmentation water by properly documenting the in-stream delivery of replacement water from the Guiraud 3T Ditch or the release of storage water from Spinney Mountain Reservoir and the Lower Sacramento Creek Reservoir No. 1. Due to the small volume of annual stream depletions projected to occur under this plan, instantaneous stream depletions during times when the Guiraud 3T Ditch is not available will be aggregated and replaced by one or more releases from storage of short duration, as directed by the Division Engineer or his representative. Prior to requesting any release of water from Spinney Mountain Reservoir, Mountain Mutual will provide the City of Aurora, the owner and operator of the structure, with at least

twenty four hours notice during regular working hours, Monday through Friday, of the required time and amount of such releases.

18. The Court finds that the source of replacement water and the protective terms outlined above are sufficient to protect the vested rights of other water users in the South Platte River Basin.

CONCLUSIONS OF LAW

19. This Application was filed with the Water Clerk, Water Division No. 1, pursuant to §37-92-302(a), 15 C.R.S. (Supp. 1993). Statements of Opposition were filed by the Highland Lakes Water District, August 29, 1994, and the State Engineer on August 26, 1994. No other statements of opposition have been filed and the time for filing such statements has now expired.

20. The Application for Underground Water Rights, Approval of Augmentation Plan and Change of Water Rights, Including Exchanges, described herein is contemplated and authorized by law, and if administered in accordance with this decree, will permit the uninterrupted utilization of the wells described in Paragraph No. 6, supra, without adversely affecting any other vested water rights and the water exchanges in the South Platte River or its tributaries. Sections 37-92-305(3), (5), and (8), §37-80-120, and §37-83-104, 15 C.R.S. (Supp. 1993).

21. The State Engineer is required to administer this plan for augmentation and change of water rights and the water exchanges, in the manner set forth herein.

22. As a result of the operation of the Plan for Augmentation set forth herein, there is water available for withdrawal from the wells described in Paragraph No. 6, supra, and the use of the same will not result in material injury of the vested water rights of others. Accordingly, the State Engineer shall approve applications for well permits or replacement well permits submitted by the National Park Service for the National Monument. Section 37-90-137(2), 15 C.R.S. (Supp. 1993) and Cache La Poudre Water Users Association v. Glacier View Meadows, 191 Colo. 53, 550 P.2d 288 (1976).

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

23. All of the foregoing Findings of Fact and Conclusions of Law are incorporated by reference herein, and are to be

considered a part of the decretal portion hereof as though set out in full.

24. The application for underground water rights and the plan for augmentation, change of water rights and water exchanges, proposed by the United States, North Fork Associates and Mountain Mutual Reservoir Company are approved.

25. The State Engineer, the Division Engineer and/or the Water Commissioner for the former Water District No. 23 shall not, at the request of appropriators, or on their own initiative, curtail the diversion and use of water by the NPS at the National Monument which are covered by this plan of augmentation, so long as the out-of-priority depletions associated with such diversions are replaced to the stream system pursuant to the conditions contained herein. To the extend that the United States or its assigns are ever unable to provide the replacement water required, then the diversion facilities described in Paragraph No. 6 shall not be entitled to operate under the protection of this Plan, and shall be subject to administration and curtailment in accordance with the laws, rules, and regulations of the State of Colorado. Pursuant to §37-92-305(8), 15 C.R.S. (Supp. 1994), the State Engineer shall curtail all out-of-priority diversions which are not so replaced as to prevent injury to vested water rights.

26. The NPS shall make available for release to the stream system, a sufficient quantity of water to replace depletions caused by diversions from the above-referenced wells. The volume of augmentation water required to be released each year shall be limited to out-of-priority depletions to the stream system directly attributable to diversions through the wells described in Paragraph No. 6, supra.

27. A total of 0.021 of a cubic foot per second of the above described 2.556 cubic feet per second decreed to the Guirard 3T Ditch is hereby changed to allow replacement of depletions associated with water use within the National Monument at the point of injury rather than at its present point of diversion at NE 1/4, Section 8, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado. The court also confirms that: (1) North Fork has agreed to assign to Mountain Mutual, up to 0.144 acre-feet of its right to annual water deliveries from Spinney Mountain Reservoir; and (2) during times when the Guiraud 3T Ditch is not in priority and during the months of October through April, inclusive, depletions will be augmented by releasing water from Spinney Mountain Reservoir, Woodside Reservoir, and Sacramento Creek Reservoir No. 1.

28. The actual point of depletion associated with the out-of-priority diversions from the wells described herein is upstream of the point of delivery of augmentation water from the Guiraud 3T Ditch, Spinney Mountain Reservoir, the Lower Sacramento Creek Reservoir No. 1, and Woodside Reservoir. The United States is therefore decreed an appropriative right of substitute supply and exchange pursuant to §37-80-120 and §37-92-302(1)(a), 15 C.R.S. (Supp. 1994). The reach of the exchange shall extend from the confluence of the North Fork and the mainstem of the South Platte River, up the South Platte River to its confluence with Twin Creek at Lake George, and up Twin Creek to its confluence with Grape Creek and up Grape Creek to the point where the wells impact Grape Creek in the SW 1/4 NW 1/4, of Section 11, Township 13 South, Range 71 West, 6th P.M., Teller County, Colorado. The exchange will operate to replace depletions to the flow of water in Grape Creek as the depletions occur. The exchange shall be administered with a priority date of May 10, 1993 at a maximum flow rate of 3.8 gpm to extent of 0.667 af per year.

29. Mountain Mutual Reservoir Company shall include such depletions which are out-of-priority in the monthly reports made to the State water officials for other plans for augmentation which utilize Mountain Mutual Reservoir Company augmentation water supplies. On the basis of the submitted reports, and in accordance with the directives of the Division Engineer, Mountain Mutual Reservoir Company shall make the required release of augmentation water by properly documenting the instream delivery of replacement water from the Guiraud 3T Ditch or the release of storage water from Spinney Mountain Reservoir, Woodside Reservoir, and the Lower Sacramento Creek Reservoir No. 1. Releases of storage water shall be subject to the conditions stated in Paragraph No. 17, supra. It shall be the responsibility of the Park Service to maintain a water accounting form on a monthly basis indicating the total water pumped, area of total lawn and garden irrigated and the amount of water consumed. The form shall be submitted to Mountain Mutual Reservoir Company and Water Division #1 at least annually prior to November 1. An example of the type of information to be included in the annual water accounting report is attached as Exhibit "C."

30. As a result of the approval of this Plan for Augmentation, water will be made available from the tributary wells described in Paragraph No. 6, supra, and the vested rights of others will not be materially injured by the contemplated diversions therefrom. Pursuant to §37-92-305(6), 15 C.R.S., the State Engineer shall grant permits for the expanded use of

Sawmill Trail Well and Visitor Center Well #12 upon receipt of an appropriate application filed by the National Park Service. If this plan for augmentation is operating as envisioned herein at the time an application for one of the additional wells authorized under Paragraph No. 6 is submitted to the State Engineer, the new well will not be located within 600 feet of a then existing well not owned by the NPS or the United States, and the State Engineer finds pursuant to §37-90-137(2), 15 C.R.S. (Supp. 1993) that no well-to-well material injury will occur, a permit for construction of the new well shall be granted. The evaluation of whether a proposed new well will injure an existing well shall not apply to wells then owned by NPS or the United States. The reconstruction of all wells described in Paragraph No. 6 shall be approved upon the submittal of new applications to the State Engineer if the location of the replacement well will be within 200 feet of the location of the existing well; provided, however, that if the well to be replaced is within 600 feet of another well not owned by the NPS or the United States, such reconstruction will not result in the replacement well being moved any closer to the existing structure. Well permit requests which would result in the location of a new well at a point closer than 600 feet to an existing well not owned by the NPS or the United States shall be approved if the construction will not result in material injury to the existing well after a hearing pursuant to §37-90-137(2), 15 C.R.S. (Supp. 1993), or if the owner of the existing well executes a written waiver of objection to the proposed location.

31. Pursuant to the provisions contained in §37-92-304(6), 15 C.R.S. the plan for augmentation decreed herein shall be subject to the reconsideration of this Court, for the purpose of evaluating injury to vested water rights, for a period of five years from the date of this decree. Any person, within the five year period, may petition the Court to invoke its retained jurisdiction. Any such request shall state with particularly the factual basis for requesting that the Court evaluate injury to vested water rights associated with the operation of this decree, together with proposed decretal language to effect the petition. Unless otherwise stated herein, the party lodging the petition shall have the burden of going forward to establish the prima facie facts alleged in the petition. If the Court finds those facts to be established, Applicants shall thereupon have the burden of proof to show: (a) that any modification sought by Applicants will avoid injury to other appropriators, or (b) that any modification sought by an Opposer is not required to avoid injury to other appropriators, or (c) that any term or condition proposed by Applicants in response to Opposer's petition does avoid injury to other appropriators. Such petition shall be

filed with the Court under the above styled caption and case number and shall be served by certified mail, return receipt requested, on all parties who have appeared herein, or on their counsel of record. If no such petition is lodged within the five year period, and the retained jurisdiction period is not extended by the Court in accordance with the provisions of the statute, this decree shall become final under its own terms.

32. The applications for water rights awarded herein to Sawmill Trail Well and Visitor Center Well No. 12 were filed in the Water Court in 1994 and shall be administered as having been filed in that year, and shall be junior to all priorities filed in previous years. As between all rights filed in the same calendar year, priorities shall be determined by historical dates of appropriation and not affected by the date of entry of ruling.

33. It is also ordered that the conditional water right herein awarded to Sawmill Trail Well is hereby continued in full force and effect until Jan., ~~199~~ 2002. If the United States desires to maintain such conditional decree, an application for a finding of reasonable diligence shall be filed on or before Jan., ~~19~~2002, or a showing made on or before such date that the conditional water right for Sawmill Trail Well has become an absolute water right by reason of the completion of the appropriation.

DATED this 6th day of January, 1996.

Raymond S. Liesman
Water Referee
Water Division No. 1

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

DATED: FEB 28 1996

Jonathon W. Hayes
Water Judge
Water Division No. 1
State of Colorado

Form No.
GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

OWNER'S COPY 1155



WELL PERMIT NUMBER 044784 - F -
DIV. 1 CNTY. 60 WD 23 DES. BASIN MD
Lot: Block: Filing: Subdiv:

APPLICANT

US NATIONAL PARK SERVICE
1201 OAKRIDGE DR STE 250
FT COLLINS CO 80525

(303)225-3506

APPROVED WELL LOCATION
TELLER COUNTY
NE 1/4 SW 1/4 Section 23
Twp 13 S RANGE 71 W 6th P.M.

DISTANCES FROM SECTION LINES
2405 Ft. from South Section Line
1973 Ft. from West Section Line

PERMIT TO CONSTRUCT A WELL

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT

CONDITIONS OF APPROVAL

1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.

2) The construction of this well shall be in compliance with the Water Well Construction and Pump Installation Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 17.

3) Approved pursuant to CRS 37-90-137(2) on the condition that this well is operated in accordance with the Florissant Fossil Beds 1994-1995 substitute water supply plan approved by the State Engineer on January 3, 1995. The well shall not be operated unless it is included in a substitute water supply plan approved by the State Engineer or a plan for augmentation approved by the water court. The subject water supply plan is currently valid through December 31, 1995, and if not extended or if a court approved plan for augmentation is not in operation, this well permit is null and void and diversion of ground water from this well must cease immediately.

4) The maximum pumping rate of this well shall not exceed 20 GPM.

5) The average annual amount of ground water to be appropriated by this well in combination with other wells permitted under the decreed plan for augmentation shall not exceed 3.82 acre-feet.

6) The use of ground water from this well is limited to domestic, commercial, irrigation, public rest rooms, and maintenance for the visitors center and for the employees, all within the Florissant Fossil Beds National Monument.

7) A totalizing flow meter must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (recorded at least annually) and submitted to the Division Engineer and the Water Commisioner at least annually and upon request.

8) The owner shall mark the well in a conspicuous place with well permit number(s), name of the aquifer, and court case number(s) as appropriate. The owner shall take necessary means and precautions to preserve these markings.

9) This well shall be constructed not more than 200 feet from the location specified on this permit.

10) This well shall be constructed at least 600 feet from any existing well not owned by applicant.

11) This well is subject to administration by the Division Engineer in accordance with applicable decrees, statutes, rules, and regulations.

APPROVED
AEE

Hal D. Simpson
State Engineer

Al Eckermann
By

Receipt No. 0382035 DATE ISSUED APR 14 1995 EXPIRATION DATE APR 14 1996

Form No. GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

PUMP INSTALLER'S COPY

1155

WELL PERMIT NUMBER 044784 - F -

DIV. 1 CNTY. 60 WD 23 DES. BASIN MD

Lot: Block: Filing: Subdiv:

APPLICANT

US NATIONAL PARK SERVICE
1201 OAKRIDGE DR STE 250
FT COLLINS CO 80525

(303)225-3506

APPROVED WELL LOCATION
TELLER COUNTY

NE 1/4 SW 1/4 Section 23
Twp 13 S RANGE 71 W 6th P.M.

DISTANCES FROM SECTION LINES
2405 Ft. from South Section Line
1973 Ft. from West Section Line

PERMIT TO CONSTRUCT A WELL

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT

CONDITIONS OF APPROVAL

1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.

2) The construction of this well shall be in compliance with the Water Well Construction and Pump Installation Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 17.

3) Approved pursuant to CRS 37-90-137(2) on the condition that this well is operated in accordance with the Florissant Fossil Beds 1994-1995 substitute water supply plan approved by the State Engineer on January 3, 1995. The well shall not be operated unless it is included in a substitute water supply plan approved by the State Engineer or a plan for augmentation approved by the water court. The subject water supply plan is currently valid through December 31, 1995, and if not extended or if a court approved plan for augmentation is not in operation, this well permit is null and void and diversion of ground water from this well must cease immediately.

4) The maximum pumping rate of this well shall not exceed 20 GPM.

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6) The use of ground water from this well is limited to domestic, commercial, irrigation, public rest rooms, and maintenance for the visitors center and for the employees, all within the Florissant Fossil Beds National Monument.

7) A totalizing flow meter must be installed on the well and maintained in good working order. Permanent records of all diversions must be maintained by the well owner (recorded at least annually) and submitted to the Division Engineer and the Water Commisioner at least annually and upon request.

8) The owner shall mark the well in a conspicuous place with well permit number(s), name of the aquifer, and court case number(s) as appropriate. The owner shall take necessary means and precautions to preserve these markings.

9) This well shall be constructed not more than 200 feet from the location specified on this permit.

10) This well shall be constructed at least 600 feet from any existing well not owned by applicant.

11) This well is subject to administration by the Division Engineer in accordance with applicable decrees, statutes, rules, and regulations.

APPROVED
AEE

Hal D. Simpson
State Engineer

Al Eckermann
By

Receipt No. 0382035

DATE ISSUED APR 14 1995

EXPIRATION DATE APR 14 1996

FORM NO. GWS-2 09/93

NON-EXEMPT

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
821 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

WELL PERMIT INFORMATION, PERMITS APPROVED PURSUANT TO CRS 37-90-137(2) (IRRIGATION, COMMERCIAL, INDUSTRIAL, MUNICIPAL AND OTHERS)

PLEASE NOTE CAREFULLY THE CONDITIONS OF APPROVAL ON THE ATTACHED COPY OF YOUR PERMIT. THE CONDITIONS MUST BE COMPLIED WITH IN ORDER FOR THE PERMIT TO BE VALID.

THE ISSUANCE OF THIS PERMIT DOES NOT CONFER A DECREED WATER RIGHT.

A STATEMENT OF BENEFICIAL USE MUST BE SUBMITTED PRIOR TO THE EXPIRATION DATE OF THE PERMIT.

THE PERMIT EXPIRATION DATE IS ONE YEAR FROM THE DATE ISSUED. The well must be constructed, the pump installed and the well must be used for the approved purposes prior to the expiration date of the permit. Evidence of the use must be received in the form of a **Statement of Beneficial Use (Form No. GWS-10) PRIOR TO THE EXPIRATION DATE OF THE PERMIT. Beneficial use is generally defined as the use of that amount of water that is reasonable and appropriate under reasonably efficient practices to accomplish, without waste, the purpose for which the appropriation is lawfully made.** Evidence of well construction and pump installation must be submitted to this office in the form of a well construction report and the pump installation report from the respective contractors showing that construction and pump installation was completed prior to the expiration date of the well permit. The well permit number is located in the upper right hand corner of the permit, and the expiration date is located in the lower right hand corner. The expiration date of the permit may be **extended for a maximum time of one year** at the discretion of the State Engineer for good cause shown. If an extension of time is necessary to put the well to use, you must file a written request with this office along with a $60.00 filing fee prior to the expiration date. The request must state why the well has not been completed, must include an estimate of time required to complete the well, and must specify the length of extension you desire, not to exceed one (1) year.

ADDITIONAL INFORMATION REGARDING WELL CONSTRUCTION AND WELL ABANDONMENT REGULATIONS ARE FOUND ON THE REVERSE SIDE OF THIS SHEET.

THE WELL MUST BE CONSTRUCTED AND THE PUMP INSTALLED BY CONTRACTORS WITH CURRENT LICENSE(S) ISSUED BY THE STATE OF COLORADO unless exempted as described on the reverse side. The well construction and pump installation reports must be submitted to the office of the State Engineer within sixty (60) days of completion of the work or within seven days after expiration of the permit, whichever is earlier. Your contractor must provide you with a copy of the work report(s) he has filed with the State Engineer. The Well Construction and Test Report, Form Number GWS-31 and the Pump Installation and Test Report, Form Number GWS-32 are available from the Division of Water Resources offices.

You have been provided with at least two copies of the well permit. The owner's copy is for your records. The second copy is for the pump installation contractor. You may make additional copies for the well construction contractor if you select one different from the one indicated in your application. If you did not indicate a proposed well construction contractor on the application, four copies of the permit are enclosed. **DO NOT GIVE YOUR "OWNER'S COPY" TO THE CONTRACTOR .**

The original permit is on file in the Denver Office Records Section. Additional copies may be obtained for a fee of 50 cents per page. Any change of mailing address or ownership should be reported to the State Engineer by the new owner on a "Change in Ownership/Address", form number GWS-11.

If you have questions, contact the Denver Office, or the Division Office where your well is located.

DIVISION 1
800 8th Ave Rm 321
Greeley CO 80631
(303) 352-8712

DIVISION 2 Box 5728
219 W 5th Rm 223
Pueblo CO 81003
(719) 542-3368

DIVISION 3 Box 269
422 4th St
Alamosa CO 81101
(719) 589-6683

DIVISION 4 Box 456
1540 E Niagara
Montrose CO 81402
(303) 249-6622

DIVISION 5 Box 396
50633 US Hwy 6 & 24
Glnwd Spgs CO 81601
(303) 945-5665

DIVISION 6 Box 773450
625 So. Lincoln Ave.
Stmbt Spgs CO 80477
(303) 879-0272

DIVISION 7 Box 1880
1474 Main St
Durango CO 81302
(303) 247-1845

DENVER OFFICE
Rm 821
1313 Sherman St
Denver CO 80203
(303) 866-3581

WELL CONSTRUCTION AND PUMP INSTALLATION BY THE WELL OWNER

You may construct the well and/or install the pump yourself if the well is entirely for your own use, is on property you own, and is constructed or pump equipment is installed with equipment **owned** and **operated** by you. It is your responsibility to complete and submit the Well Construction and Test Report, Form Number GWS-31 and/or the Pump Installation and Test Report, Form Number GWS-32. These forms are available from our offices. The well must be constructed and the pump installed in accordance with the well construction standards of the State Board of Examiners of Water Well Construction and Pump Installation Contractors.

THE WELL CONSTRUCTION AND PUMP INSTALLATION RULES STATE THAT ALL WELLS OF THIS TYPE MUST BE DISINFECTED AFTER CONSTRUCTION AND AFTER PUMP INSTALLATION.

THE WELL CONSTRUCTION AND PUMP INSTALLATION RULES ARE AVAILABLE FROM DIVISION OF WATER RESOURCES OFFICES FOR A FEE OF $3.00. The rules cover well construction, pump installation, disinfection, abandonment and contractor licensing regulations. If you are constructing your own well or installing pumping equipment, it is recommended that you obtain a copy of these rules for reference.

WELLS TO BE PLUGGED AND ABANDONED MUST BE PLUGGED IN ACCORDANCE WITH RULE 11 (SHOWN BELOW) OF THE WELL CONSTRUCTION AND PUMP INSTALLATION RULES. A WELL ABANDONMENT REPORT, FORM NUMBER GWS-9 MUST BE SUBMITTED TO CONFIRM THE PLUGGING OF THE WELL. THIS FORM IS AVAILABLE FROM OUR OFFICES.

RULE 11 ABANDONMENT STANDARDS

11.1 General

11.1.1 The plugging and sealing of all wells and test holes is necessary to prevent contamination of ground water and the migration of water through the unused borehole. It is the ultimate responsibility of the well owner to have a well properly plugged and abandoned. The well construction contractor is responsible for notifying the well owner of the plugging and abandonment requirement pursuant to this Rule 11.

11.1.2 Persons authorized to install pumping equipment may plug and abandon wells which do not require the removal of casing from more than one aquifer or the ripping or perforating of casing opposite confining layers.

11.1.3 All materials used for backfilling shall be clean, free from contaminants and chemically inert.

11.2 **Unconfined Wells**-Wells completed into unconfined aquifers shall be abandoned by filling with either on-site materials, clean sand or gravel to the static water level, then with chemically inert materials to the ground surface. A permanent watertight cover shall be installed at the top of the casing. The casing may be cut off up to five (5) feet below ground level provided the watertight cover is welded or permanently attached to the top of the casing and the hole is backfilled to the land surface.

11.2.1 Cathodic protection holes, dewatering wells, horizontal drains, monitoring and observation holes, percolation holes, piezometer holes, sump pumps and test holes shall be abandoned either pursuant to Rule 11.2 or by removing all casing which was installed and by filling the hole(s) with drill cuttings or chemically inert materials to within five (5) feet of the ground surface. The top five (5) feet of the hole shall be sealed with materials equal to or less permeable than the top foot of the surrounding soils.

11.3 **Confined Wells**

11.3.1 Wells which were constructed through more than one aquifer shall be abandoned by placing a grout plug at the confining layer above each aquifer. If records do not show that the casing opposite each confining layer has been grouted when originally installed, the casing shall be either completely removed from the hole, or perforated or ripped opposite such layer prior to placing the grout plug. No plug shall be less than twenty (20) feet in length.

11.3.2 The well casing except for the grout plug intervals shall be completely filled to the land surface with chemically inert materials. A watertight cover will be permanently welded or attached to the top of the casing. The casing may be cut off up to five (5) feet below land surface provided the watertight cover is welded or permanently attached to the top of the casing and the hole is backfilled to the land surface.

FORM NO. GWS-10 03/92

STATE OF COLORADO
OFFICE OF THE STATE ENGINEER
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

For Office Use only

FOR INSTRUCTIONS, SEE REVERSE SIDE

STATEMENT OF BENEFICIAL USE
WELL PERMIT NUMBER_____

1. WELL OWNER
   NAME(S) _____
   Mailing Address _____
   City, St. Zip _____
   Phone (____)_____

2. WELL LOCATION: COUNTY_____ OWNER'S WELL DESIGNATION _____
   _____
   (Address) (City) (State) (Zip)
   _____1/4 of the_____1/4, Sec._____ Twp._____ ☐ N. or ☐ S., Range_____ ☐ E. or ☐ W. _____P.M.
   Distances from Section Lines _____Ft. from ☐ N. or ☐ S. Line, _____Ft. from ☐ E. or ☐ W. Line.

3. The well is being used for the following purpose(s):_____
   _____

4. Water from the well was first used beneficially **under this permit number**, for the above described purposes on_____ 19 ___.
   (Do not report a date which is before the issued date of this permit)

5. The pumping rate claimed is _____ gallons per minute.

6. The average annual amount of water diverted is _____ acre feet.

7. The land area irrigated (watered) by water from this well is:_____ ☐ Acres or ☐ Square feet,
   (Number)
   described as: _____:
   (Legal Description)
   or as _____Subdivision Lot(s)_____ Block_____ Filing/Unit _____

8. Well drilled by:_____ Lic. No: _____.
   Pump installed by:_____Lic. No: _____.

9. Meter Mfg. by _____Serial No.:_____ Date Installed:_____.

I (we) have read the statements made herein, know the contents thereof, and state that they are true to my (our) knowledge. [Pursuant to Section 24-4-104 (13)(a) C.R.S., the making of false statements herein constitutes perjury in the second degree and is punishable as a Class 1 misdemeanor.]

10. Name/Title (Please type or print)	Signature	Date

FOR OFFICE USE ONLY

_____ _____ _____
State Engineer By Date

Court Case No. Div. Co. WD Basin MD Use

03/92

INSTRUCTIONS F THE COMPLETION OF STATEMENT Of NEFICIAL USE

IF THE PERMIT WAS APPROVED PURSUANT TO **C.R.S. 37-90-137(2)**, THE STATEMENT OF BENEFICIAL USE MUST BE RECEIVED BY THE STATE ENGINEER PRIOR TO THE EXPIRATION OF THE PERMIT.

IF THE PERMIT WAS APPROVED PURSUANT TO **C.R.S. 37-90-107**, THE STATEMENT OF BENEFICIAL USE MUST BE RECEIVED WITHIN THREE YEARS FROM THE DATE THE PERMIT WAS ISSUED.

STATEMENTS OF BENEFICIAL USE ARE NOT REQUIRED FOR PERMITS ISSUED UNDER **C.R.S. 37-90-105 OR 37-92-602.**

NOTE: IF THE PERMIT WAS APPROVED PURSUANT TO C.R.S. 37-90-137(4), THEN YOU MUST USE FORM NO. GWS-18 "NOTICE OF WELL COMPLETION" AND FORM NO. GWS-19 "NOTICE OF COMMENCEMENT OF BENEFICIAL USE".

The Statement must be typewritten or printed in **BLACK INK.** Initial and date any changes you make on the form.
INCOMPLETE FORMS ARE NOT ACCEPTABLE AND WILL BE RETURNED. ATTACH ADDITIONAL SHEETS IF MORE SPACE IS NEEDED.
NO FEE IS REQUIRED IF THE STATEMENT IS SUBMITTED TIMELY. IF NOT SUBMITTED TIMELY, THE PERMIT MAY EXPIRE, AN APPLICATION FOR A NEW PERMIT AND ADDITIONAL FEES MAY BE REQUIRED.

The Well Permit Number must be indicated in the space provided at the top of the form.

1. Print the **well owner's** name and include the mailing address and phone number.
2. If the well location is different than the mailing address of the owner, include the address where the well is located. If the owner has more than one well, provide well name or number as designated by the owner; i.e. North Well. The actual **well location** must include 1/4, 1/4, Range, Township, Section and distances from Section lines. Mark the appropriate boxes for North or South and East or West directions.
3. Describe the **use(s)** to which the water has actually been applied. Permitted uses are described in the conditions of approval of the permit.
4. Enter the **date of first beneficial use UNDER THIS PERMIT**. This is the date water from the well was first used beneficially for the purposes described in item 3. **The date claimed cannot predate the issuance of the permit.** It is **not** the date the form is completed, nor is it the date the well was test pumped.
5. Enter the **pumping rate** claimed. The rate cannot exceed the permitted maximum rate or the actual pumping rate in gallons per minute **reported on the pump installation and test report**, whichever is less: 449 gallons per minute is equivalent to one cubic foot of water per second.
6. Enter the **annual amount of water diverted** in acre feet. The amount claimed cannot exceed the physical capacity of the well or the permitted amount as limited by any conditions of approval. One acre foot is equivalent to 325,900 gallons. An ordinary home with lawn and garden irrigation diverts an average of less than one acre foot. Average in house use which does not include lawn and garden irrigation (watering) diverts 1/3 acre foot.
7. **Report the area irrigated either as acres or square feet** by filling in the correct number and checking the appropriate box. **You must describe the specific area irrigated** using either the legal description of that land or by referencing a portion of the Subdivision, Lot, Block and Filing or Unit number. **Lawn and garden watering is considered irrigation.** If the well is **not used for irrigation, place a zero in the acres/square feet irrigated blank.** One acre is equivalent to 43,560 square feet. One acre foot is equivalent to 43,560 cubic feet of water.
8. Indicate the **Well Construction and Pump Installation Contractors and their License Numbers.** If you did the work yourself, so indicate. You must submit work reports if you constructed the well and/or installed the pump yourself.
9. If a **totalizing flow meter** is required as a condition of the permit, indicate the meter manufacturer name, it's serial number and the date of installation.
10. **The well owner must sign the Statement.** Print or type your name in the first block if it is different from Item No. 1. If **signing as a representative of a company** who owns the well, then your title must also be included in the first block. Sign the second block and date the last block.

If you have questions, contact the Denver Office or the Division Office where your well is located.

DIVISION 1
800 8th Ave Rm 321
Greeley CO 80631
(303) 352-8712

DIVISION 2 Box 5728
219 W 5th Rm 223
Pueblo CO 81003
(719) 542-3368

DIVISION 3 Box 269
422 4th St
Alamosa CO 81101
(719) 589-6683

DIVISION 4 Box 456
1540 E Niagara
Montrose CO 81402
(303) 249-6622

DIVISION 5 Box 396
50633 US Hwy 6 & 24
Glnwd Spgs CO 81601
(303) 945-5665

DIVISION 6 Box 773450
625 So. Lincoln Ave
Stmbt Spgs CO 80477
(303) 879-0272

DIVISION 7 Box 1880
1474 Main St
Durango CO 81302
(303) 247-1845

DENVER OFFICE
Rm 821
1313 Sherman St
Denver CO 80203
(303) 866-3581

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525-5596

IN REPLY REFER TO:

March 3, 1995

L54(479)
FLFO/Water Rights

State of Colorado
Division of Water Resources
Attn: Al Eckermann
818 Centennial Building
1313 Sherman Street
Denver, Colorado 80203

OVERNIGHT MAIL

Re: Check for Filing Fee for Application for Permit for Sawmill Trail Well, Florissant Fossil Beds National Monument

Enclosed please find a check for $60 to cover the cost of filing the above-captioned application. This check was inadvertently omitted from a letter sent February 28, 1995, which transmitted the application for a permit to use ground water, construct a well, and install a pump for Sawmill Trail Well at Florissant Fossil Beds National Monument.

Al Eckermann has asked me to request that this letter and check be delivered directly to him. The February 28, 1995, letter and permit application are on his desk and have not yet been processed by your office.

Could you also please return a receipt to Alice Johns, at the address on this letterhead, to indicate that the filing fee, in the amount of $60.00, has been paid?

If you have any questions, please contact me at (303) 225-3534.

Thank you,

Alice E. Johns

Alice E. Johns
Hydrologist, Water Rights Branch

Enclosures

cc: DOJ (Washington) - Rumsey
479 - Williams

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525-5596

IN REPLY REFER TO:

February 28, 1995

L54(479)
FLFO/Water Rights

State of Colorado
Division of Water Resources
Attn: Al Eckermann
818 Centennial Building
1313 Sherman Street
Denver, Colorado 80203

OVERNIGHT MAIL

Re: Application for Permit for Sawmill Trail Well, Florissant Fossil Beds National Monument

Enclosed please find an application for a permit to use ground water, construct a well, and install a pump for Sawmill Trail Well at Florissant Fossil Beds National Monument, and a check for $60 to cover the cost of filing the application. **Could you please return a receipt to Alice Johns, at the address on this letterhead, to indicate that the filing fee, in the amount of $60.00, has been paid**?

The Sawmill Trail Well was drilled in 1990 as a test well. (A permit for a commercial exempt well was applied for in 1990, but was returned by your office without approval [Receipt No. 15812-B]). The Sawmill Trail Well will serve a new visitor center at the monument which will probably not be constructed for a year or more. The well is currently not connected to the monument's water supply system.

Use of the Sawmill Trail Well would be in compliance with a Substitute Supply Plan approved by the State Engineer (See January 5, 1995, letter from your office to Blatchley Associates, Inc., consultants to the National Park Service), until a decree is entered by the water court (Case Number 94CW083). Under the Substitute Supply Plan, the National Park Service can use water from Visitor Center Well #12 (Permit 044471-F), and Sawmill Trail Well.

If you have any questions, please contact Alice Johns at (303) 225-3534.

Sincerely,

Acting for Owen R. Williams
Chief, Water Rights Branch

Enclosures

cc: FLFO - Superintendent
RMR - Wise
DOJ (Washington) - Rumsey (w/enclosures)
Blatchley Associates Inc. - Bill Blatchley (w/enclosures)
479 - Johns, Inglis
Colorado Division of Water Resources - McIntyre

02-28-1995: permit application form; water court case no. 94cw083.

WRJ-9 Rev. 76

ORADO DIVISION OF WATER RI CES
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203

PERMIT APPLICATION FORM

Application must be complete where applicable. Type or print in BLACK INK. No overstrikes or erasures unless initialed.

FOR: (x) A PERMIT TO USE GROUND WATER
(x) A PERMIT TO CONSTRUCT A WELL
(x) A PERMIT TO INSTALL A PUMP
( ) REPLACEMENT FOR NO. _____
( ) OTHER Application originally submitted in 1991 (15812-B) but rejected.
WATER COURT CASE NO. 94CW083

(1) APPLICANT - mailing address
United States of America
NAME National Park Service
STREET 1201 Oakridge Dr., Suite 250
CITY Fort Collins, CO. 80525 (State) (Zip)
TELEPHONE NO. (303)225-3506

(2) LOCATION OF PROPOSED WELL

County Teller
NE ¼ of the SW ¼, Section 23
Twp. 13 S (N,S), Rng. 71 W (E,W), 6th P.M.

(3) WATER USE AND WELL DATA

Proposed maximum pumping rate (gpm) 20
Average annual amount of ground water to be appropriated (acre-feet): 3.82 (See note)
Number of acres to be irrigated: 0.14 (See note)
Proposed total depth (feet): 220
Aquifer ground water is to be obtained from:
Pikes Peak Granite
Owner's well designation Sawmill Trail Well

GROUND WATER TO BE USED FOR:

( ) HOUSEHOLD USE ONLY - no irrigation (0)
(x) DOMESTIC (1) ( ) INDUSTRIAL (5)
( ) LIVESTOCK (2) (x) IRRIGATION (6)
(x) COMMERCIAL (4) ( ) MUNICIPAL (8)
(x) OTHER (9) Fire fighting
DETAIL THE USE ON BACK IN (11)

(4) DRILLER

Name William Dietrich
Street P.O. Box 287
City Florissant, CO 80816 (State) (Zip)
Telephone No. 719-687-6379 Lic. No. 1155

Note--In combination with other wells under decreed Plan for Augmentation

FOR OFFICE USE ONLY: DO NOT WRITE IN THIS COLUMN

Receipt No. _____ / _____
Basin _____ Dist. _____

CONDITIONS OF APPROVAL

This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.

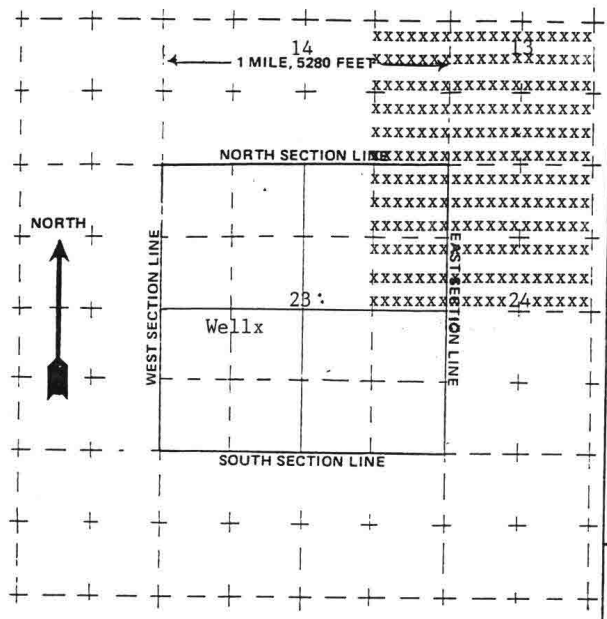
APPLICATION APPROVED

PERMIT NUMBER _____
DATE ISSUED _____
EXPIRATION DATE _____

_____
(STATE ENGINEER)

BY _____
I.D. _____ COUNTY _____

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



The scale of the diagram is 2 inches = 1 mile
Each small square represents 40 acres.

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

(6) T[redacted]ELL MUST BE LOCATED BELOW by distances from section lines.

2,405 ft. from South (north or south) sec. line

1,973 ft. from West (east or west) sec. line

LOT _____ BLOCK _____ FILING # _____

SUBDIVISION _____

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

No. of acres 5998.09 . Will this be the only well on this tract? no

(8) PROPOSED CASING PROGRAM

Plain Casing See attached well completion report.

_____ in. from _____ ft. to _____ ft.

_____ in. from _____ ft. to _____ ft.

Perforated casing

_____ in. from _____ ft. to _____ ft.

_____ in. from _____ ft. to _____ ft.

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

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

Owner(s): United States of America, National Park Service No. of acres: _____

Legal description: _____

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

Water is to be used by monument visitors and employees, including drinking water, restroom use, maintenance (including vehicle washing), administration and irrigation. Disposal is by septic tank-soil absorption.

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

Type or right	Used for (purpose)	Description of land on which used
See Exhibit A		

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

Alice E. Johns

SIGNATURE OF APPLICANT(S)

Use additional sheets of paper if more space is required.

WJR-26-77

THIS FORM MUST BE SUBMITTED WITHIN 60 DAYS OF COMPLETION OF THE WORK DESCRIBED HEREON. TYPE OR PRINT IN BLACK INK.

)LORADO DIVISION OF WATER RE. JRCES

1313 Sherman Street - Room 818
Denver, Colorado 80203

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER ~~DM~~-15612

WELL OWNER National Park Service

ADDRESS 12795 W. Alameda Parkway Denver, CO. 80225

DATE COMPLETED May 30, 19 90

NE ¼ of the SW ¼ of Sec. 23,

T. 13 S, R. 71 W, 6th P.M.

WELL LOG

From	To	Type and Color of Material	Water Loc.
0	5	Black Topsoil	
5	8	Pink & Black Gravel	
8		Gravels Pink & Black very Damp	
9		Water	9
9	15	Large Gravels 1½ GPM	
15	40	Decomposed Pink & Black measured at 25' 2 GPM	
47		Centralizer	
40	75	Red Decomposed measured at 69' 10 GPM	
75	105	Red Decomposed more consolidated	
102		Centralizer	
105	150	Solid Rose Granite w/Quartz	
150	155	Solid Rose Granite w/Quartz	
155		Fractured	155
155	174	Solid Rose Granite w/Quartz	
174	175	Fractured	174
175	200	Solid Rose Granite W/Quartz	
200	220	Solid Rose Granite w/Quartz w/Black	
		Balance of Hole Not Cased at Owners Request	

TOTAL DEPTH 220'

Use additional pages necessary to complete log.

HOLE DIAMETER

12 in. from 0 to 70 ft.

10 in. from 70 to 166 ft.

5 in. from 166 to 220 ft.

DRILLING METHOD air percussion

CASING RECORD: Plain Casing

Size 8 & kind steel		from +1½	to 30'6"	ft.
6	pvc	6	36	
Size 6 & kind pvc		from 46	to 56	ft.
6	pvc	71	76	
Size 6 & kind pvc		from 81	to 91	ft.
6	pvc	101	140	
6	pvc	145	165	

Perforated Casing

Size 6 & kind pvc		from 36	to 46	ft.
6	pvc	56	71	
Size 6 & kind pvc		from 76	to 81	ft.
6	pvc	91	101	
Size 6 & kind pvc		from 140	to 1456	ft.

GROUTING RECORD

Material cement

Intervals 0 - 30

Placement Method tremie pipe

GRAVEL PACK: Size #4-6 Silica Sand

Interval 30 - 155

TEST DATA

Date Tested June 5, 1990

Static Water Level Prior to Test 10' 6" ft.

Type of Test Pump Submersible Pump

Length of Test 12 Hours

Sustained Yield (Metered) 18 GPM

Final Pumping Water Level 141 Feet

Exhibit A

PERMIT APPLICATION FORM

WATER COURT CASE NO. 94CW083

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

All the water rights listed below are those of the United State of America, at Florissant Fossil Beds National Monument.

Type or Right	Court Case Number	Used for (purpose)
Visitor Center Well #12 (Permit 044471-F)	94CW083	Same as the subject well (Sawmill Trail Well)
Ghist Well #10	8802-77	domestic in a single family dwelling
Maytag Domestic Well #8	8800-77	domestic in a single family dwelling and stockwater
A-frame Well #11 (Permit #172092-A)	8803-77	domestic in a single family dwelling
Maytag Red Barn Well #6	8799-77	stockwater

January 17, 1995

Mr. Richard L. Stenzel, P.E.
Office Of The State Engineer
1313 Sherman St Room 818
Denver, CO 80203

Re: Florissant Fossil Beds Substitute Water Supply Plan

Dear Mr. Stenzel:

The Florissant Fossil Beds National Monument accepts the conditions of the Substitute Water Supply Plan as outlined in your letter dated January 3, 1995.

Sincerely,

BLATCHLEY ASSOCIATES INC.

William M. Blatchley

cc: Alice Johns
Alan Berryman
Denise Paprocki

blatchley associates, inc. / CONSULTING ENGINEERS
2525 SOUTH WADSWORTH BOULEVARD, #306 • DENVER, COLORADO 80227 • (303) 989-6932
WATER RESOURCES, WATER RIGHTS, GROUND WATER HYDROLOGY, ENVIRONMENTAL & GEOLOGICAL ENGINEERING

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER
Division of Water Resources
Department of Natural Resources
1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

Roy Romer
Governor
James S. Lochhead
Executive Director
Hal D. Simpson
State Engineer

January 3, 1995

Mr. Ron Blatchley, P.E.
Blatchley Associates, Inc.
2525 South Wadsworth Blvd. #306
Denver, Colorado 80227

Re: **Florissant Fossil Beds 1994/5 Substitute Water Supply Plan**
Sections 13 & 14, T13S, R71W, 6th P.M.
Water Division 1, Water District 23

Dear Mr. Blatchley:

We have reviewed your request for a renewal to the existing substitute water supply plan for the Florissant Fossil Beds National Monument (FLFO). The plan replaces water for two non-exempt wells serving the visitors center. The water system for the monument is now being supplied by the Florissant Visitors Center Well #12, permit no. 1-54180, but was exceeding the maximum allowed diversions for a commercial exempt well. The second well, referred to as the Sawmill Trail Well, was submitted under receipt no. 1581-B and was to be resubmitted under last year's substitute water supply plan.

FLFO has purchased 19.3 shares in Mountain Mutual Reservoir Company, representing 0.606 acre-foot of replacement water. Proposed uses include the visitors center, maintenance area, staff housing and irrigation. Total annual well diversions are estimated at 3.82 acre-feet of which 0.579 acre-feet are consumed.

As stated in your report last year, depletions to Grape Creek are augmented by exchange by the use of the Guiraud 3T Ditch (G3T) water right during the May through September period and from releases from Spinney Mountain Reservoir between October through April. From the Guiraud 3T Ditch, 0.462 cfs, yielding 0.462 acre-feet per year, and 0.14 acre-feet of Spinney Mountain Reservoir water, are being assigned to this plan.

This substitute water supply plan is hereby approved pursuant to Section 37-80-120, C.R.S. (1991), subject to the following conditions:

1. Exchange potential in Grape Creek shall be first determined by the water commissioner and will be limited to physical availability of a live stream and non-injury to vested water rights in Grape Creek. Should exchange potential not exist, the wells shall be administered in priority.

2. Accounting forms shall be generated and approved by the Division Engineer. The wells shall be equipped with totalizing flow meters and volumes shall be recorded on a weekly basis, summarized monthly, and forwarded to the Division Engineer and Water Commissioner on an

annual basis. The water commissioner responsible for the administration of this plan is Ms. Denise Paprocki, PO Box 182, Fairplay, Colorado 80440-0182, telephone no. (719) 836-2557.

3. Due to the small volume of stream depletions projected to occur during the non-irrigation season, replacement shall be aggregated and replaced by one or more releases from storage of short duration. The rate and timing of an aggregated release shall be determined by the Division Engineer or his designated representative.

4. The exchange of the subject water rights will be at the confluence of Twin Creek and the South Platte River at Lake George, up Twin Creek about four miles to the confluence of Grape Creek one-half mile below the Town of Florissant, then up Grape Creek two miles to the point of depletion.

5. Approval of this plan is for the purposes stated herein. Any additional uses for which the water may be used must first be approved by this office. The replacement water, which is the subject of this plan, cannot be sold or leased to any other entity during the term of this approval.

6. This substitute water supply plan may be revoked or modified at any time should it be determined injury has or will occur as a result of the operation of this plan. Granting of this plan does not imply approval by this office of your application to be filed in Division 1 Water Court.

7. Acceptance of these conditions shall be submitted in writing to this office, the Division Engineer, and the Water Commissioner within two weeks after receipt of this letter.

8. This plan shall be valid through December 31, 1995 unless revoked or modified.

Should you have any questions or comments, please contact Bill McIntyre of this office or Jim Hall, Assistant Division Engineer, in the Greeley office, at (303) 352-8712.

Sincerely,

Richard L. Stenzel, P.E.
Assistant State Engineer

cc: Alan Berryman, Division Engineer
Denise Paprocki, District 23 Water Commissioner
Al Eckermann, North Water Supply Branch

HDS/WCM/jhh:florbd94.ssp

94CW083 USA, c/o Allison B. Rumsey, United States Dept. of Justice, POB 663, Washington, D.C. 20044. Environmental and Natural Resources Division, 999 18th St., #945, Denver, CO 80202. NORTH FORK ASSOCIATES MOUNTAIN MUTUAL RESERVOIR COMPANY, 2525 S. Wadsworth Blvd., #306, Denver, CO 80227. Application for Underground Water Rights, Approval of A Plan for Augmentation, Including Exchanges, and Change of Water Right, IN TELLER AND PARK COUNTIES.

CLAIM NO. 1

APPLICATION FOR UNDERGROUND WATER RIGHTS



1. Overview

This application addresses water needs at Florissant Fossils Beds National Monument ("National Monument"). The National Park Service ("NPS") is constructing a new visitor center and other facilities at the National Monument. To provide water for the planned visitor center and other facilities, the NPS drilled a new well, Sawmill Trail Well, and the DOJ, on behalf of the NPS, submitted an application to transfer a water right for a commercial exempt well from Visitor Center Well #12 to Sawmill Trail Well. In Case No. 91CW019, it was decreed that the water right would be transferred and, when the NPS began using Sawmill Trail Well, Visitor Center Well #12 would be plugged. The Sawmill Trail Well is not yet operational.

However, since that decree was issued, because water use at the visitor center has been exceeding the amount permitted for a commercial exempt well, it is clear that augmentation of depletions is necessary. In addition, the NPS now wishes to use both wells. Therefore, the United States is submitting this plan to augment both Visitor Center Well #12 and Sawmill Trail Well and other wells as may be required.

2. Names of Wells and Permit, Registration or Denial Numbers:

A. Sawmill Trail Well
B. Visitor Center Well #12, Permit No. 1-54180-A
C. Other wells as may be required within the National Monument and within the Grape Creek drainage. New wells will have a priority as of the date water pumped from each structure is first put to beneficial use.

Application for a well permit for Sawmill Trail Well was submitted under Receipt No. 1581-B and will be resubmitted to the Office of the State Engineer.

Application for a well permit for Visitor Center Well #12 is being submitted to the State Engineer concurrently with this application.

3. Legal Description of Wells:

The Sawmill Trail Well is located in the NE 1/4 SW 1/4 of Section 23, Township 13 South, Range 71 West, 6th P.M., Teller County, Colorado, 2,405 feet from the south section line and 1,973 feet from the west section line.

Visitor Center Well #12 is located in the NW 1/4 NW 1/4 of Section 24, Township 13 South, Range 71 West, 6th P.M., Teller County, Colorado, and 390 feet from the north section line and 880 feet from the west section line.

4. A. Source: Ground water which is tributary to Grape Creek, a tributary of Twin Creek, a tributary of the South Platte River.

B. Depth of Wells: Sawmill Trail Well - 220 ft
Visitor Center Well #12 - 500 ft

5. A. Dates of Appropriation: Sawmill Trail Well - February 1990
Visitor Center Well #12 - October 31, 1951

(94CW083-Continued)

B. How Appropriation Was Initiated: By application for test well permit; as decreed in 90CW149

C. Date Water Applied to Beneficial Use: N/A; October 31, 1951

6. Amount Claimed: Sawmill Trail Well - 20 gpm, CONDITIONAL
Visitor Center Well #12 - 15 gpm, ABSOLUTE

7. Uses: Domestic, commercial, irrigation, and fire protection purposes.

8. Name and Address of Owners of Land on which each Well is to be Located:

Sawmill Trail Well and Visitor Center Well #12 are located on land owned by the United States of America and administered by the NPS as Florissant Fossil Beds National Monument.

Address: Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, CO 80816-0185
(719)748-3253

CLAIM NO. 2

APPLICATION FOR APPROVAL OF A PLAN FOR
AUGMENTATION, INCLUDING EXCHANGES, AND CHANGE OF WATER RIGHTS

1. Names of Structures to be Augmented:

Sawmill Trail Well
Visitor Center Well #12

2. Water Rights to be Used for Augmentation Purposes:

The United States has purchased from North Fork Associates ("North Fork"), 19.3 shares of the capital stock of the Mountain Mutual Reservoir Company ("Mountain Mutual"). The 19.3 shares represent the right to receive 0.606 acre-feet of augmentation water per year from the water rights and storage facilities Mountain Mutual holds for the benefit of its shareholders.

North Fork and Mountain Mutual own the following water rights which will be used to meet the annual augmentation requirements for the out-of-priority depletions from the above-mentioned wells operated by the NPS at the National Monument:

A. Guiraud 3T Ditch: North Fork and Mountain Mutual own 2.556 cfs of the water rights decreed to the Guiraud 3T Ditch as follows:

Adjudication Date	Appropriation Date	Amount
October 18, 1889 (Original Adjudication, Water District 23)	July 1, 1867	20 cfs

The Guiraud 3T Ditch headgate is located on the South bank of the Middle Fork of the South Platte River in the NE 1/4, Section 8, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado, at a point whence the Northeast Corner of the NE 1/4 of said Section 8 bears North 63° 35′ East, 1,305 feet. Originally decreed for irrigation uses, this water right has been subject to various change proceedings. A decree authorizing a change of the point of diversion and place of use was entered on May 15, 1954, in Civil Action

No. 3376, Park County District Court. Subsequent to 1954, various change of water right and plan for augmentation proceedings have either been decreed or are pending which are anticipated to reduce the quantity of water left at the Guiraud 3T Ditch headgate to 0 cfs. Historically, water diverted through the Guiraud 3T Ditch was used to irrigate 276.28 acres of hay meadows in Sections 9, 10 and 15, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado. Past decrees have determined the average annual consumptive use under the Guiraud 3T Ditch to be 1.5 acre feet per acre. The owner of the lands historically irrigated by the 2.556 cfs now owned by North Fork Associates and Mountain Mutual Reservoir Company has contracted to remove and has removed 37.19 acres of land from irrigation. Said acreage has been surveyed and monumented in the field.

B. Spinney Mountain Reservoir: North Fork and Mountain Mutual are the owners by deed of an annual delivery of 80 af of water stored in Spinney Mountain Reservoir. Said Reservoir is located on the South Platte River, with the left abutment of the dam being at a point whence the Southwest Corner of Section 36, Township 12 South, Range 74 West, 6th P.M., Park County, Colorado, bears South 23° 26' West, a distance of 8,314.3 feet. A storage decree for the reservoir has been entered for domestic, irrigation, municipal and all other beneficial uses as follows:

Adjudication Date	Appropriation Date	Amount
1973: Case No. W-7395	March 26, 1973	86,000 AF

In addition, various decreed direct flow water rights have been transferred to storage in the structure by the Water Division No. 1 Water Court and provide the basic yield of the annual allotment of 80 af.

C. Lower Sacramento Creek Reservoir No. 1: North Fork owns a 25.2 percent interest in the Lower Sacramento Creek Reservoir No. 1. The Reservoir has been constructed and holds the following decree for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River or its tributaries:

Adjudication Date	Appropriation Date	Amount
1974: Case No. W-7741-74	July 25, 1974	40 AF

The Reservoir is located in the NE 1/4 NW 1/4, Section 32 and SE 1/4 SW 1/4, Section 29, Township 9 South, Range 77 West, 6th P.M., Park County Colorado. Releases from the Reservoir are made pursuant to the decrees issued in Case Nos. 84CW250 and 85CW465.

D. Woodside Reservoir: North Fork Associates and Mountain Mutual Reservoir Company own all of the physical facilities and the water rights decreed to the Woodside Reservoir as follows:

Adjudication Date	Appropriation Date	Amount

(94CW083-Continued)

1978: Case No. W-8771-77 September 1, 1977 50 AF

The Reservoir is decreed for domestic, municipal, commercial, irrigation, recreation, light industrial, piscatorial, fire fighting, exchange and all other beneficial uses. It is not yet constructed but will be located in the Elk Creek drainage basin in the E 1/2 SW 1/4 of Section 26, Township 6 South, Range 72 West, 6th P.M., Park County, Colorado.

3. Statement of Plan for Augmentation, Covering all Applicable Matters Under 15 Colo. Rev. Stat. §§ 37-92-103(9), 302(1)(2) and 305(8) (Supp 1993.):

A. Florissant Fossil Beds National Monument, administered by the NPS, is located within Township 13 South, Range 70 West and Township 13 South, Range 71 West, 6th P.M. in Teller County, Colorado. The park contains approximately 6,000 acres.

Water is supplied from Visitor Center Well #12, originally a commercial exempt well. However, because current water demands exceed the amount permitted for a commercial exempt well, water is now being supplied under a substitute supply plan approved by the State Engineer. Water is used by park visitors and employees for domestic and commercial purposes, including drinking water, restroom use, maintenance and irrigation, at a visitor center and an administrative office.

To meet increasing visitor use, new facilities are planned, including a new visitor center, the equivalent of six single family dwellings, and four summer staff trailer units. Six thousand square feet of turf or 24,000 square feet of garden may be irrigated until such time as the water is needed for other National Monument uses. In the event that future summer water use at the Visitor Center exceeds the present projected in-building uses, irrigation of lawn grass will be reduced proportionally to compensate for the increase.

B. To meet current as well as projected water needs, water would be obtained from one or more of the following sources:

1. Sawmill Trail Well;
2. Visitor Center Well #12;
3. Other wells as may be required within the National Monument but within the depletion replacement permitted by this augmentation plan.

C. Wastewater from in-building uses will be treated by a septic tank-soil absorption system, with an assumed consumptive use rate of 10% for the water diverted from wells for in-building uses.

D. There is a possibility of developing a mechanical water treatment system or tying into the Florissant Water and Sanitation District waste water system. In this event, the consumptive use rate would be 5% for a mechanical waste water treatment system or as required by the Florissant Water and Sanitation District's waste water treatment system. The United States seeks (1) recognition of the option to convert water treatment systems and (2) to receive appropriate credits to the quantity of augmentation water required with the lower consumptive use rate.

(94CW083-Continued)

E. The gross annual water requirements at the National Monument, to meet current and projected needs for in-building use and other non-irrigation uses, is estimated to be 3.5 af. 0.3 af of the water diverted by the NPS each year is anticipated to be used for irrigation.

F. The volume of water projected to be consumed at the National Monument to meet both current and projected needs is 0.579 af. These figures are based on 10% consumptive use of the in-building water and subsequent treatment by a septic tank - leach field system. It is further assumed that irrigation of lawn grass within the National Monument will consume 1.66 af of water per irrigated acre, and that the application rate is 2.2 af per irrigated acre. Garden water is based on 0.41 af of water per acre irrigation and that the application rate is 0.60 af per irrigated acre.

G. The required volume of augmentation water will be provided by the Mountain Mutual from one or more of the sources described in Paragraph No. 2 of CLAIM NO. 2.

H. Mountain Mutual Reservoir Company is a non-profit corporation which has been created for the following principal purposes:

1. to receive and hold title to direct flow and storage water rights, reservoirs and interests therein, lands easements, rights-of-way, and other related facilities in trust for its stockholders, and

2. to administer, for its stockholders, water rights and operate Mountain Mutual Reservoir Company facilities in accordance with individual plans for augmentation approved by the Water Court, such as the plan herein proposed.

I. In order to assure that sufficient augmentation water will be available for the Applicants, North Fork has agreed to assign to Mountain Mutual for the benefit of the United States and its assigns, and for use in their augmentation plan, up to 0.021 of a cfs of the Guiraud 3T Ditch priority, yielding 0.462 acre-feet of water per year, from the 2.556 cfs described above. In addition, North Fork has agreed to assign to Mountain Mutual, up to 0.144 acre-feet of its right to annual water deliveries from Spinney Mountain Reservoir. In order to provide augmentation water from the Guiraud 3T Ditch for use in this plan, North Fork and Mountain Mutual have caused 0.667 of an acre of the grounds historically irrigated by the Guiraud 3T Ditch to be removed from irrigation for each acre-foot of consumptive use water under the Ditch. Sufficient acreage has previously been monumented in the field and set aside for the benefit of plans for augmentation administered by Mountain Mutual. The approval and monumentation of the dried up lands are on the basis of criteria which have been approved and accepted by the Water Court in prior plans for augmentation and which have been adopted by the State Engineer.

J. Depletions to the stream system which are attributable to water use within the National Monument will primarily be augmented during the period May through September, inclusive, by leaving the above-referenced Guiraud 3T Ditch water rights in the stream. During times when the Guiraud 3T Ditch is not in priority and during the months of October through April, inclusive, depletions will be augmented by releasing water from

(94CW083-Continued)

Spinney Mountain Reservoir and Sacramento Creek Reservoir No. 1. Transportation charges from the point where water is released from the Mountain Mutual's facilities to the stream system, to the point of replacement, will be computed on the basis of 0.13 percent per mile.

K. It is anticipated that the augmentation requirements for the National Monument, plus any water to offset transportation charges allocable to this plan, will not exceed 0.606 acre-feet (0.021 cfs of the Guiraud 3T Ditch water right and 0.144 acre-feet of storage water in Spinney Mountain Reservoir). Prior to requesting any release of water from Spinney Mountain Reservoir, Mountain Mutual will provide the City of Aurora, the owner and operator of the structure, with at least twenty four hours notice during regular working hours, Monday through Friday, of the required time and amount of such releases.

L. To provide the necessary augmentation water for this and other augmentation plans, Mountain Mutual will attempt to fill Lower Sacramento Creek Reservoir No. 1 under the Reservoir's own priority. If the structure cannot be so filled, Mountain Mutual may elect to exchange water from Spinney Mountain Reservoir to storage in Lower Sacramento Creek Reservoir No. 1. The exchange has been decreed in prior plans for augmentation. Mountain Mutual has previously agreed to limit the exchange between Spinney Mountain Reservoir and Lower Sacramento Creek Reservoir No. 1 to those times when all vested water rights with priority dates senior to February 29, 1980, which divert water from Sacramento Creek and/or the Middle Fork of the South Platte River between the point of diversion for Lower Sacramento Creek Reservoir No. 1 and Spinney Mountain Reservoir, are either in priority and fully satisfied or are out-of-priority because of a downstream call initiated by a more senior water right which can be at least partially satisfied by the release of Spinney Mountain water. The decreed rate of exchange into Lower Sacramento Creek Reservoir No. 1 is limited to 2 cfs. Evaporation losses incurred by Lower Sacramento Creek Reservoir No. 1 will be made by exchange of Spinney Mountain Reservoir water to storage.

M. Out-of-priority depletions associated with water diverted from the National Monument's wells will be calculated on a regular basis. The total irrigated area within the National Monument irrigated by said wells will be surveyed annually. The volume of water delivered for outside irrigation will be estimated and subtracted from the total well diversions. Seventy-five percent of water applied to irrigation will be considered consumed by the irrigation process. The balance of the water pumped will be assumed to be consumed at a rate of ten percent of the volume pumped. Mountain Mutual will include such depletions in the reports which are presently being made to the State water officials for other plans for augmentation which utilize Mountain Mutual augmentation water supplies. On the basis of the submitted reports, not only for this plan but other plans administered by Mountain Mutual, and in accordance with the directives of the Division Engineer, Mountain Mutual will make the required release of augmentation water by properly documenting the in-stream delivery of replacement water from the Guiraud 3T Ditch or the release of storage water from Spinney Mountain Reservoir and the Lower Sacramento Creek Reservoir No. 1. Due to the small volume of annual stream depletions projected to occur under this plan, instantaneous stream depletions during times

when the Guiraud 3T Ditch is not available will be aggregated and replaced by one or more releases from storage of short duration, as directed by the Division Engineer or his representative.

N. Applicants seek a change in the Decree for the Guiraud 3T Ditch so that 0.021 of a cfs of said Decree can be assigned as an in-stream augmentation credit to offset depletions associated with use of the above-referenced wells. Applicants also seek judicial confirmation that storage water available to it in Spinney Mountain Reservoir and the Lower Sacramento Creek Reservoir No. 1 can be utilized for replacement and augmentation purposes to replace depletions as described herein.

O. Since the point of depletion associated with the out-of-priority diversions from the National Monument's wells is upstream of the point of delivery of augmentation water from the Guiraud 3T Ditch, Spinney Mountain Reservoir and the Lower Sacramento Creek Reservoir No. 1, the United States asserts an appropriative right of substitute supply and exchange pursuant to 15 Colo. Rev. State §§ 37-80-120 and 37-92-302(1)(a), 15 C.R.S. (Supp. 1993). The reach of the exchange shall extend from the confluence of the South Platte River and Twin Creek and up Twin Creek to the confluence of Grape Creek, and up Grape Creek to the point where the wells impact Grape Creek in Section 13 of Township 13 South, Range 71 West, 6th P.M. The exchange will operate to replace depletions to the flow of water in the above-referenced streams as depletions occur. The exchanges will be administered with a priority date of May 30, 1993, at a maximum flow rate of 0.20 cfs to the extent of 0.579 af per year.

4. Names and Addresses of Owners of Land on which Structures are Located:

A. Spinney Mountain Reservoir:

City of Aurora
1470 South Havana Street
Aurora, Colorado 80012

B. Lower Sacramento Creek Reservoir No. 1:

Lower Sacramento Creek Reservoir Company
1540 South Holly Street, No. 15
Denver, Colorado 80222

C. Woodside Reservoir:

Mike Schaefer
Schaefer Associates
1776 South Jackson Court, #1100
Denver, Colorado 80210

WHEREFORE, the United States, North Fork Associates and Mountain Mutual Reservoir Company request the entry of a decree approving this Application for Underground Water Rights, Approval of Augmentation Plan and Change of Water Rights, Including Exchanges, specifically determining that the source and location of delivery of augmentation water are sufficient to eliminate material injury to vested water rights. The United States also requests a determination that water usage within Florissant Fossil Beds National Monument can continue without curtailment so long as out-of-priority stream depletions are replaced as proposed herein. (12 pages)

August 10, 1994

Mr. Hal Simpson, P.E.
Office of the State Engineer
Division of Water Resources
1313 Sherman St, Room 818
Denver, CO 80203

Re: Florissant Fossil Beds
National Monument Substitute
Water Supply Plan

Dear Hal:

In a letter of May 10, 1993 we requested approval of a Substitute Water Supply Plan for the Florissant Fossil Beds National Monument in Sections 13 & 14, T13S, R71W, 6th P.M., Water Division 1, Water District 23. In a letter dated August 10, 1993 from you the Substitute Water Supply Plan was approved. With this letter we are requesting that the Plan be extended for an additional year while the action for a permanent plan for augmentation is completed.

During the past year the pumping of the well has been below the amount which was approved in your letter. The application for the permanent plan was filed in Division 1 Water Court under Case No. 94CW083.

If further information is required please contact this office.

Sincerely,

BLATCHLEY ASSOCIATES, INC.

Ronald K. Blatchley, P.E.
President

WMB

cc: Allison Rumsey
Alice Johns

blatchley associates, inc. / CONSULTING ENGINEERS
2525 SOUTH WADSWORTH BOULEVARD, #306 • DENVER, COLORADO 80227 • (303) 989-6932
WATER RESOURCES, WATER RIGHTS, GROUND WATER, HYDROLOGY, ENVIRONMENTAL & GEOLOGICAL ENGINEERING

06-14-1994: letter to alice johns, national park service; re: application for underground water

U.S. Department of Justice

Environment and Natural Resources Division

WMC:ABR
90-1-4-3984
(202) 272-6854

Washington, D.C. 20530

June 14, 1994

Alice Johns
National Park Service
Water Resources Division
Water Rights Branch
1201 Oak Drive, STE 250
Fort Collins, CO 80525

Re: Application for Underground Water Rights, Approval of Plan for Augmentation, Including Exchanges, and Change of Water Rights at Florissant Fossil Beds National Monument.

Dear Alice:

Enclosed please find a copy of the application for augmentation filed with the Water Court. I will call you as soon as I hear something and will forward the receipt to you. Now onto the A-Frame well.

If you have any questions, feel free to call me at 202/272-6854.

Sincerely,

Allison B. Rumsey
U.S. Department of Justice
Environment and Natural
Resources Division

Enclosures.

DISTRICT COURT, WATER DIVISION NO. 1, STATE OF COLORADO

CASE NO. 94CW_____

APPLICATION FOR UNDERGROUND WATER RIGHTS, APPROVAL OF A PLAN FOR AUGMENTATION, INCLUDING EXCHANGES, AND CHANGE OF WATER RIGHTS

CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA, NATIONAL PARK SERVICE

IN TELLER AND PARK COUNTIES

Names, Addresses and Telephone Numbers of Applicants:

a. United States of America
c/o Allison B. Rumsey
United States Department of Justice
P.O. Box 663
Washington, D.C. 20044
(202)272-6854

b. North Fork Associates
Mountain Mutual Reservoir Company
2525 South Wadsworth Blvd., Suite 306
Denver, Colorado 80227
(303)989-6932

CLAIM NO. 1

APPLICATION FOR UNDERGROUND WATER RIGHTS

1. Overview

This application addresses water needs at Florissant Fossils Beds National Monument ("National Monument"). The National Park Service ("NPS") is constructing a new visitor center and other facilities at the National Monument. To provide water for the planned visitor center and other facilities, the NPS drilled a new well, Sawmill Trail Well, and the DOJ, on behalf of the NPS, submitted an application to transfer a water right for a commercial exempt well from Visitor Center Well #12 to Sawmill Trail Well. In Case No. 91CW019, it was decreed that the water right would be transferred and, when the NPS began using Sawmill

Trail Well, Visitor Center Well #12 would be plugged. The Sawmill Trail Well is not yet operational.

However, since that decree was issued, because water use at the visitor center has been exceeding the amount permitted for a commercial exempt well, it is clear that augmentation of depletions is necessary. In addition, the NPS now wishes to use both wells. Therefore, the United States is submitting this plan to augment both Visitor Center Well #12 and Sawmill Trail Well and other wells as may be required.

2. Names of Wells and Permit, Registration or Denial Numbers:

A. Sawmill Trail Well
B. Visitor Center Well #12, Permit No. 1-54180-A
C. Other wells as may be required within the National Monument and within the Grape Creek drainage. New wells will have a priority as of the date water pumped from each structure is first put to beneficial use.

Application for a well permit for Sawmill Trail Well was submitted under Receipt No. 1581-B and will be resubmitted to the Office of the State Engineer.

Application for a well permit for Visitor Center Well #12 is being submitted to the State Engineer concurrently with this application.

3. Legal Description of Wells:

The Sawmill Trail Well is located in the NE 1/4 SW 1/4 of Section 23, Township 13 South, Range 71 West, 6th P.M., Teller County, Colorado, 2,405 feet from the south section line and 1,973 feet from the west section line.

Visitor Center Well #12 is located in the NW 1/4 NW 1/4 of Section 24, Township 13 South, Range 71 West, 6th P.M., Teller County, Colorado, and 390 feet from the north section line and 880 feet from the west section line.

4. A. Source: Ground water which is tributary to Grape Creek, a tributary of Twin Creek, a tributary of the South Platte River.

B. Depth of Wells: Sawmill Trail Well - 220 ft
Visitor Center Well #12 - 500 ft

5. A. Dates of Appropriation: Sawmill Trail Well - February 1990
Visitor Center Well #12 - October 31, 1951

B. How Appropriation Was Initiated: By application for test well permit; as decreed in 90CW149

C. Date Water Applied to Beneficial Use: N/A; October 31, 1951

6. Amount Claimed: Sawmill Trail Well - 20 gpm, CONDITIONAL
Visitor Center Well #12 - 15 gpm, ABSOLUTE

7. Uses: Domestic, commercial, irrigation, and fire protection purposes.

8. Name and Address of Owners of Land on which each Well is to be Located:

Sawmill Trail Well and Visitor Center Well #12 are located on land owned by the United States of America and administered by the NPS as Florissant Fossil Beds National Monument.

Address: Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, CO 80816-0185
(719)748-3253

CLAIM NO. 2

APPLICATION FOR APPROVAL OF A PLAN FOR
AUGMENTATION, INCLUDING EXCHANGES, AND CHANGE OF WATER RIGHTS

1. Names of Structures to be Augmented:

Sawmill Trail Well
Visitor Center Well #12

2. Water Rights to be Used for Augmentation Purposes:

The United States has purchased from North Fork Associates ("North Fork"), 19.3 shares of the capital stock of the Mountain Mutual Reservoir Company ("Mountain Mutual"). The 19.3 shares represent the right to receive 0.606 acre-feet of augmentation water per year from the water rights and storage facilities Mountain Mutual holds for the benefit of its shareholders.

North Fork and Mountain Mutual own the following water rights which will be used to meet the annual augmentation requirements for the out-of-priority depletions from the above-mentioned wells operated by the NPS at the National Monument:

A. Guiraud 3T Ditch: North Fork and Mountain Mutual own 2.556 cfs of the water rights decreed to the Guiraud 3T Ditch as follows:

Adjudication Date	Appropriation Date	Amount
October 18, 1889 (Original Adjudication, Water District 23)	July 1, 1867	20 cfs

The Guiraud 3T Ditch headgate is located on the South bank of the Middle Fork of the South Platte River in the NE 1/4, Section 8, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado, at a point whence the Northeast Corner of the NE 1/4 of said Section 8 bears North 63° 35' East, 1,305 feet. Originally decreed for irrigation uses, this water right has been subject to various change proceedings. A decree authorizing a change of the point of diversion and place of use was entered on May 15, 1954, in Civil Action No. 3376, Park County District Court. Subsequent to 1954, various change of water right and plan for augmentation proceedings have either been decreed or are pending which are anticipated to reduce the quantity of water left at the Guiraud 3T Ditch headgate to 0 cfs. Historically, water diverted through the Guiraud 3T Ditch was used to irrigate 276.28 acres of hay meadows in Sections 9, 10 and 15, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado. Past decrees have determined the average annual consumptive use under the Guiraud 3T Ditch to be 1.5 acre feet per acre. The owner of the lands historically irrigated by the 2.556 cfs now owned by North Fork Associates and Mountain Mutual Reservoir Company has contracted to remove and has removed 37.19 acres of land from irrigation. Said acreage has been surveyed and monumented in the field.

B. Spinney Mountain Reservoir: North Fork and Mountain Mutual are the owners by deed of an annual delivery of 80 af of water stored in Spinney Mountain Reservoir. Said Reservoir is located on the South Platte River, with the left abutment of the dam being at a point whence the Southwest Corner of Section 36, Township 12 South, Range 74 West, 6th P.M., Park County, Colorado, bears South 23° 26' West, a distance of 8,314.3 feet. A storage decree for the reservoir has been entered for domestic, irrigation, municipal and all other beneficial uses as follows:

Adjudication	Appropriation

Date	Date	Amount
1973: Case No. W-7395	March 26, 1973	86,000 AF

In addition, various decreed direct flow water rights have been transferred to storage in the structure by the Water Division No. 1 Water Court and provide the basic yield of the annual allotment of 80 af.

C. Lower Sacramento Creek Reservoir No. 1: North Fork owns a 25.2 percent interest in the Lower Sacramento Creek Reservoir No. 1. The Reservoir has been constructed and holds the following decree for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River or its tributaries:

Adjudication Date	Appropriation Date	Amount
1974: Case No. W-7741-74	July 25, 1974	40 AF

The Reservoir is located in the NE 1/4 NW 1/4, Section 32 and SE 1/4 SW 1/4, Section 29, Township 9 South, Range 77 West, 6th P.M., Park County Colorado. Releases from the Reservoir are made pursuant to the decrees issued in Case Nos. 84CW250 and 85CW465.

D. Woodside Reservoir: North Fork Associates and Mountain Mutual Reservoir Company own all of the physical facilities and the water rights decreed to the Woodside Reservoir as follows:

Adjudication Date	Appropriation Date	Amount
1978: Case No. W-8771-77	September 1, 1977	50 AF

The Reservoir is decreed for domestic, municipal, commercial, irrigation, recreation, light industrial, piscatorial, fire fighting, exchange and all other beneficial uses. It is not yet constructed but will be located in the Elk Creek drainage basin in the E 1/2 SW 1/4 of Section 26, Township 6 South, Range 72 West, 6th P.M., Park County, Colorado.

3. Statement of Plan for Augmentation, Covering all Applicable Matters Under 15 Colo. Rev. Stat. §§ 37-92-103(9), 302(1)(2) and 305(8) (Supp 1993.):

A. Florissant Fossil Beds National Monument, administered by the NPS, is located within Township 13 South, Range 70 West and Township 13 South, Range 71 West, 6th P.M. in Teller County, Colorado. The park contains approximately 6,000 acres.

Water is supplied from Visitor Center Well #12, originally a commercial exempt well. However, because current water demands exceed the amount permitted for a commercial exempt well, water is now being supplied under a substitute supply plan approved by the State Engineer. Water is used by park visitors and employees for domestic and commercial purposes, including drinking water, restroom use, maintenance and irrigation, at a visitor center and an administrative office.

To meet increasing visitor use, new facilities are planned, including a new visitor center, the equivalent of six single family dwellings, and four summer staff trailer units. Six thousand square feet of turf or 24,000 square feet of garden may be irrigated until such time as the water is needed for other National Monument uses. In the event that future summer water use at the Visitor Center exceeds the present projected in-building uses, irrigation of lawn grass will be reduced proportionally to compensate for the increase.

B. To meet current as well as projected water needs, water would be obtained from one or more of the following sources:

1. Sawmill Trail Well;
2. Visitor Center Well #12;
3. Other wells as may be required within the National Monument but within the depletion replacement permitted by this augmentation plan.

C. Wastewater from in-building uses will be treated by a septic tank-soil absorption system, with an assumed consumptive use rate of 10% for the water diverted from wells for in-building uses.

D. There is a possibility of developing a mechanical water treatment system or tying into the Florissant Water and Sanitation District waste water system. In this event, the consumptive use rate would be 5% for a mechanical waste water treatment system or as required by the Florissant Water and Sanitation District's waste water treatment system. The United States seeks (1)

recognition of the option to convert water treatment systems and (2) to receive appropriate credits to the quantity of augmentation water required with the lower consumptive use rate.

E. The gross annual water requirements at the National Monument, to meet current and projected needs for in-building use and other non-irrigation uses, is estimated to be 3.5 af. 0.3 af of the water diverted by the NPS each year is anticipated to be used for irrigation.

F. The volume of water projected to be consumed at the National Monument to meet both current and projected needs is 0.579 af. These figures are based on 10% consumptive use of the in-building water and subsequent treatment by a septic tank - leach field system. It is further assumed that irrigation of lawn grass within the National Monument will consume 1.66 af of water per irrigated acre, and that the application rate is 2.2 af per irrigated acre. Garden water is based on 0.41 af of water per acre irrigation and that the application rate is 0.60 af per irrigated acre.

G. The required volume of augmentation water will be provided by the Mountain Mutual from one or more of the sources described in Paragraph No. 2 of CLAIM NO. 2.

H. Mountain Mutual Reservoir Company is a non-profit corporation which has been created for the following principal purposes:

1. to receive and hold title to direct flow and storage water rights, reservoirs and interests therein, lands easements, rights-of-way, and other related facilities in trust for its stockholders, and

2. to administer, for its stockholders, water rights and operate Mountain Mutual Reservoir Company facilities in accordance with individual plans for augmentation approved by the Water Court, such as the plan herein proposed.

I. In order to assure that sufficient augmentation water will be available for the Applicants, North Fork has agreed to assign to Mountain Mutual for the benefit of the United States and its assigns, and for use in their augmentation plan, up to 0.021 of a cfs of the Guiraud 3T Ditch priority, yielding 0.462 acre-feet of water per year, from the 2.556 cfs described above. In

addition, North Fork has agreed to assign to Mountain Mutual, up to 0.144 acre-feet of its right to annual water deliveries from Spinney Mountain Reservoir. In order to provide augmentation water from the Guiraud 3T Ditch for use in this plan, North Fork and Mountain Mutual have caused 0.667 of an acre of the grounds historically irrigated by the Guiraud 3T Ditch to be removed from irrigation for each acre-foot of consumptive use water under the Ditch. Sufficient acreage has previously been monumented in the field and set aside for the benefit of plans for augmentation administered by Mountain Mutual. The approval and monumentation of the dried up lands are on the basis of criteria which have been approved and accepted by the Water Court in prior plans for augmentation and which have been adopted by the State Engineer.

J. Depletions to the stream system which are attributable to water use within the National Monument will primarily be augmented during the period May through September, inclusive, by leaving the above-referenced Guiraud 3T Ditch water rights in the stream. During times when the Guiraud 3T Ditch is not in priority and during the months of October through April, inclusive, depletions will be augmented by releasing water from Spinney Mountain Reservoir and Sacramento Creek Reservoir No. 1. Transportation charges from the point where water is released from the Mountain Mutual's facilities to the stream system, to the point of replacement, will be computed on the basis of 0.13 percent per mile.

K. It is anticipated that the augmentation requirements for the National Monument, plus any water to offset transportation charges allocable to this plan, will not exceed 0.606 acre-feet (0.021 cfs of the Guiraud 3T Ditch water right and 0.144 acre-feet of storage water in Spinney Mountain Reservoir). Prior to requesting any release of water from Spinney Mountain Reservoir, Mountain Mutual will provide the City of Aurora, the owner and operator of the structure, with at least twenty four hours notice during regular working hours, Monday through Friday, of the required time and amount of such releases.

L. To provide the necessary augmentation water for this and other augmentation plans, Mountain Mutual will attempt to fill Lower Sacramento Creek Reservoir No. 1 under the Reservoir's own priority. If the structure cannot be so filled, Mountain Mutual may elect to exchange water from Spinney Mountain Reservoir to

storage in Lower Sacramento Creek Reservoir No. 1. The exchange has been decreed in prior plans for augmentation. Mountain Mutual has previously agreed to limit the exchange between Spinney Mountain Reservoir and Lower Sacramento Creek Reservoir No. 1 to those times when all vested water rights with priority dates senior to February 29, 1980, which divert water from Sacramento Creek and/or the Middle Fork of the South Platte River between the point of diversion for Lower Sacramento Creek Reservoir No. 1 and Spinney Mountain Reservoir, are either in priority and fully satisfied or are out-of-priority because of a downstream call initiated by a more senior water right which can be at least partially satisfied by the release of Spinney Mountain water. The decreed rate of exchange into Lower Sacramento Creek Reservoir No. 1 is limited to 2 cfs. Evaporation losses incurred by Lower Sacramento Creek Reservoir No. 1 will be made by exchange of Spinney Mountain Reservoir water to storage.

M. Out-of-priority depletions associated with water diverted from the National Monument's wells will be calculated on a regular basis. The total irrigated area within the National Monument irrigated by said wells will be surveyed annually. The volume of water delivered for outside irrigation will be estimated and subtracted from the total well diversions. Seventy-five percent of water applied to irrigation will be considered consumed by the irrigation process. The balance of the water pumped will be assumed to be consumed at a rate of ten percent of the volume pumped. Mountain Mutual will include such depletions in the reports which are presently being made to the State water officials for other plans for augmentation which utilize Mountain Mutual augmentation water supplies. On the basis of the submitted reports, not only for this plan but other plans administered by Mountain Mutual, and in accordance with the directives of the Division Engineer, Mountain Mutual will make the required release of augmentation water by properly documenting the in-stream delivery of replacement water from the Guiraud 3T Ditch or the release of storage water from Spinney Mountain Reservoir and the Lower Sacramento Creek Reservoir No. 1. Due to the small volume of annual stream depletions projected to occur under this plan, instantaneous stream depletions during times when the Guiraud 3T Ditch is not available will be aggregated and replaced by one or more releases from storage of short duration, as directed by the Division Engineer or his representative.

N. Applicants seek a change in the Decree for the Guiraud 3T Ditch so that 0.021 of a cfs of said Decree can be assigned as an in-stream augmentation credit to offset depletions associated with use of the above-referenced wells. Applicants also seek judicial confirmation that storage water available to it in Spinney Mountain Reservoir and the Lower Sacramento Creek Reservoir No. 1 can be utilized for replacement and augmentation purposes to replace depletions as described herein.

O. Since the point of depletion associated with the out-of-priority diversions from the National Monument's wells is upstream of the point of delivery of augmentation water from the Guiraud 3T Ditch, Spinney Mountain Reservoir and the Lower Sacramento Creek Reservoir No. 1, the United States asserts an appropriative right of substitute supply and exchange pursuant to 15 Colo. Rev. State §§ 37-80-120 and 37-92-302(1)(a), 15 C.R.S. (Supp. 1993). The reach of the exchange shall extend from the confluence of the South Platte River and Twin Creek and up Twin Creek to the confluence of Grape Creek, and up Grape Creek to the point where the wells impact Grape Creek in Section 13 of Township 13 South, Range 71 West, 6th P.M. The exchange will operate to replace depletions to the flow of water in the above-referenced streams as depletions occur. The exchanges will be administered with a priority date of May 30, 1993, at a maximum flow rate of 0.20 cfs to the extent of 0.579 af per year.

4. Names and Addresses of Owners of Land on which Structures are Located:

A. Spinney Mountain Reservoir:

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1470 South Havana Street
Aurora, Colorado 80012

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Lower Sacramento Creek Reservoir Company
1540 South Holly Street, No. 15
Denver, Colorado 80222

C. Woodside Reservoir:

Mike Schaefer
Schaefer Associates
1776 South Jackson Court, #1100
Denver, Colorado 80210

WHEREFORE, the United States, North Fork Associates and Mountain Mutual Reservoir Company request the entry of a decree approving this Application for Underground Water Rights, Approval of Augmentation Plan and Change of Water Rights, Including Exchanges, specifically determining that the source and location of delivery of augmentation water are sufficient to eliminate material injury to vested water rights. The United States also requests a determination that water usage within Florissant Fossil Beds National Monument can continue without curtailment so

long as out-of-priority stream depletions are replaced as proposed herein.

Respectfully submitted this ____ day of _____, 1994.

_____

By _____

Attorneys for Applicants, United States of America, North Fork Associates and Mountain Mutual Reservoir Company

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

I, Ronald K. Blatchley, as water engineer for the United States, one of the Applicants herein, state under oath that I have read this Application and verify its content.

Ronald K. Blatchley

Subscribed under oath before me this 25th day of May, 1994.

My commission expires: October 6, 1996

Virginia A Stanfield
Notary Public

00-00-0000: letter to division of water resources; re: application for permit for visitor center well

Johns Williams 7/13

L54(479)
FLFO/Water Rights

State of Colorado
Division of Water Resources
Attn: Bill McIntyre
818 Centennial Building
1313 Sherman Street
Denver, Colorado 80203

CERTIFIED MAIL

Re: Application for Permit for Visitor Center Well #12 at Florissant Fossil Beds National Monument

Enclosed please find an application for a permit to use ground water from Visitor Center Well #12 at Florissant Fossil Beds National Monument, an affidavit, and a check for $60 to cover the cost of filing the application. **Could you please return a receipt to Alice Johns, at the address on this letterhead, to indicate that the filing fee, in the amount of $60.00, has been paid**?

A permit to replace a commercial exempt well with Visitor Center Well #12 was previously approved by your office (Number 154810-A). The well location on the enclosed permit application differs from that specified for Permit 154810-A. The new well location is based upon a recent survey (see attached affidavit).

Current uses of water from Visitor Center Well #12 exceed the amount allowed for a commercial exempt well. To remedy this, an augmentation plan is being filed. In the interim, Visitor Center Well #12 is being used in accordance with a Substitute Water Supply Plan (See Letters from the Colorado State Engineer to Mr. Ron Blatchley, of Blatchley Associates, Inc., dated August 10, 1993 and August 25, 1993), limiting diversions from the well to 1 acre-foot per year.

Sawmill Trail Well was to replace Visitor Center Well #12 and, once Sawmill Trail Well Began operating, Visitor Center Well #12 was to be plugged. (See Case No. 91CW019). However, the NPS now seeks to use and augment both wells. Accordingly, an application for a permit to use ground water from Visitor Center Well #12 is attached. Concurrent with filing this permit application, the United States will submit its application to the water court, Water Division 1, for underground water rights, approval of a plan for augmentation, and change of water rights, including exchanges. The average annual amount of ground-water to be appropriated (item 3 on the enclosed permit application) reflects the quantity sought from the water court for use from all wells under the Plan for Augmentation.

Under the Substitute Water Supply Plan, the United States can use water from the Visitor Center Well #12 and Sawmill Trail Well. A permit application form is not being submitted at this time for the Sawmill Trail, which was drilled in 1990 as a test well. (A permit for a commercial exempt well was applied for in 1990, but was returned by your office without approval (Receipt No. 15812-B). The Sawmill Trail Well will serve a new visitor center at the monument which will probably not be constructed for two years or more. The well is currently not connected to the monument's water supply system.

The NPS is concerned that, if a permit is requested for the Sawmill Trail Well at this time, beneficial use of water will likely not occur within the two year period after the permit is approved. On the other hand, the NPS does not want to run the risk of having to plug the well for not meeting State requirements or violating the terms of its Substitute Water Supply Plan. The NPS's consultant, Bill Blatchley of Blatchley Associates, Inc., informs us that Bill McIntyre of your office stated, in a March 30, 1994 telephone conversation, that the Sawmill Trail Well will not need to be plugged and that a permit for this well should not be filed until the water is intended to be used. If this is not the case, please contact Alice Johns of my office at (303)225-3534, so that we can take necessary actions to be in compliance with State law and avoid a requirement to plug this well.

If you have any questions, please contact Ms. Johns at (303)225-3534.

Sincerely,

Owen R. Williams
Chief, Water Rights Branch

Enclosures

cc: FLFO - Superintendent
RMR - Wise
DOJ (Washington) - Rumsey (w/enclosures)
Blatchley Associates Inc. - Bill Blatchley (w/enclosures)
479 - Johns, ~~Inglis~~

bcc: FLFO Docket 11, FLFO docket 12 (w/ enclosures)

12-03-1993: letter to mike gheleta, attorney, general litigation section; re: water meter verification

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525

IN REPLY REFER TO:

December 21, 1993

L54(479)
FLFO/Water Rights

Mike Gheleta, Attorney
General Litigation Section
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, CO 80202

Re: Water Meter Verification at Florissant Fossil Beds National Monument

Dear Mike,

Enclosed is a December 3, 1993 letter from Dale A. Ditmanson, Superintendent, Florissant Fossil Beds National Monument regarding water meter verification.

If you have any questions, please contact Alice Johns or Denise Newberry of my staff, at (303) 225-3534 or (303) 225-3525.

Sincerely,

for Owen R. Williams
Chief, Water Rights Branch

Enclosure

cc: FLFO - Superintendent (w/o enclosure)
RMR - Wise
SOL (Denver) - Canaday
479 - Johns
Blatchley Associates, Inc. - William Blatchley

United States Department of the Interior

NATIONAL PARK SERVICE
Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, Colorado 80816

IN REPLY REFER TO:

L54 (FLFO-S)

December 3, 1993

Denise Paprocki
Water Commissioner
35100 Highway 24
Lake George, Colorado 80827

Dear Commissioner Paprocki:

On November 3, 1993 we forwarded a copy of the annual water use for Florissant Fossil Beds National Monument. We noted, at that time, that the use was considerably less than prior reports. What we believed to have happened was that when information was requested in 1989 or 1990, an administrative staff person (not the water treatment person) transcribed information from monthly reports and left out a decimal point. (The last figure on the meter is tenths.) Therefore previous figures were inflated by a factor of ten.

As it turns out, the figures were not off, the last digit was not tenths and our original reported figures were correct. Add a zero to each of the monthly and annual figures reported for 1993.

Because the change in water use seemed extremely low, we contracted with the National Park Service Center in Denver to check our meter and water usage. The result indicated our meter was accurate without the final digit read as tenths.

Please let me know if you need additional information.

Sincerely,

Dale A. Ditmanson
Superintendent

cc: Alice Jahns, Water Resources Division

11-03-1993: letter to denise paprocki, water commissioner; re: annual water use for florissant

United States Department of the Interior

NATIONAL PARK SERVICE
Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, Colorado 80816

IN REPLY REFER TO:

L54 (FLFO-S)

November 3, 1993

Denise Paprocki
Water Commissioner
35100 Highway 24
Lake George, Colorado 80827

Dear Commissioner Paprocki:

Attached is the requested information regarding annual water use for Florissant Fossil Beds National Monument. In order to provide you with actual figures we have waited until the end of October to submit the report.

Note that the use is considerably less than prior reports. What we believe happened is that when information was requested in 1989 or 1990, an administrative staff person (not the water treatment person) transcribed information from monthly reports and left out a decimal point. (The last figure on the meter is tenths.) Therefore previous figures were inflated by a factor of ten.

Please let me know if you need additional information.

Sincerely,

Copy

Dale A. Ditmanson
Superintendent

cc: Alice Jahns, Water Resources Division

Case No
Sheet 4 of 5

EXHIBIT C
WATER ACCOUNTING FORM
FLORISSANT FOSSIL BEDS NATIONAL MONUMENT

Case No.
November 1 92 to October 31 93

	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT
(1) Reading Date												
(2) Turf Equiv.[4] (Ac)												
(3) Turf Avg CU Rate (Ft)							0.117	0.480	0.411	0.324	0.298	
(4) Irrigation CU (2) X (3) (AF)												
(5) Irr Application (4)/0.75 (AF)												
(6) Sawmill Tr Well BOM Reading (Gal)												
(7) EOM Reading (Gal)												
(8) Water Diverted (7) - (6) (Gal)												
(9) Visitor Center Well BOM Reading (Gal)	105651	106127	106475	106875	107317	108149	110650	113449	116043	118949	120116	121303
(10) EOM Reading (Gal)	106127	106475	106875	107317	108149	110650	113449	116043	118949	120116	121303	124,105
(11) Water Diverted (10) - (9) (Gal)	476	348	500	362	832	2501	2799	2594	2906	1267	1187	2802
(12) Total Diverted (8) + (11) (Gal)												
(13) (12)/325,851 (AF)												
(14) In-building Use (13) - (5) (AF)												
(15) In-building CU (14) X 0.10 (AF)												
(16) Total CU (4) + (15) (AF)												

Abbreviations: Div = diversion; BOM = beginning of month; EOM = end of month; CU = consumptive use; Irr = Irrigation

[4] ((Ø Sq Ft of lawn) + (Ø Sq Ft garden/4))/43,560 = _____ Acres

Sum of May-Sep Line (16) _____

Send a completed copy of this form monthly to Mountain Mutual Reservoir Co.

Sum of Nov-Apr & Oct Line (16) _____

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525

IN REPLY REFER TO:

September 10, 1993

L54(479)
FLFO/Water Rights

Mr. Hal D. Simpson, P.E.
State Engineer
Division of Water Resources
1313 Sherman Street, Room 818
Denver, CO 80203

Mr. Alan Berryman
Division Engineer
Water Division 1
321 Arix Building
800 8th Avenue
Greeley, CO 80631

Ms. Denise Paprocki
District 23 Water Commissioner
Route 1, Highway 24
Lake George, CO 80816

RE: Substitute Water Supply Plan for Florissant Fossil Beds National Monument (Response to Your August 10, 1993, and August 25, 1993, Letters)

Dear Mr. Simpson, Mr. Berryman, and Ms. Paprocki:

The National Park Service (NPS) accepts the conditions of the substitute water supply plan, as set forth in the State Engineer's August 10, 1993, letter and modified by the Assistant State Engineer's August 25, 1993, letter to Blatchley Associates, Inc. (the NPS's consultants in this matter).

On August 24, 1993, Alice Johns, of my staff, verbally accepted the conditions of the substitute water supply plan, subject to modification of Condition No. 6 to allow a sufficient volume of water for current uses. The August 25, 1993, letter from the Assistant State Engineer modified Condition No. 6 such that the annual volume limitations of 0.3 acre-feet and 0.33 acre-feet for Visitor Center Well #12 and the Sawmill Trail Well were increased to 1-acre-foot for each well. A review of past water diversion records by Blatchley Associates, Inc., concluded that the 1-acre-foot volume limitations will be adequate.

If you have any questions concerning this matter, please contact Alice Johns at (303) 225-3534.

Sincerely,

Owen Williams

Owen R. Williams
Chief, Water Rights Branch

bcc: FLFO - Superintendent
RMR - Wise
DOJ - Gheleta
SOL - Canaday
479 - Kimball, Flora, Flug, Jackson, Johns

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525

IN REPLY REFER TO:

September 10, 1993

L54(479)
FLFO/Water Rights

Mr. Alan Berryman
Division Engineer
Water Division 1
321 Arix Building
800 8th Avenue
Greeley, CO 80631

RE: Substitute Water Supply Plan for Florissant Fossil Beds National Monument (Response to August 10, 1993, Letter from the State Engineer)

Dear Mr. Berryman:

In accordance with Condition Number No. 3 of the August 10, 1993, letter from the State Engineer to Blatchley Associates, Inc. (the National Park Service's consultants) the National Park Service (NPS) hereby submits the attached accounting form for your approval. This accounting form will also be submitted to the water court with the Plan for Augmentation accompanying the United States water right application.

From a September 3, 1993, conversation between Denise Paprocki, District 23 Water Commissioner and Alice Johns of my staff, I understand Ms. Paprocki has requested that we begin reporting our annual water use this October, or at the latest, November 1, 1993. Reported water use should run through October or should include an estimate for October.

Water use at Florissant Fossil Beds National Monument will be reported to the water commissioner by the Superintendent of the monument, Dale Ditmanson.

If you have any questions concerning this matter, please contact Alice Johns at (303) 225-3534.

Sincerely,

Owen R. Williams
Chief, Water Rights Branch

Enclosure

bcc: (all w/enclosure)
FLFO - Superintendent
RMR - Wise
DOJ - Gheleta
SOL - Canaday
479 - Kimball, Flora, Flug, Jackson, Kliwinski, Johns
Blatchley and Associates - Bill Blatchley

Case No
Sheet 4 of 5

EXHIBIT C
WATER ACCOUNTING FORM
FLORISSANT FOSSIL BEDS NATIONAL MONUMENT
Case No. _____
November 1 ____ to October 31 ____

	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT
(1) Reading Date												
(2) Turf Equiv.[a] (Ac)												
(3) Turf Avg CU Rate (Ft)							0.117	0.480	0.441	0.324	0.298	
(4) Irrigation CU (2) X (3) (AF)												
(5) Irr Application (4)/0.75 (AF)												
(6) Sawmill Tr Well BOM Reading (Gal)												
(7) EOM Reading (Gal)												
(8) Water Diverted (7) - (6) (Gal)												
(9) Visitor Center Well BOM Reading (Gal)												
(10) EOM Reading (Gal)												
(11) Water Diverted (10) - (9) (Gal)												
(12) Total Diverted (8) + (11) (Gal)												
(13) (12)/325,851 (AF)												
(14) In-building Use (13) - (5) (AF)												
(15) In-building CU (14) X 0.10 (AF)												
(16) Total CU (4) + (15) (AF)												

Abreviations: Div = diversion; BOM = beginning of month; EOM = end of month; CU = consumptive use; Irr = Irrigation

[a] ((_____ Sq Ft of lawn) + (_____ Sq Ft garden/4))/43,560 = _____ Acres

Sum of May-Sep Line (16) _____

Send a completed copy of this form monthly to Mountain Mutual Reservoir Co.

Sum of Nov-Apr & Oct Line (16) _____

NATIONAL PARK SERVICE
WATER RIGHTS BRANCH
WATER RESOURCES DIVISION
FORT COLLINS, COLORADO
FAX #: (303) 225-9965
VERIFICATION #: (303) 225-3506

WRD

DATE 9 / 8 / 93

9/8/93 Am I spoke w/ Dale Duncan re: if is acceptable to him.

9/10 a.m. Letter acceptable to Mike.

TO Acting Supt.
NAME Tom Snoke — **GROUP** FLFO
OFFICE PHONE (719) 748-3253 — **VERIFICATION**
FAX NUMBER (719) 748-3164

NAME Mike Gheleta — **GROUP** ~~DOI~~ DOJ
OFFICE PHONE (303) 294-1900 — **VERIFICATION**
FAX NUMBER (303) 294-1931

NAME Bill Blatchley — **GROUP** Blatchley & Associates, Inc
OFFICE PHONE (303) 989-6932 — **VERIFICATION**
FAX NUMBER (303) 989-6938

FROM
NAME Alice Johns — **GROUP** WRB

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET) 9

SPECIAL INSTRUCTIONS: Attached is draft response to State (re) substitute water supply plan. Call me today (if possible) if you have comments. I would like to send this out today or tuesday at the latest, to be responsive to the State. Thanks!

CONFIDENTIALITY NOTICE
This facsimile transmission (and/or documents accompanying it) may contain confidential information belonging to the sender. The information is intended only for the use of the individual or entry name above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone to arrange the return of the document.

Receipt Verified By _____ Date _____ Time _____

9/7 P.M. I spoke with Ron Blatchley. Draft letter is acceptable to him.

08-10-1993: letter to alice johns; re: copy of the modification of your substitute supply plan for

August 30, 1993

Facsimile Transmission

Alice Johns
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80225

Re: Florissant Fossil Beds N. M.
Substitute Water Supply Plan

Dear Alice:

Attached is a copy of the modification of your Substitute Supply Plan for the Florissant Fossil Beds N.M. This will provide sufficient water under this plan prior to receiving a decree from the water court. I would suggest you submit an acknowledgement of the supply plan and its conditions.

If I can be of any assistance in this please advise.

Sincerely,

BLATCHLEY ASSOCIATES, INC.

Bill Blatchley

William M. Blatchley
Business Manager

blatchley associates, inc. / CONSULTING ENGINEERS
2525 SOUTH WADSWORTH BOULEVARD, #306 • DENVER, COLORADO 80227 • (303) 989-6932
WATER RESOURCES, WATER RIGHTS, GROUND WATER, HYDROLOGY, ENVIRONMENTAL & GEOLOGICAL ENGINEERING

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER
Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

Roy Romer
Governor
Ken Salazar
Executive Director
Hal D. Simpson
State Engineer

August 25, 1993

Mr. Ron Blatchley, P.E.
Blatchley Associates, Inc.
2525 South Wadsworth Blvd. #306
Denver, Colorado 80227

Re: Florissant Fossil Beds
1993 Substitute Water Supply Plan Modification
Sections 13 & 14, T13S, R71W, 6th P.M.

Dear Mr. Blatchley:

This office forwarded approval of the above referenced substitute water supply plan on August 10, 1993. Condition number 6 of the 10 listed conditions deals with well pumping rates and annual volume limitations. The annual volume limitations of 0.3 acre-feet and 0.33 acre-feet are hereby modified to 1 acre-feet for each well. The amount of replacement water purchased for this plan is adequate to replace the more than 2.0 acre-feet of annual diversions but the wells would be limited to 1 acre-foot each as approved herein.

This modification was requested by Mr. Bill Blatchley on August 19, 1993. All other conditions remain in effect.

Sincerely,

Richard L. Stenzel, P.E.
Assistant State Engineer

cc: Alan Berryman, Division Engineer
Denise Paprocki, Water Commissioner
Al Eckermann

RLS/WCM/jhh:ssp:flrsnt01.wcm

08-25-1993: letter to alice johns from william blatchley; attached copy of approval of substitute

August 18, 1993

Facsimile Transmission

Alice Johns
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80225

Re: Florissant Fossil Beds N. M.
Substitute Water Supply Plan

Dear Alice:

Attached is a copy of the approval of your Substitute Supply Plan for the Florissant Fossil Beds. Of the conditions for approval, none are more restrictive than has been acknowledged in the original application so there should be no problem accepting them in a letter to those stated in the letter.

If I can be of any assistance in this please advise.

Sincerely,

BLATCHLEY ASSOCIATES, INC.

William M. Blatchley
Business Manager

blatchley associates, inc. / CONSULTING ENGINEERS
2525 SOUTH WADSWORTH BOULEVARD, #306 · DENVER, COLORADO 80227 · (303) 989-6932
WATER RESOURCES, WATER RIGHTS, GROUND WATER, HYDROLOGY, ENVIRONMENTAL & GEOLOGICAL ENGINEERING

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER
Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

BLATCHLEY ASSOC.
RECEIVED
AUG 19 1993
AUG 1 1993
FILE NO.

Roy Romer
Governor
Ken Salazar
Executive Director
Hal D. Simpson
State Engineer

August 10, 1993

Mr. Ron Blatchley, P.E.
Blatchley Associates, Inc.
2525 South Wadsworth Blvd. #306
Denver, Colorado 80227

Re: **Florissant Fossil Beds**
1993 Substitute Water Supply Plan
Sections 13 & 14, T13S, R71W, 6th P.M.
Water Division 1, Water District 23

Dear Mr. Blatchley:

We have reviewed your request for a substitute water supply plan for the Florissant Fossil Beds National Monument (FLFO). The intent of the plan is to provide replacement water for two non-exempt wells serving the visitors center. The water system for the monument is now being supplied by the Florissant Visitors Center Well # 12, Permit No. 154180-A, but is exceeding the maximum allowed diversions for a commercial exempt well. You indicated that a permit application for the second well, referred to as the Sawmill Trail Well, was submitted under Receipt No. 15812-B and will be resubmitted under this substitute water supply plan.

FLFO has purchased 19.3 shares in Mountain Mutual Reservoir Company, representing 0.606 acre-foot of replacement water. Proposed uses include the visitors center, maintenance area, staff housing, and irrigation. Total annual well diversions are estimated at 3.82 acre-feet of which 0.579 acre-feet are consumed. The following assumptions were listed in your engineering report:

1. Projected annual number of visitors is 200,000.

2. The visitor center will use low-flush fixtures, 1.6 gallons for toilets, 1.25 gallons for urinals, and 0.5 gallons for lavatories.

3. It is assumed that 85% of visitors will use the restrooms, with the use equally divided between men and women, and 50% of those men using the facilities will use the urinal.

4. Staff population will be adjusted seasonally from 16 in the winter to 35 personnel in the summer.

5. Staff water usage is estimated at 10 gallons per capita per day.

6. Staff dwellings are projected at six, with an assumed population of 3.5 capita per unit and 80 gallons per day per capita usage.

7. Four summer staff trailer units are predicted with a 2.5 capita per unit and 80 gallons per capita per day.

8. About 6,000 square feet of turf or 24,000 square feet of garden irrigation is assumed. Lawn irrigation is based on a per acre application rate of 2.2 acre-feet with 1.66 acre-feet of consumptive use. Garden irrigation assumes an application rate of 0.6 acre-feet with 0.41 acre-feet of consumptive use.

9. Use for vehicle washing is assumed at 75 gallons per washing with the waste water being collected and discharged into a leach field. Consumptive use is assumed at 10%.

10. All inside water use assumes a 10% consumptive use rate based on a septic tank-soil absorption system.

The National Park Service has entered into an agreement with North Fork Associates and Mountain Mutual Reservoir Company to purchase 19.3 shares to provide sufficient replacement water for depletions to the South Platte River system. The holder of the shares is entitled to 0.606 acre-feet of augmentation water per year.

As proposed in your report, depletions to Grape Creek are to be augmented by exchange of the use of the Guiraud 3T Ditch (G3T) water right during the May through September period and from releases from Spinney Mountain Reservoir between October through April. The amount of water being assigned for this plan are 0.021 cfs from the Guiraud 3T Ditch, yielding 0.462 acre-feet per year, and 0.14 acre-feet of Spinney Mountain Reservoir water.

Based upon the above, this substitute water supply plan is hereby approved pursuant to Section 37-80-120, C.R.S. (1991), but subject to the following conditions:

1. A new well permit must be obtained from this office. Either consent or a hearing will be required prior to the issuance of the permits if another well is located within 600 feet of these wells. Should new permits be denied for reasons of 600-foot spacing, or any other legitimate reason, approval of this substitute water supply plan will be cancelled.

2. Exchange potential in Grape Creek shall be limited to physical availability of a live stream and non-injury to vested water rights in Grape Creek. Should exchange potential not exist, the wells shall be administered in priority. Prior to initiating an exchange, contact the water commissioner for approval.

3. Accounting forms shall be generated and approved by the Division Engineer. The wells shall be equipped with totalizing flow meters and volumes shall be recorded on a weekly basis, summarized monthly, and forwarded to the Division Engineer and Water Commissioner on an annual basis. The water commissioner responsible for the administration of this plan is Ms. Denise Paprocki, Route 1, Highway 24, Lake George, Colorado, telephone number (719) 836-2557.

4. Due to the small volume of annual stream depletions projected to occur, instantaneous stream depletions during times when the Guiraud 3T Ditch water right is not used for replacement purposes, shall be aggregated and replaced by one or more releases from storage of short duration. The rate and timing of an aggregated release shall be determined by the Division Engineer or his designated representative. No more than one aggregated release per month shall be permitted.

5. The exchange of the subject water rights will be at the confluence of Twin Creek and the South Platte River at Lake George, up Twin Creek about four miles to the confluence of Grape Creek one-half mile below the Town of Florissant, then up Grape Creek two miles to the point of depletion.

6. * The pumping of the wells shall be limited to 18 gpm for well #12, and 15 gpm for the Sawmill Trail Well. Annual volume limitations shall be 0.3 acre-feet and 0.33 acre-feet respectively.

7. Approval of this plan is for the purposes stated herein. Any additional uses for which the water may be used must first be approved by this office. The replacement water, which is the subject of this plan, cannot be sold or leased to any other entity during the term of this approval.

8. This substitute water supply plan may be revoked or modified at any time should it be determined injury has or will occur as a result of the operation of this plan. Granting of this plan does not imply approval by this office of your application to be filed in Division 1 Water Court. Application shall be made prior to July 31, 1994.

* 9. Acceptance of these conditions shall be submitted in writing to this office, the Division Engineer, and the Water Commissioner within two weeks after receipt of this letter.

10. This plan shall be valid through July 31, 1994 unless revoked or modified.

Should you have any questions or comments, please contact Bill McIntyre of this office or Jim Hall, Assistant Division Engineer, in the Greeley office, at (303) 352-8712.

Sincerely,

Hal D. Simpson, P.E.
State Engineer

HDS/WCM/jhh:x:common:florfbed.ssp

321 Arix Building
800 8TH Ave
Greeley CO 80631

cc: Alan Berryman, Division Engineer
Denise Paprocki, District 23 Water Commissioner
Al Eckermann, Water Supply Branch, North Region

May 18, 1993

Mr. Harold Simpson, P.E.
Office of the State Engineer
Division of Water Resources
1313 Sherman, Room 818
Denver, CO 80203

Re: Florissant Fossil Beds National Monument Temporary Substitute Water Supply Plan

Dear Mr. Simpson:

The National Park Service hereby submits a temporary water supply plan for Florissant Fossil Beds National Monument for your consideration. Enclosed is a letter from Ronald K. Blatchley, P.E., of Blatchley Associates, Inc., which describes the plan. Attached to the letter is a Plan For Augmentation. Both were prepared by Blatchley Associates, Inc., under contract to the National Park Service.

Technical questions concerning these documents should be directed to Blatchley Associates, Inc.

Charles W. Pettee

Owen R. Williams
Chief, Water Rights Branch

Enclosure

cc: Water Division 1 - Berryman (w/enclosure)
Office of the State Engineer - Eckerman

bcc: FLFO - Superintendent (w/enclosure)
RMR - Wise
SOL - Canaday (w/enclosure)
DOJ - Johnson
Blatchley Associates, Inc. - Bill Blatchley

FNP:AJOHNS:kt:(303)225-3506:05/18/93:B:\FLFOSE.COV

05-18-1993: letter to harold simpson, office of the state engineer, division of water resources; re:

May 10, 1993

Mr. Harold Simpson, P.E.
Office of the State Engineer
Division of Water Resources
1313 Sherman, Room 818
Denver, CO 80203

Re: Florissant Fossil Beds
National Monument
Temporary Substitute
Water Supply Plan
BAI File 627.1

Dear Hal:

Enclosed herewith is a copy of the engineering report titled Plan For Augmentation, Florissant Fossil Beds National Monument, May 1993, which our office prepared for the Water Court application. We anticipate that the application will be submitted to the Division I Water Court soon. The water system for Florissant Fossil Beds National Monument (FLFO) is now being supplied by the Florissant Visitors Center Well #12, Permit No. 1-54180 but is exceeding the maximum allowed diversions for a commercial exempt well. A well permit application for a second well, the Sawmill Trail Well was submitted under Receipt No. 1581-B and will be resubmitted under this substitute supply plan. As soon as the Water Court application is finalized and submitted to the Water Court, we will submit a copy for your review.

FLFO has purchased 19.3 shares in Mountain Mutual Reservoir Company, representing 0.606 acre-foot of replacement water, to supply water rights for their plan for augmentation. A photocopy of the certificate of ownership of the Mountain Mutual Reservoir Company stock is enclosed. It is proposed that FLFO operate their water supply system under a temporary substitute water supply plan until a decree is signed by the Division I Water Judge. The application will include the 0.606 acre-foot purchased.

The utilization under a temporary substitute water supply involves only the present visitors center with an estimated annual consumption of less than 0.2 acre-foot and no residential or irrigation use. Any increase in diversion will occur no sooner than FY 1994.

blatchley associates, inc. / CONSULTING ENGINEERS
2525 SOUTH WADSWORTH BOULEVARD, #306 • DENVER, COLORADO 80227 • (303) 989-6932
WATER RESOURCES, WATER RIGHTS, GROUNDWATER, HYDROLOGY, ENVIRONMENTAL & GEOLOGICAL ENGINEERING

For administration of the substitute water supply, the FLFO water uses and replacement requirements will be added to the administrative system now in place for Mountain Mutual Reservoir Company. A suggested administrative form is in Exhibit C of the plan for augmentation engineering report.

Should you have any questions, please do not hesitate to call our office as we would like for the plan to be in place well in advance of the system being placed into operation.

Sincerely,

BLATCHLEY ASSOCIATES, INC.

Ronald K. Blatchley, P.E.
President

WMB:wb
Enclosures
cc: Alice Johns (w/encl.)
Richard Young (w/encl.)
Ralph Canaday (w/encl.)
Alan Berryman (w/encl.)

04-27-1993: class a stock; from mountain mutual reservoir company; issued to national park

Water Court Case Number _____ Account Number 248

INCORPORATED UNDER THE LAWS OF THE STATE OF COLORADO



NUMBER 333

SHARES 19.3

AUTHORIZED CAPITAL
10,000 SHARES

NO PAR VALUE

MOUNTAIN MUTUAL RESERVOIR COMPANY

CLASS A STOCK

This Certifies That National Park Service, United States Department of Interior

is the owner of 19.3 *share(s) of the Capital Stock of MOUNTAIN MUTUAL RESERVOIR COMPANY assessable for maintenance and operation representing* 19.3 *unit(s) of a water right transferable only on the books of this Corporation in person or by Attorney upon surrender of this Certificate properly endorsed.*

The stock evidenced by this Certificate constitutes a water right for: in-house use and irrigation as specified in the Water Court Decree.

_____*A single-family residential unit (in-house use only)* _____*A multi-family residential unit, for* _____*equivalent single-family residential units (in-house use only)*

_____*With irrigation of* _____*acres/sq. feet and/or*

_____*Livestock watering, located on* the Florissant Fossil Beds National Monument, Teller County,

_____, *Colorado.*

An excerpt from the By-Laws of the Company is printed on the back of this Certificate to acquaint the holder with the principal conditions affecting their water right held by this Company for its Stockholders.

In Witness Whereof, *the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed, this* 27th *day of* April, *A.D. 19* 93.

William M Blatchley
SECRETARY

Samuel F Blatchley
PRESIDENT

United States Department of the Interior
NATIONAL PARK SERVICE
WATER RESOURCES DIVISION
301 SOUTH HOWES ST., ROOM 353
FT. COLLINS, COLORADO 80521

July 10, 1992

IN REPLY REFER TO:
L54(479)
FLFO/Water Rights

Al Eckermann
Water Resource Engineer
Office of the State Engineer
Divisions of Water Resources
1313 Sherman Street-Room 818
Denver, Colorado 80203

Dear Mr. Eckermann:

The purpose of this letter is to provide you with an update on National Park Service (NPS) efforts to address concerns expressed in your June 12, 1991 letter to Bill Hansen, of this office, for the Sawmill Trail Well at Florissant Fossil Beds National Monument (FLFO).

As my staff has discussed with you, NPS intends to prepare a plan of augmentation and acquire the necessary water rights to ensure that a year-round water supply is available for monument needs. I would like to reassure you that the NPS is working diligently to prepare the necessary plans. Funding commitments have been secured and we are in the process of contracting for engineering services to develop a Substitute Water Supply Plan and Plan of Augmentation. Our preliminary estimate, to be confirmed once the contract is awarded, is that a draft Substitute Water Supply Plan may be completed by September 30, 1992.

I hope this addresses any concerns you may have for Sawmill Trail Well. If you believe a different course of action is necessary, please advise us. You can contact Bill Hansen of my staff directly at (303) 493-1441.

Sincerely,

cc: FLFO - Ditmanson
RMR - Ponce, Wise, Kelley, Young
SOL (Denver) - Canaday
479 - McGlothlin, Johns

U.S. Department of Justice

Environment and Natural Resources Division

WMC:LAJohnson
90-1-2-892

NOV 1991
RECEIVED
WRD - FT COLLINS

Denver Field Office
999 - 18th Street
Suite 945
Denver, Colorado 80202

Commercial Number
(303) 294-1900
FTS/330-1900

Telefax Number
(303) 294-1931
FTS/330-1931

October 30, 1991

Mr. Owen Williams
Assistant Chief, Water Resources division
National Park Service
301 South Howes Street
Fort Collins, Colorado 80521

Re: Water Division No. 1 - Case No. 91 CW 19

Dear Owen:

Enclosed please find a copy of the FINDINGS AND RULING OF THE REFEREE . . . in the above-captioned case. Please review this carefully and let us know by **November 12, 1991**, whether or not this Ruling is acceptable to you. As you know, under the Rules, we can file a protest to the Ruling if it is inaccurate in any way.

I look forward to hearing from you.

Sincerely,

Lynn A. Johnson
Attorney
General Litigation Section

cc: Ralph O. Canaday, Esq.
Regional Solicitor's Office
Department of the Interior
Post Office Box 25007
Denver Federal Center
Denver, Colorado 80225

RECEIVED
OCT 30 1991
DEPT. JUSTICE LANDS DIVISION
DENVER, COLO

NOV 1991
RECEIVED
WRD - FT COLLINS

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

CASE NO. 91CW019
(90CW149 and W-8795-77)

FINDINGS AND RULING OF THE REFEREE AND DECREE OF THE WATER COURT

IN THE MATTER OF THE APPLICATION OF WATER RIGHTS OF

UNITED STATES OF AMERICA, FLORISSANT FOSSIL BEDS NATIONAL MONUMENT, IN TELLER COUNTY

THIS CHANGE was filed with the Water Clerk, Water Division 1, on March 19, 1991 and originally filed in case No. W-8795-77 on December 29, 1977 and previously modified in case No. 90CW149 dated March 6, 1991. The Referee being fully advised in the premises does hereby find:

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

No Statement of Opposition to said application has been filed and the time for filing such statement has expired.

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

FINDINGS OF FACT

1. Florissant Fossil Beds Visitors Center Well No. 1 has historically been used for drinking and sanitary facilities at the National Monument Visitors Center.

2. The decree in case No. 90CW149 transferred the water right from Visitors Center Well No. 1 to Visitors Center Well No. 12.

3. The change of water right requested herein is to transfer the water right from Visitors Center Well No. 1, which has been transferred to Visitors Center Well No. 12, to Sawmill Trail Well. The amounts of water diverted and the uses of the water will remain the same.

IT IS HEREBY THE RULING OF THE WATER REFEREE

1. The name and address of the applicant:

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

2. The name of the structure:

USA Florissant Fossil Beds National Monument

Visitors Center Well No. 1 (a/k/a Well No. 12)
Sawmill Trail Well

3. The legal description of the structure:

As decreed in case No. 90CW149: NW1/4NW1/4, Section 24, Township 13 South, Range 71 West, 6th P.M., Teller County, at a point approximately 400 feet South and 500 feet East of the Northwest corner, Section 24.

As transferred herein: NE1/4 SW1/4, Section 23, Township 13 South, Range 71 West, 6th P.M., Teller County, at a point approximately 2500 feet North and 2000 feet East of the Southwest corner, Section 23.

4. The source of the water:

Groundwater

5. The date of appropriation:

October 31, 1951 as decreed in case No. W-8795-77 dated February 8, 1989.

6. The amount of water:

0.033 cfs (15 gpm) limited to 1/3 acre foot (108,600 gallons) annually.

7. The use of the water:

Drinking and sanitary facilities in Visitors' Center.

8. Moving the location of the well approximately 4400 feet Southwest will not result in injury to vested water rights of others.

9. This change shall be subject to reconsideration by the water judge on the question of injury to the vested rights of others for a period of 5 years from the date of this decree pursuant to CRS 37-92-602.

10. This water right, so long as uses are limited to those decreed herein, is exempt from administration by the State Engineer pursuant to CRS, 37-92-602.

Dated: OCT 29 1991

RAYMOND S. LIESMAN
Water Referee
Water Division No. 1

NOV 29 1991

THE COURT FINDS: NO PROTEST WAS FILED IN THIS MATTER.

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

Dated: NOV 27 1991

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

U.S. Departm of Justice

Land and Natural Resources Division

WMC:LAJohnson
90-1-2-892

Denver Field Office
Federal Bldg., 1961 Stout Street
Drawer 3607
Denver, Colorado 80294

Commercial Number
(303) 844-3627
FTS/564-3627

July 3, 1991



Mr. Owen Williams
Assistant Chief, Water Resources Division
National Park Service
301 South Howes Street
Fort Collins, Colorado 80521

Re: Water Division No. 1 - Case No. 91 CW 19

Dear Owen:

Enclosed please find a copy of SUMMARY OF CONSULTATION HELD JUNE 6, 1991, received from Alan D. Berryman, Division Engineer, Water Division No. 1.

Please let me know what you would like me to do concerning this well and what information can be provided to the court.

Thank you for your cooperation.

Sincerely,

ENVIRONMENT AND NATURAL RESOURCES DIVISION

Lynn A. Johnson
General Litigation Section

cc: Ralph O. Canaday, Esq.
Regional Solicitor's Office
Department of the Interior
Post Office Box 25007
Denver Federal Center
Denver, Colorado 80225

ROY ROMER
Governor

JERIS A. DANIELSON
State Engineer

DIVISION OF WATER RESOURCES
WATER DIVISION I

Alan D. Berryman
Division Engineer
800 8th Ave.-Room 321 ARIX Bldg.
Greeley, Colorado 80631
(303) 352-8712

RECEIVED
JUL 3 - 1991
DEPT. JUSTICE LANDS DIVISION
DENVER, COLO.

June 24, 1991

SUMMARY OF CONSULTATION HELD JUNE 6, 1991

CASE NO. 91 CW 019 United States of America Florissant Fossil Beds National Monument, Teller County

MARCH 1991 RESUME

The applicant seeks Court approval for a change of water right to replace a well named USA Florissant Fossil Beds National Monument Well No. 12 with a well named Sawmill Trail Well and move the location of use from the present visitors center to a proposed new one.

The Division Engineer can not recommend that the change of water right be granted unless the following concerns are addressed:

1) Prove that the amount of water claimed for exempt commercial use is sufficient for the annual drinking and sanitary operations of the visitors center.

2) Provide historical records of water use from well No. 12.

3) The well must be equipped with a totalizing flowmeter and records shall be available upon request to the Division Engineer or his representative.

4) Limit the well use to that which is decreed in Case No. 90 CW 149.

5) Provide evidence that there will be no expanded use of the well.

Requested information should be submitted to the Water Court, P.O. Box C, Greeley, Colorado 80632 or Telephone 356-4000, Ext. 4598.

CRS 1973, 37-92-302(4), SIGNED IN TO LAW MAY 17, 1988, PROVIDES THAT THE APPLICANT OR HIS ATTORNEY SHALL MAIL OR DELIVER A COPY OF THIS CONSULTATION TO ALL PARTIES OF RECORD WHO FILED A STATEMENT OF OPPOSITION TO THIS APPLICATION, IF ANY, AND THE STATUTE ALSO REQUIRES THAT THE APPLICANT OR HIS ATTORNEY SHALL FILE A CERTIFICATE OF MAILING WITH THE WATER CLERK OF DIVISION 1 IF THIS CONSULTATION IS MAILED TO OPPOSING PARTIES.

Alan D. Berryman
Division Engineer

JHL/jhl
xc: Jeris A. Danielson

CERTIFICATE OF MAILING

CASE NO. 91 CW 019

I hereby certify that on this 2nd day of July 91, I mailed a true and correct copy of the foregoing Consultation letter by depositing it into the United States mail, postage prepaid, to the applicant or their attorney listed below:

Jeris A. Danielson, State Engineer
Division of Water Resources
Room 818, 1313 Sherman Street
Denver, CO 80203

Lynn A. Johnson
Department of Justice, Environment &
Natural Resources Division
1961 Stout St. - Drawer 3607
Denver, Colorado 80294

Rachel Boardman

06-12-1991: letter to bill hansen, water resources division; re: return of application having receipt

ROY ROMER
Governor

JERIS A. DANIELSON
State Engineer

OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

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

June 12, 1991

Mr. Bill Hansen
U.S.A. National Park Service
Water Resources Division
301 South Howes St. Room 353
FT. Collins, Colorado 80521

RE: Return of application having Receipt No. 15812-B requesting the replacement of Well No.12 as decreed in 90CW149.

Dear Mr. Hansen,

Three or four weeks ago, during one of our phone conversations, I requested a detailed conumptive use tabulation for the 0.33 acre-feet annual approriation requested on the subject application. The primary concern for this request was that the Colorado State water commissioner for that area indicated the use at the new Visitors Center facility would be far greater than 0.33 acre-feet per year.

A phone conversation with Mr. Gary Anderson of the National Park Service, Lakewood, Colorado office, on June 4, 1991 indicated he also thought that perhaps as much as 5 to 7 acre-feet per year would be the actual required amount used at the new facility.

Please review this application and reconsider its submital. If it is returned to our office, please provide the requested consumptive use tabulation.

Thank You,

Sincerely,

Al Eckermann

Al Eckermann
Water Resource Engineer
Ground Water Section

AEE/aee

04-05-1991: permit application form for replacement for well no. 12 as decreed in 90cw149 by

WRJ-5-Rev. 76

COLORADO DIVISION OF WATER RESOURCES
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203

RECEIVED
APR 05'91
WATER RESOURCES
STATE ENGINEER
COLO.

PERMIT APPLICATION FORM

Application must be complete where applicable. Type or print in BLACK INK. No overstrikes or erasures unless initialed.

(X) A PERMIT TO USE GROUND WATER
(X) A PERMIT TO CONSTRUCT A WELL
FOR: (X) A PERMIT TO INSTALL A PUMP

(X) REPLACEMENT FOR NO. Well No. 12 as decreed in 90CW149
( ) well by Sawmill Trail Well
WATER COURT CASE NO. _____

(1) APPLICANT - mailing address

NAME United States of America
National Park Service
Florissant Fossil Beds NM
STREET 301 S. Howes Street
CITY Fort Collins, Colorado 80521
(State) (Zip)
TELEPHONE NO. (303) 493-1441

(2) LOCATION OF PROPOSED WELL

County Teller
NE ¼ of the SW ¼, Section 23
Twp. 13 S (N,S), Rng. 71 W (E,W), 6th P.M.

(3) WATER USE AND WELL DATA

Proposed maximum pumping rate (gpm) 15
Average annual amount of ground water to be appropriated (acre-feet): 0.33
Number of acres to be irrigated: None
Proposed total depth (feet): 180
Aquifer ground water is to be obtained from:
Fractured Granite
Owner's well designation Sawmill Trail Well

GROUND WATER TO BE USED FOR:

( ) HOUSEHOLD USE ONLY - no irrigation (0)
( ) DOMESTIC (1)
( ) LIVESTOCK (2)
( ) COMMERCIAL (4)
( ) INDUSTRIAL (5)
( ) IRRIGATION (6)
( ) MUNICIPAL (8)
(X) OTHER (9) Drinking & Sanitary Facilities as decreed in 90CW149
DETAIL THE USE ON BACK IN (11)

(4) DRILLER

Name William Dietrich
Street P.O. Box 287
City Florissant, Colorado 80816
(State) (Zip)
Telephone No. (719)687-6379 Lic. No. 1155

FOR OFFICE USE ONLY: DO NOT WRITE IN THIS COLUMN

Receipt No. 15812-B / _____
Basin _____ Dist. _____

CONDITIONS OF APPROVAL

This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.

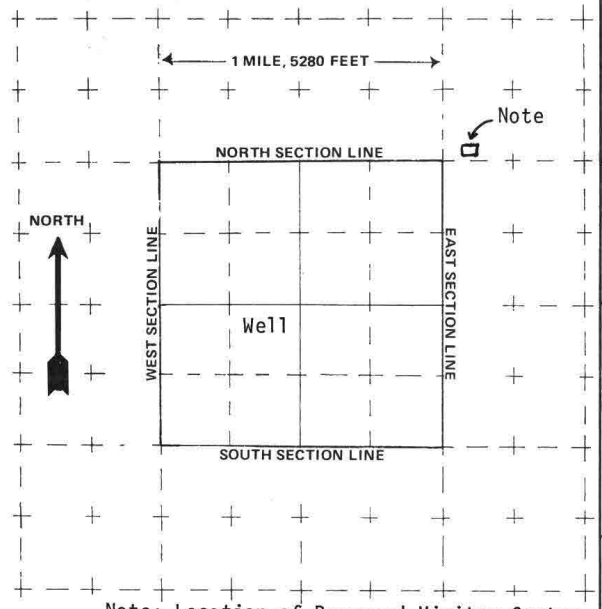
MDS
APPLICATION APPROVED

PERMIT NUMBER _____
DATE ISSUED _____
EXPIRATION DATE _____

_____
(STATE ENGINEER)

BY _____
I.D. 1 COUNTY 60 - 23

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



Note: Location of Proposed Visitor Center
The scale of the diagram is 2 inches = 1 mile
Each small square represents 40 acres.

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

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

2500 ft. from south (north or south) sec. line

2000 ft. from west (east or west) sec. line

LOT N/A BLOCK N/A FILING # N/A

SUBDIVISION N/A

(7) TRACT ON WHICH WELL WILL BE LOCATED Owner: National Park Service

No. of acres 5992 . Will this be the only well on this tract? No

(8) PROPOSED CASING PROGRAM

Plain Casing See attached drawing of prop well construction.

_____ in. from _____ ft. to _____ ft.

_____ in. from _____ ft. to _____ ft.

Perforated casing

_____ in. from _____ ft. to _____ ft.

_____ in. from _____ ft. to _____ ft.

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

Sawmill Trail Well is 5150 ft. S 60°W from Well No. 12. Well No. 12 will be plugged w/concrete when new Visitor Center facilities are complete.

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

Owner(s): USDI National Park Service, Florissant Fossil Beds NM No. of acres: 5992

Legal description: Florissant Fossil Beds National Monument Visitor Center/Headquarters

(11) DETAILED DESCRIPTION of the use of ground water: **Household use and domestic wells must indicate type of disposal system to be used.** Water to be used by park visitors and employees at a newly constructed Visitor Center/Headquarters. Sewage disposal will be by septic tank and absorption field system.

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

Type or right	Used for (purpose)	Description of land on which used

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

O. R. Williams

SIGNATURE OF APPLICANT(S)

Use additional sheets of paper if more space is required.

04-05-1991: permit application form for replacement for well no. 12 as decreed in 90cw149 by

ORDER FOR SUPPLIES OR SERVICES

PAGE 1 OF PAGES 1

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

1. DATE OF ORDER	2. CONTRACT NO. (If any)	3. ORDER NO.	4. REQUISITION/REFERENCE NO.
04/05/90	STATE AGENCY	PX-2175-0-1213	2175-0-247

5. ISSUING OFFICE (Address correspondence to)
NATIONAL PARK SERVICE RMR-AC
P.O. BOX 25287
DENVER, COLORADO 80225-0287

6. SHIP TO: (Consignee and address, ZIP Code)
NATIONAL PARK SERVICE ATTN: J. WENDELTON OR
12795 WEST ALAMEDA PARKWAY G. ANDERSON
LAKEWOOD, COLORADO 80228
SHIP VIA: BEST WAY

7. TO: CONTRACTOR (Name, address and ZIP Code)

COLORADO DIVISION OF WATER RESOURCES
CENTENNIAL BLDG. #818
1313 SHERMAN STREET
DENVER, CO 80203

8. TYPE OF ORDER

[X] A. PURCHASE — Reference your VERBAL QUOTE

Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheets, if any, including delivery as indicated. This purchase is negotiated under authority of: FAR 13

[ ] B. DELIVERY — Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.

9. ACCOUNTING AND APPROPRIATION DATA
2001-4178-402 N-2500 F3*

10. REQUISITIONING OFFICE
RR DSC-TCE-WENDLETON OR ANDERSON

11. BUSINESS CLASSIFICATION (Check appropriate box(es))

[ ] SMALL [X] OTHER THAN SMALL [ ] DIS-ADVAN-TAGED [ ] WOMEN-OWNED

12. F.O.B. POINT	14. GOVERNMENT B/L NO.	15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date)	16. DISCOUNT TERMS
DESTINATION	N/A	6/5/90	NET 30
13. PLACE OF INSPECTION AND ACCEPTANCE			

17. SCHEDULE (See reverse for Rejections)

ITEM NO. (A)	SUPPLIES OR SERVICES (B)	QUANTITY ORDERED (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)	QUANTITY ACCEPTED (G)
1.	WELL PERMIT APPLICATION FEE FOR A WELL AT FLORISSANT FOLLIL BEDS NATIONAL MONUMENT IN TELLER COUNTY, NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 23, TOWNSHIP 13S, RANGE 71 W.	1	EA	60.00	60.00	

SEE BILLING INSTRUCTIONS ON REVERSE	18. SHIPPING POINT	19. GROSS SHIPPING WEIGHT	20. INVOICE NO.		17(H). TOT. (Cont. pages)
	-	-			
	21. MAIL INVOICE TO: (Include ZIP Code) NATIONAL PARK SERVICE ATTN: RMR-AFP P.O. BOX 25287, DENVER, CO. 80225-0287			60.00	17(I). GRAND TOTAL

22. UNITED STATES OF AMERICA BY (Signature) Frank R Morrissey

23. NAME (Typed) FRANK R. MORRISSEY (303) 969-2792 (RM-116

TITLE: CONTRACTING/ORDERING OFFICER

NPS Form 10-3470 (3-86)

NATIONAL PARK SERVICE

W.R. Hansen WRH 4/3/91
Dan McGlothlin DW 4/3/91
Owen Williams OW

April 2, 1991

L54(479)
FLFO/Water Rights

Mr. Fred Loo
Colorado Division of Water Resources
818 Centennial Building
1313 Sherman Street
Denver, Colorado 80203

Re: Permit Application Form for a Replacement Well

Dear Mr. Loo:

Please find the enclosed Permit Application Form for a replacement well at Florissant Fossil Beds National Monument (FLFO). Sawmill Trail Well was previously drilled under File No. MH-15812. The Application requests a permit to replace FLFO Well No. 12 (decreed in 90CW149) with Sawmill Trail Well for drinking and sanitary facilities at a new Visitor's Center.

The original Application Form was submitted to you by Gary Anderson, Denver Service Center, National Park Service (NPS), and apparently rejected because the NPS did not have water rights for the well. The NPS has filed an Application for Change of Water Right with the District Court, Water Division 1. The required application fee of $60.00 was previously submitted to the Division of Water Resources through NPS Purchase Order No. 2175-0-1190 (see attachment). Please use purchase order number 2171-0-1190 as payment for the enclosed Permit Application Form.

Please contact Bill Hansen, of my staff, at (303) 493-1441, if you have any questions concerning this application or related matters.

Sincerely,

Owen R. Williams
Chief, Water Rights Branch

Enclosure

cc: FLFO - Superintendent
RMR - Chaney
DOJ - Johnson
WD1 Water Court - Liesman

bcc: 479 - FLFO Water Right Docket #12
FLFO Sawmill Trail Well Water Right Docket

FNP:BHANSEN:jt:(303)493-1441:04/03/91:A:\FLFOAPP.WD1

04-02-1991: permit application form for replacement for well no. 12 as decreed in 90cw149 by

WRJ-5-Rev. 76

COLORADO DIVISION OF WATER RESOURCES
8. Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203

PERMIT APPLICATION FORM

Application must be complete where applicable. Type or print in BLACK INK. No overstrikes or erasures unless initialed.

FOR: (X) A PERMIT TO USE GROUND WATER
(X) A PERMIT TO CONSTRUCT A WELL
(X) A PERMIT TO INSTALL A PUMP

(X) REPLACEMENT FOR NO. Well No. 12 as decreed in 90CW149
( ) well by Sawmill Trail Well
WATER COURT CASE NO. _____

(1) APPLICANT - mailing address

NAME United States of America
National Park Service
Florissant Fossil Beds NM
STREET 301 S. Howes Street
CITY Fort Collins, Colorado (State) 80521 (Zip)
TELEPHONE NO. (303) 493-1441

(2) LOCATION OF PROPOSED WELL

County Teller
NE ¼ of the SW ¼, Section 23
Twp. 13 S (N,S), Rng. 71 W (E,W), 6th P.M.

(3) WATER USE AND WELL DATA

Proposed maximum pumping rate (gpm) 15
Average annual amount of ground water to be appropriated (acre-feet): 0.33
Number of acres to be irrigated: None
Proposed total depth (feet): 180
Aquifer ground water is to be obtained from:
Fractured Granite
Owner's well designation Sawmill Trail Well

GROUND WATER TO BE USED FOR:

( ) HOUSEHOLD USE ONLY - no irrigation (0)
( ) DOMESTIC (1)
( ) LIVESTOCK (2)
( ) COMMERCIAL (4)
( ) INDUSTRIAL (5)
( ) IRRIGATION (6)
( ) MUNICIPAL (8)
(X) OTHER (9) Drinking & Sanitary Facilities as decreed in 90CW149
DETAIL THE USE ON BACK IN (11)

(4) DRILLER

Name William Dietrich
Street P.O. Box 287
City Florissant, Colorado (State) 80816 (Zip)
Telephone No. (719)687-6379 Lic. No. 1155

FOR OFFICE USE ONLY: DO NOT WRITE IN THIS COLUMN

Receipt No. _____ / _____
Basin _____ Dist. _____

CONDITIONS OF APPROVAL

This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.

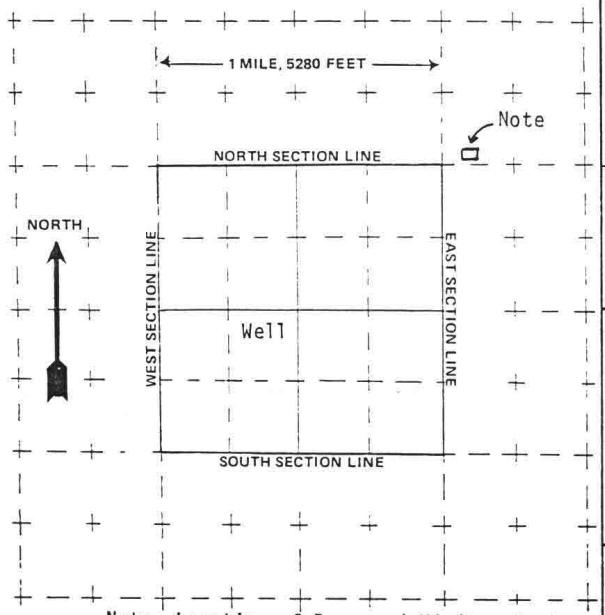
APPLICATION APPROVED

PERMIT NUMBER _____
DATE ISSUED _____
EXPIRATION DATE _____

_____
(STATE ENGINEER)

BY _____
I.D. _____ COUNTY _____

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



Note: Location of Proposed Visitor Center
The scale of the diagram is 2 inches = 1 mile
Each small square represents 40 acres.

WATER EQUIVALENTS TABLE (Rounded Figures)
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2500 ft. from south (north or south) sec. line

2000 ft. from west (east or west) sec. line

LOT N/A BLOCK N/A FILING # N/A

SUBDIVISION N/A

(7) TRACT ON WHICH WELL WILL BE LOCATED Owner: National Park Service

No. of acres 5992 . Will this be the only well on this tract? No

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Plain Casing See attached drawing of propos well construction.

_____ in. from _____ ft. to _____ ft.

_____ in. from _____ ft. to _____ ft.

Perforated casing

_____ in. from _____ ft. to _____ ft.

_____ in. from _____ ft. to _____ ft.

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

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from Well No. 12. Well No. 12 will
plugged w/concrete when new Visitor
Center facilities are complete.

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

Owner(s): USDI National Park Service, Florissant Fossil Beds NM No. of acres: 5992

Legal description: Florissant Fossil Beds National Monument Visitor Center/Headquarters

(11) DETAILED DESCRIPTION of the use of ground water: **Household use and domestic wells must indicate type of disposal system to be used.** Water to be used by park visitors and employees at a newly constructed Visitor Center/Headquarters. Sewage disposal will be by septic tank and absorption field system.

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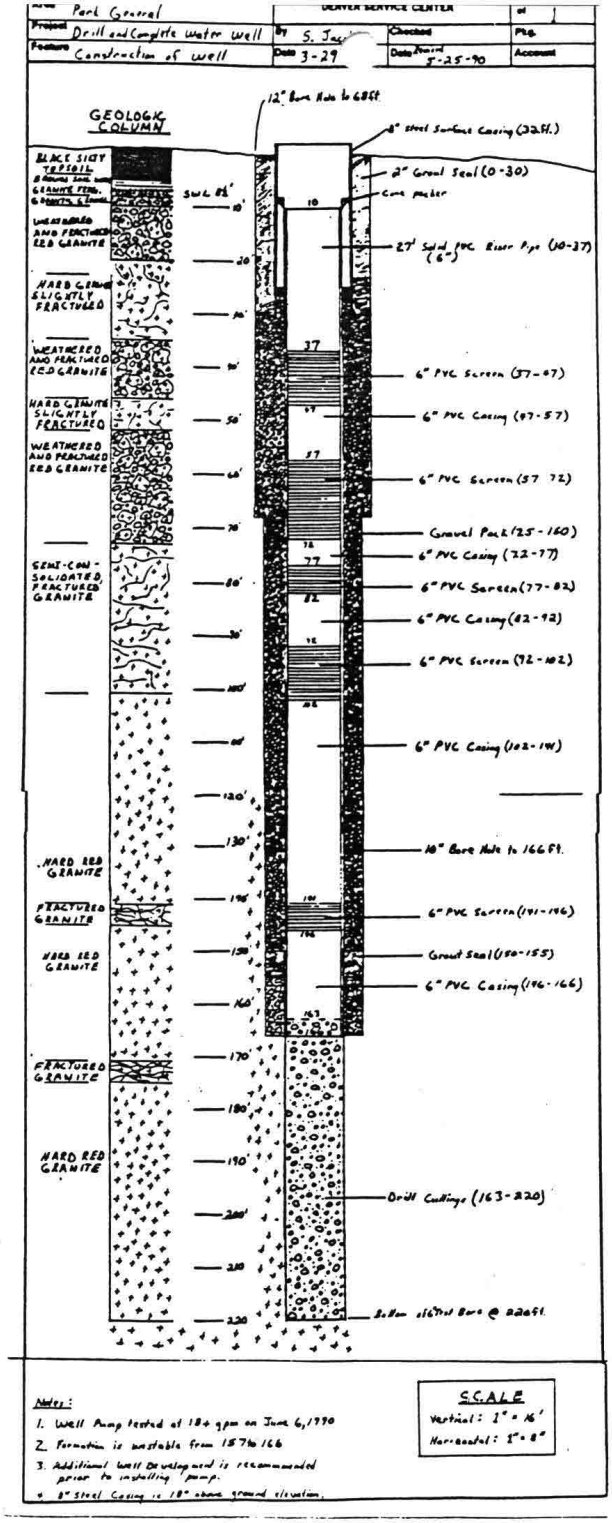
Type or right	Used for (purpose)	Description of land on which used

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

SIGNATURE OF APPLICANT(S)

Use additional sheets of paper if more space is required.

04-02-1991: diagram of well.



B:11 H.

(91CW017-Continued)

toward completion: Construction was completed on 4/1/85. Water was stored under this right and was applied to beneficial uses as of 5/6/1987. If claim to make absolute-Water applied to beneficial use: A. Date: 5/6/1987 Amount: 72 AF Use: Municipal and domestic B. Description of place of use where water is applied to beneficial use: All acreage within the Consolidated Mutual Water Company's present and future service area within Jefferson County, Colorado. (2 pages; map attached)

91CW018 WILLIAM I. CHAPMAN, County Road X, Hillrose, CO 80733. Application for Change of Water Right, IN MORGAN COUNTY. Chapman Well No. 8646 (RF 322) and Chapman Well No. 2157-F decreed 3/28/1978 in Case No. W-2969 A-7, Water Division No. 1. Decreed point of diversion: This well will be 62' E of original well drilled on 7/31/1954. Source: Groundwater Appropriation: Chapman Well No. 8646 (RF 322): 7/31/1954; Chapman Well No. 2157-F: 5/23/1959 Amount: Chapman Well No. 8648 (RF 322): 1300 gpm; Chapman Well No. 2157-F: 1100 gpm Historic use: For correction of Decree W-2969 A-7/ B22213 & B32014 Permit No.'s 8646 (RF 322) & 2157-F & 16 shares of Lower Platte & Beaver. 240 acres in NW1/4 of S12 & E1/2 of the NE1/4 & part of the N1/2 of the N1/2 of the E1/2 of SE1/4, S11, T4N, R55W, 6th P.M. Proposed change: a) A move of 233' S & 145' E of existing well or 62' E of original well drilled in 1954. b) For correction of Decree W-2969 A-7 B22213 & B32014 Permit No's. 8646 (RF 322) & 2157-F William I. Chapman Wells permit No's. 8646 (RF 322) & 2157-F. In paragraph 3 - The legal locations are reversed. d) In paragraph 6 - The amount of water is reversed. c) In paragraph 7 - The use of water is: Irrigation of 240 acres in the NW1/4, S12 & E1/2 of the NE1/4 & part of the N1/2 of the N1/2 of the E1/2 of the SE1/4, S11, T4N, R55W, 6th P.M. There is nothing in the E1/2 of the NW1/4 of S11. William I. Chapman does not own the land in the E1/2 of the NW1/4 of S11, T4N, R55W, 6th P.M. (2 pages)

91CW019 UNITED STATES OF AMERICA, Dept. of Justice, Land and Natural Resources Div., 1961 Stout St., PO Drawer 3607, Denver, CO 80294. (Lynn A. Johnson, Dept. of Justice, Land and Natural Resources Div., 1961 Stout St., PO Drawer 3607, Denver, CO 80294). Application for Change of Water Right, IN TELLER COUNTY. USA Florissant Fossil Beds National Monument Visitor's Center Well No. 12 decreed 3/6/1991 in Case No. 90CW149 in Water Division No. 1. Decreed point of diversion: NW1/4, NW1/4, S24, T13S, R71W, 6th P.M., 400' from the N line and 500' from the W line. Source: Groundwater Appropriation: 10/31/1951 Amount: 0.033 cfs (15 gpm) 0.33 AF/yr. Historic use: Drinking and sanitary facilities at the Visitor's Center. *See Case No. W-8795-77 entered on 12/29/88.

4. Proposed change: (a) describe change requested: alternate point of diversion/replacement/change of use: (if well, please list pertinent information from well permit) (b) location: (c) use: (d) amount: (e) give proposed plan for operation (if (b) thru (e) applicable, please give full descriptions.)

Proposed change is a replacement well. USA Florissant Fossil Beds National Monument Well No. 12 decreed March 6, 1991, in 90CW149, Water Division No. 1. Decreed point of diversion NW¼NW¼, S24, T13S, R71W, 6th P.M., at a point approximately 400' from the N line and 500' from the W. line. Source: Groundwater Appropriation: 10/31/1951. Amount: 0.033 cfs (15 gpm) 0.33 acre-ft/yr. Historic use: Drinking and sanitary facilities at the Visitor's Center. Well No. 12 will be replaced by Sawmill Trail Well and used at a new Visitor's Center at Florissant Bed National Monument. (Permit Application Form Filed). Sawmill Trail Well is located in the NE¼ SW¼, S23, T13S, R71W, 6th P.M., 2500' from the S line and 2000' from the W line. Use is for drinking and sanitary facilities at the new Visitor's Center. Amount is 0.033 cfs (15 gpm) not to exceed 0.33 acre-ft/yr. Water will be used by park visitors and employees. Well No. 12 will be abandoned and filled w/concrete when the new Visitor's Center is complete.

5. Name(s) and address(es) of owner(s) of land on which structure(s) is (are) located:

United States of America, National Park Service,
Florissant Fossil Beds National Monument (2 pages)

ELFO

03-18-1991: letter to mary crespin, clerk, water division no. 1; re: water division no. 1- application

U.S. Department of Justice

Land and Natural Resources Division

WMC:LAJohnson
90-1-2-892

Denver Field Office
Federal Bldg., 1961 Stout Street
Drawer 3607
Denver, Colorado 80294

Commercial Number
(303) 844-3627
FTS/564-3627

March 18, 1991

Ms. Mary Crespin
Clerk, Water Division No. 1
Post Office Box C
Greeley, Colorado 80632

Re: Water Division No. 1 - United States of America,
Application for Change of Water Right

Dear Mary:

Enclosed for filing and publication please find the original and four copies of our Application for Change of Underground Water Right from Florissant Fossil Beds National Monument Visitor's Center Well No. 12 to Sawmill Trail Well (replacement well), together with U. S. Treasury Check No. 213 3769 in the amount of $159.00.

We ask that one file stamped copy of the Application be returned for our files.

Thank you for your continuing cooperation in these matters.

Sincerely,

Deirdre Hills
Legal Technician
General Litigation Section

cc: John Kunz, Esq.
Regional Solicitor's Office
U. S. Department of the Interior
Post Office Box 25007
Denver Federal Center
Denver, Colorado 80225

cc: Mr. Kenneth Czarnowski
Hydrologist
National Park Service
Water Resources Division
Federal Building, 301 S. Howes Street
Fort Collins, Colorado 80521

Submit original plus 3 copies

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. _____

APPLICATION FOR CHANGE OF WATER RIGHT

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:
United States of America
Florissant Fossil Beds National Monument, in Teller County.

1. Name, address, telephone number(s) (residence and business) of applicant(s)

United States of America, Department of Justice, Land and Natural Resources Div.
1961 Stout Street, P.O. Drawer 3607
Denver, CO 80294

2. Decreed name of structure for which change is sought: (indicate whether ditch, well, springs, reservoir, etc.)

USA Florissant Fossil Beds National Monument Visitor's Center Well No. 12

3. From previous Decree:

A. Date Entered: March 6, 1991 Case No. 90CW149* Court: District Court Water Division 1

B. Decreed point of diversion (include map): NW¼, NW¼, S24, T13S, R71W, 6th P.M., 400 feet from the N line and 500 feet from the W line.

C. Source: Ground water

D. Appropriation Date: October 31, 1951 Amount: 0.033cfs (15 gpm) 0.33acre-ft/yr.

E. Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.)

Drinking and sanitary facilities at the Visitor's Center.

*See Case No. W-8795-77 entered on 12/29/88.

Bradford Publishing, 5825 W. 6th Ave., Lakewood, CO 80214 — (303) 233-6900

4. Proposed change: (a) describe change requested: alternate point of diversion/replacement/change of use; (if well, please list pertinent information from well permit) (b) location; (c) use; (d) amount; (e) give proposed plan for operation (if (b) thru (e) applicable, please give full descriptions.)

Proposed change is a replacement well. USA Florissant Fossil Beds National Monument Well No. 12 decreed March 6, 1991, in 90CW149, Water Division No. 1. Decreed point of diversion NW¼NW¼, S24, T13S, R71W, 6th P.M., at a point approximately 400' from the N line and 500' from the W. line. Source: Groundwater Appropriation: 10/31/1951. Amount: 0.033 cfs(15 gpm) 0.33 acre-ft/yr. Historic use: Drinking and sanitary facilities at the Visitor's Center. Well No. 12 will be replaced by Sawmill Trail Well and used at a new Visitor's Center at Florissant Bed National Monument. (Permit Application Form Filed). Sawmill Trail Well is located in the NE¼ SW¼, S23, T13S, R71W,6th P.M., 2500' from the S line and 2000' from the W line. Use is for drinking and sanitary facilities at the new Visitor's Center. Amount is 0.033cfs(15gpm) not to exceed 0.33acre-ft/yr. Water will be used by park visitors and employees. Well No. 12 will be abandoned and filled w/concrete when the new Visitor's Center is complete.

5. Name(s) and address(es) of owner(s) of land on which structure(s) is (are) located:

United States of America, National Park Service,
Florissant Fossil Beds National Monument

MICHAEL J. NORTON
UNITED STATES ATTORNEY

By: Lyn A. Johnson (15394)
Signature of Applicant or Attorney

Department of Justice, Environment and
Natural Resources Division
1961 Stout Street, Drawer 3607
Denver, Colorado 80294 (303) 844-3627
Telephone No.

Attorney Registration No. 15394

STATE OF COLORADO
COUNTY OF Larimer } ss.

I, Owen R. Williams, state under oath that I have read this application and verify its content.

Applicant

Subscribed under oath before me on 19 Feb 91.
date

My commission expires: My Commission Expires October 9, 1994.
date

Notary Public

02-00-1991: permit application form; mh 15812 will be used for well construction; teller county.

APR 3 '90 13:04 FROM NPS DSC TCE PAGE.002

WRJ-5 Rev. 76

COLOR O DIVISION OF WATER RESOURCE
818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203

PERMIT APPLICATION FORM

Application must be complete where applicable. Type or print in BLACK INK. No overstrikes or erasures unless initialed.

FOR: (X) A PERMIT TO USE GROUND WATER
(X) A PERMIT TO CONSTRUCT A WELL
(X) A PERMIT TO INSTALL A PUMP

( ) REPLACEMENT FOR NO. _____
(X) OTHER MH 15812 will be used for well construction
WATER COURT CASE NO. _____

(1) APPLICANT - mailing address

NAME National Park Service
STREET 12795 W. Alameda Pkwy. PO Box 25287
CITY [illegible]wood (State) CO (Zip) 80228
TELEPHONE NO. 303/969-2682

(2) LOCATION OF PROPOSED WELL

County Teller
NE ¼ of the SW ¼, Section 23
Twp. 13 (N.S) S, Rng. 71 (E.W) W, 6th P.M.

(3) WATER USE AND WELL DATA

Proposed maximum pumping rate (gpm) 14
Average annual amount of ground water to be appropriated (acre-feet): ~~11.2~~ 5.6 2.8
Number of acres to be irrigated: None
Proposed total depth (feet): 180
Aquifer ground water is to be obtained from:
Fractured granite.
Owner well designation Sawmill Trail Well

GROUND WATER TO BE USED FOR:

( ) HOUSEHOLD USE ONLY no irrigation (0)
( ) DOMESTIC (1)
( ) LIVESTOCK (2)
( ) COMMERCIAL (4)
( ) INDUSTRIAL (5)
( ) IRRIGATION (6)
( ) MUNICIPAL (8)
(X) OTHER (9)

DETAIL THE USE ON BACK IN (11)

(4) DRILLER

Name William Dietrich
Street PO Box 287
City Florissant (State) CO (Zip) 80816
Telephone No. 719/687-6379 Lic No. 1155

FOR OFFICE USE ONLY: DO NOT WRITE IN THIS COLUMN

Receipt No. _____ / _____
Basin _____ Dist. _____

CONDITIONS OF APPROVAL

This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.

~~Denied~~ Filed w/ the State by DSC and returned because NPS had no right in fully approp. basin.

APPLICATION APPROVED

PERMIT NUMBER _____
DATE ISSUED _____
EXPIRATION DATE _____

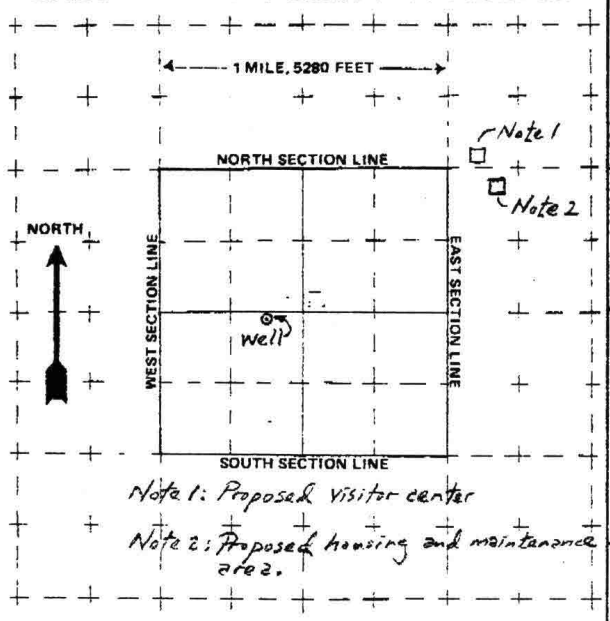
_____
(STATE ENGINEER)

BY _____
I.D. _____ COUNTY _____

02-00-1991: permit application form; mh 15812 will be used for well construction; teller

APR 3 '90 13:05 FROM NPS DSC TCE PAGE.003

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



Note 1: Proposed visitor center

Note 2: Proposed housing and maintenance area.

The scale of the diagram is 2 inches = 1 mile
Each small square represents 40 acres.

WATER EQUIVALENTS TABLE (Rounded Figures)

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

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

2500 ft. from South (north or south) sec. line

2000 ft. from West (east or west) sec. line

LOT N/A BLOCK N/A FILING # N/A

SUBDIVISION N/A

(7) TRACT ON WHICH WELL WILL BE LOCATED Owner: National Park Service

No. of acres 5992. Will this be the only well on this tract? No

(8) PROPOSED CASING PROGRAM

Plain Casing See attached drawing of proposed well construction.

_____ in. from _____ ft. to _____ ft.

_____ in. from _____ ft. to _____ ft.

Perforated casing

_____ in. from _____ ft. to _____ ft.

_____ in. from _____ ft. to _____ ft.

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

Not applicable

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

Owner(s): U.S. Dept. of Interior, Florissant Fossil Beds No. of acres: 5992

Legal description: Florissant Fossil Beds NM, Florissant, CO

(11) DETAILED DESCRIPTION of the use of ground water: Household use and domestic wells must indicate type of disposal system to be used. Water use will be by proposed future development including visitor center, housing and maintenance facility. Sewage disposal will be by septic tank and absorption field system.

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

Type or right	Used for (purpose)	Description of land on which used

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

SIGNATURE OF APPLICANT(S)

Use additional sheets of paper if more space is required.

02-00-1991: permit application form; mh 15812 will be used for well construction; teller

FORM D S C - 44

Park FLFO	NATIONAL PARK SERVICE DENVER SERVICE CENTER		Sheet 2
Area			of 2
Project 103-06	By JG	Checked	Pkg.
Feature Insert	Date	Date	Account

Water use by the future development is anticipated to be as follows:

Facility	Average Annual Use	Anticipated Year of Construction
Visitor Center	2.2 Acre-feet	1991
Maintenance Area	0.2 Acre-feet	1992
Housing Area	3.2 Acre-feet	1993

Since construction funds have not yet been appropriated for this development, the schedule for construction and subsequent water use is tentative.

Although the total average acre-footage shown on the well permit is 5.6 acre-feet, the National Park Service would accept approval of an annual use of 2.4 acre-feet for the proposed visitor center and maintenance area if well construction can proceed immediately due to the reduced acre-foot request. Approval of the additional 3.2 acre-feet for the housing area would be obtained at a future date when development of the housing area is probably going to occurr. The National Park Service would also accept approval of well construction without groundwater appropriation if well construction can proceed immediately on this basis, but approval of at least the 2.4 acre-foot use is preferred.

*U.S. GPO: 1984-776-376

02-00-1991: permit application form; mh 15812 will be used for well construction; teller

FORM D S C - 44

Park FLFO	NATIONAL PARK SERVICE DENVER SERVICE CENTER		Sheet 1
Area			of 2
Project 103-04	By JL	Checked	Pkg.
Feature	Date	Date	Account

Estimate Acre-feet of water to be appropriated by visitor center.

Month	*Avg. Visitation/day	Gal. per visitor/day ≅ 2.6	(Gal/day) x 30 = Gal/mo.
Jan.	77.50	2.6	6045
Feb.	57.27		4467
Mar.	157.07		12,251
April	204.60		15,959
May	441.20		34,414
June	646.27		50,409
July	1179.63		92,011
Aug.	1268.13		98,914
Sept.	862.27		67,257
Oct.	331.97		25,893
Nov.	107.77		8,406
Dec.	69.50		5,421
Total			421,447

Assume 5.5% growth for 5 years and 3% for the following 5 years

10 year projection of use on this basis is 638,545 gallons.

Assume visitor center staff for 6 months is 20 persons x 10 gped = 200 gal/day for 180 days = 36,000 gallons. Assume 10 persons during remaining 6 mo.
10 persons x 10 gped = 100 gal/day x 180 days = 18,000 gallons.
Total projected annual visitor water use = 692,545 gallons ≅ 2.13 Acre-ft.

Based on '89 visitation figures.

* U.S. GPO: 1984-778-379

02-00-1991: permit application form; mh 15812 will be used for well construction; teller

APR 3 '90 13:07 FROM NPS DSC TCE

FORM D S C - 44

Park FLFO	NATIONAL PARK SERVICE DENVER SERVICE CENTER		Sheet 2
Area			of 2
Project 103-06	By DL	Checked	Pkg.
Feature	Date	Date	Account

Estimate Acre-feet of water to be appropriated by the housing and maintenance area.

Domestic demand for housing area = 2550 gallons/day.
2550 x 365 = 930,750 gallons = 2.86 acre-feet.

Domestic demand for maintenance area = 100 gallons/day
100 x 365 = 36500 = 0.11 acre-feet.

Housing area outside water use - assume 1900 gal/wk during July, Aug., Sept = 1900 x 12 wks = 0.07 acre-feet.

Addn'l outside water use @ maintenance area - assume vehicles washed once a week and 1000 gal/wk is used for washing during 6 mo.
1000 x 6 x 4 = 0.074 acre-feet.

Total domestic acre-feet = 2.97

Total outside acre-feet = 0.14

Total V.C. and housing/maintenance area use = 3.24 Acre-feet

Combined Phase I & Phase II construction use for visitor center and maintenance area = 2.31 acre-feet.

Quantities to be used - permit application.

Visitor Center:	2.2	Acre-feet
Maint. Area:	0.2	Acre-feet
Housing Area:	3.2	Acre-feet
Total	5.6	Acre-feet

*U.S. GPO: 1984-

D5039 (DSC-TCE)
FLFO-103-06

Colorado Division of Water Resources
818 Centennial Bldg., 1313 Sherman St.
Denver, Colorado 80203

Reference: Florrisant Fossil Beds National Monument, Pkg. 103, Construction Visitor Center/Park Support Facilities, PT 06

Subject: Well Permit

Dear Mr. Fred Loo:

By this letter, the National Park Service requests permission to drill three monitoring holes in the NE 1/4 of the SW 1/4 of Section 23, Township 13 South, Range 71 West, Teller County. The current landowner is the Department of the Interior, National Park Service and the quarter-quarter section proposed to be drilled is located within Florissant Fossil Beds National Monument approximately 2 miles south of the town of Florissant, Colorado.

Maximum proposed depth on any one monitoring hole is 300 feet. One hole will be pump tested at a proposed maximum rate of 30 gpm while the remaining two holes will be used to monitor the ground water level during pump testing. Actual pumping time should not exceed 48 hours, therefore, no more than 100,000 gallons or 0.31 acre feet of ground water is anticipated to be appropriated by the test. Anticipated source of water is fractured granite.

If pump tests and water samples are indicative of a usable well, this request to establish monitoring wells will be followed by the required $60.00 permit fee and permit application form. Correspondence should be addressed to Gary Anderson, TCE, or call Gary at (303) 969-2683.

John L. Wendleton, P.E.
Chief, Civil Engineering Section

TCE:GAnderson:jl:2/2/90:2321:ANDRFLFO.103

02-12-1990: letter to gary anderson, tce, national park service; re: monitoring and observation

ROY ROMER
Governor

JERIS A. DANIELSON
State Engineer

OFFICE OF THE STATE ENGINEER
DIVISION OF WATER RESOURCES

1313 Sherman Street-Room 818
Denver, Colorado 80203
(303) 866-3581

February 12, 1990

Mr. Gary Anderson, TCE
U.S. National Park Service
12795 W. Alameda Parkway
P.O. Box 25287
Denver, CO 80225-0287

RE: Monitoring and Observation Hole

File No. MH- 15812 NE1/4 SW1/4 Section 23
Owner: National Park Service Township 13S Range 71W

Dear Mr. Anderson:

Thank you for your letter of February 12, 1990, notifying this office of your intent to construct the subject monitoring and observation hole. The construction of the hole must be completed within 3 months of the date of this acknowledgment. Testing and/or pumping shall not exceed a total of seven (7) days unless prior written approval is obtained from the State Engineer. The water diverted during testing shall not be used for beneficial purposes. The well owner or his agent shall be responsible for obtaining permits and complying with all rules and regulations pertaining to the discharge of all fluids produced during testing. The hole must be plugged within one (1) year after construction unless a well permit has been obtained from the State Engineer.

A copy of this acknowledgment should accompany the drilling rig. Copies of all logs and test data must be submitted to this office within sixty (60) days of the completion of the work. Please refer to the above file number and owner to identify the documents when submitted. Upon completion of plugging, an affidavit (form GWS 6) should be submitted affirming the date the hole was plugged, the intervals and types of materials used, and by whom the hole was plugged.

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

Sincerely,

Fred M. Loo
Water Resources Geologist
Ground Water Section

FML:cq
cc: Division 1 (with enclosure)

8285I/Form # 0838(P)

WENDLETON
ROOT
BLACKSTUN

FLFO-103-06

Colorado Division of Water Resources
818 Centennial Bldg., 1313 Sherman St.
Denver, Colorado 80203
Attention: Mr. Fred Loo

Dear Mr. Loo:

Reference: Florissant Fossil Beds National Monument, Pkg. 103, Construction Visitor Center/Park Support Facilities, PT 06

Subject: Well Permit

Enclosed is an application form for a well permit. The required $60.00 application fee will be issued by Purchase Order No. 2175-0-1190 from the National Park Service. Also enclosed is a drawing of the intended well construction at the location of Monitoring Hole 15812. Since this well is to be used for a future development to be built beginning in 1991, the well construction shown does not include a pump, pitless adapter or concrete apron. Instead, the well construction shown includes only those items the National Park Service can complete immediately with the available project funds and the pump, pitless adapter and required 4-foot square concrete apron would be included in the work of the contract for the future development.

Insert →

The National Park Service also requests by this letter that the two observation holes in the vicinity of Monitoring Hole 15812 be permanently retained. These holes have 2-inch PVC casing installed to the total hole depth of 100 feet. The lower 60 feet of the casing is slotted and the remaining 40-foot length is solid. Grout will be placed around the casing to a depth of 10 feet below existing ground surface and the top of the casing capped with a PVC cap. Both of these observation wells are within the same quarter-quarter section as the monitoring hole to be used for well construction.

Please address correspondence regarding this letter to the attention of Gary Anderson, Central Team. Contact Gary at (303) 969-2683 if there are any questions.

Kenneth Raithel, Jr.

Enclosure

United States Department of the Interior

NATIONAL PARK SERVICE

ROCKY MOUNTAIN REGIONAL OFFICE
12795 W. ALAMEDA PARKWAY
P.O. BOX 25287
DENVER, COLORADO 80225-0287

IN REPLY REFER TO:

L1425 (RMR-PA)
FLFO - WAP

APR [illegible] 93

Memorandum

To: Superintendent, Florissant Fossil Beds National Monument

From: Chief, Division of Land Resources, Rocky Mountain Region

Subject: Water Augmentation Plan

Enclosed is the original agreement between the United States and North Fork Associates, original certificate for 19.3 shares of the Mountain Mutual Reservoir Company and the original Payment and Closing Sheet and receipt for the check. These documents should become a part of your permanent files.

Unless the Water Court decrees that additional water is necessary, consummation of this purchase ends our involvement with this matter.

Sgd/ [illegible]

Richard A. Young

Enclosure

cc:
Johns, WRD, w/cy enc.
Canaday, SOL, w/cy enc.
Wise, RMR-RN, w/cy enc.

Water Court Case Number _____ Account Number 248

INCORPORATED UNDER THE LAWS OF THE STATE OF COLORADO



NUMBER 333

SHARES 19.3

AUTHORIZED CAPITAL
10,000 SHARES

NO PAR VALUE

MOUNTAIN MUTUAL RESERVOIR COMPANY

CLASS A STOCK

This Certifies That National Park Service, United States Department of Interior

is the owner of 19.3 *share(s) of the Capital Stock of MOUNTAIN MUTUAL RESERVOIR COMPANY assessable for maintenance and operation representing* 19.3 *unit(s) of a water right transferable only on the books of this Corporation in person or by Attorney upon surrender of this Certificate properly endorsed.*

The stock evidenced by this Certificate constitutes a water right for: in-house use and irrigation as specified in the Water Court Decree.

_____ *A single-family residential unit (in-house use only)* _____ *A multi-family residential unit, for* _____ *equivalent single-family residential units (in-house use only)*

_____ *With irrigation of* _____ *acres/sq. feet and/or*

_____ *Livestock watering, located on* the Florissant Fossil Beds National Monument, Teller County,

_____, *Colorado.*

An excerpt from the By-Laws of the Company is printed on the back of this Certificate to acquaint the holder with the principal conditions affecting their water right held by this Company for its Stockholders.

In Witness Whereof, *the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed, this* 27th *day of* April, *A.D. 19* 93

William M Blatchley
SECRETARY

Frank M Blatchley
PRESIDENT

© GOES 840

BYLAWS OF MOUNTAIN MUTUAL RESERVOIR COMPANY

ARTICLE I.

Augmentation Plans, Qualification of Stockholders, Stockholders Agreements and Covenants

B. WATER REPLACEMENT REQUIREMENTS:

5. Each share of stock issued by the corporation to subdividers and other landowners included within a plan for augmentation represents a water right of 0.0314 or 0.0157 acre feet for each basic unit. If the Court decree in an individual plan for augmentation requires an increase or decrease in the water right, then an additional share or fractional share of stock shall be issued to provide for the increase in the water right needed for each equivalent basic unit.

C. WATER SUPPLY: The water supply to meet the annual water requirement for each basic unit shall be furnished by means of an on-site well drilled by the landowner, or by means of a central municipal type well or wells drilled by the owner or owners, including subdivision developers, of a central municipal type water system.

1. Each owner or owners shall obtain a well permit from the State Engineer, whose office is now located in the State Centennial Building, Denver, Colorado, before the owner or owners may use an existing well or drill a new well.

2. Each owner or owners shall also obtain State Health Department and, if applicable, County health department approval for the installation and use of an on-site sewage disposal system or central municipal type disposal system.

D. QUALIFICATION OF STOCKHOLDERS AND VOTING RIGHTS: Except as is otherwise provided in these Bylaws, or the Articles of Incorporation, ownership of a lot within a platted subdivision or other tract of land located and described in a decreed plan for augmentation is required in order to qualify for stock ownership in this corporation. North Fork Associates will purchase and the corporation will issue stock to each person who is a qualified landowner on the basis of one share of stock or fractional share for each basic unit, and upon issuance of the stock, the stockholder shall be subject to these Bylaws and the Articles of Incorporation.

1. Stock Transfer Limitations and Termination: The stock is non-transferable by a stockholder, his heirs, personal representatives, successors and assigns except to a successor owner of the lot or other tract of land owned by the stockholder. The stock may be transferred to a successor owner in accordance with the form prescribed on the stock certificate. A stockholder's interest terminates whenever he ceases to be a qualified landowner; provided, however, such termination shall not relieve or release him from any liability or obligation incurred under or in any way connected with this corporation during the period he was a stockholder. Such termination shall not impair any rights or remedies which other qualified landowners have, either through the Board of Directors of this corporation, or directly against such former stockholder arising out of or in any way connected with his stock ownership and the covenants, promises, and obligations incident thereto.

3. Classes of Stockholders and Voting Rights: There shall be two classes of stockholders in the corporation defined as follows:

Class A: Class A stockholders shall be owners of platted lots within a platted subdivision, subdivision developers and owners of other tracts of land, including subdivision developments, located in any individual Plan for Augmentation contracted for by North Fork Associates. Each Class A stockholder shall be entitled to one vote for each share of stock owned by him and one-half vote for each fractional share of stock owned by him.

E. STOCKHOLDERS AGREEMENTS AND COVENANTS: In consideration of his ownership of stock, and the mutual promises and covenants of the other stockholders, each Class A stockholder promises, covenants and agrees that:

1. He shall be subject to and bound by all of the terms and conditions of the decree in the individual Plan for Augmentation in which he is a qualified landowner. If his land is in a platted subdivision, he shall be subject, in particular, to the provisions of any protective covenants contained in the decree and declaration of covenants incorporated therein relating to the terms and conditions upon which an owner of a lot may obtain a well permit from the State Engineer and drill an on-site well or central municipal type well to supply water for his own use and upon which an owner of a lot may install and use an on-site sewage disposal system or central water and sewage system acceptable to the State of Colorado Health Department and, if applicable, to the approval of any county health department.

2. He will furnish the water supply to meet the annual water requirement for each basic unit owned by him through the diversion of water from an on-site well or central municipal type well under a permit approved by the state engineer; he will pay all costs for the drilling and equipment of the well; and he will pay all costs and expenses incurred in obtaining the well permit.

3. He will pay all costs for the construction of an on-site sewage disposal system or central water and sewage system on his land and will pay all expenses incurred in the operation and maintenance of such sewage disposal system.

4. He will pay his pro-rata share of the costs or all of the costs, as the case may be, for the construction of any augmentation reservoir required by the individual plan for augmentation in which he is a landowner and which augmentation reservoir is in addition to any augmentation reservoir provided for by this corporation. He will also pay his pro-rata share of the expenses or all the expenses, as the case may be, incurred in the operation and maintenance of such additional augmentation reservoir.

5. It is a condition of each individual plan for augmentation that a new well permit will not be issued to a landowner until an augmentation reservoir is constructed and is capable of storing sufficient water rights to meet the needs for replacement water of all landowners included in the individual plan for augmentation.

6. He will be bound by and subject to all the provisions of the Bylaws and the Articles of Incorporation of this corporation.

7. He will not waste water or use it for any purposes other than those permitted by his well permit and, if he commits waste or uses the water for any other purposes, he agrees that the corporation may withhold his replacement water. He also agrees that the corporation may withhold his replacement water from him if he has not paid all assessments regularly made when due and payable.

8. All assessments provided for in these Bylaws shall become, as they are made and levied, a lien on the land of the stockholder, his heirs, personal representatives, successors and assigns, and a lien on the share or shares of stock and water rights represented by the stock. The corporation may enforce the lien by foreclosure and sale of the stock and the water rights represented by the stock and/or by the foreclosure and sale of the land.

9. Any stockholder who mortgages his lot or other tract of land shall notify the secretary of the corporation at its principal office located at 2525 So. Wadsworth Blvd. #306, Denver, Colorado 80227, giving the name and address of his mortgagee or holder of a deed of trust. He shall also provide the secretary with a photostatic or machine copy of the recorded mortgage or deed of trust. All information with respect to mortgages and deeds of trust shall be kept in a book entitled "Deeds of Trust".

a. The secretary of the corporation or other officer or employee designated by the Board of Directors, whenever so requested in writing by the mortgagee or holder of deed of trust, shall promptly report any then unpaid annual or special assessment due from the stockholder.

b. The secretary of the corporation, or other officer or employee designated by the Board of Directors, when sending a notice of demand to the stockholder advising him of his default in the payment of any assessment, shall mail a copy of the notice of demand to the holder of the mortgage or deed of trust by mailing the same to him at his address as shown in the book of Deeds of Trust.

c. Each stockholder and each mortgagee or holder of a deed of trust shall be permitted to examine the Deeds of Trust book and the accounts of the corporation during regular business hours on Monday through Friday at the office of the corporation, but not more than once each quarter.

d. Each stockholder, other than the initial stockholder, agrees that, upon becoming the owner of a lot or other tract of land described and included in a plan for augmentation, he will promptly furnish to the secretary of the corporation a photostatic or machine copy of the recorded instrument vesting him with ownership or an interest in said land. Each stockholder will give notice to the secretary of the corporation of every lien or encumbrance on his land, other than for taxes, and of every suit or other proceeding which may affect title to his land, the notice to be given in writing within five (5) days after the stockholder has knowledge of the same.

10. He understands and agrees that the water supply available from the exercise of the water rights held in trust by the corporation for the stockholders is dependent upon the legal and physical availability of water under those water rights. No liability shall be incurred on account of any failure to deliver replacement water due to the legal or physical unavailability of water. Also, no liability shall be incurred by the corporation on account of any failure to meet the augmentation requirements of single or combined plans for augmentation contracted for or approved by North Fork Associates in the event the corporation's reservoir system should become inoperable because of flood or other occurrence beyond the control of the corporation.

11. The provisions and agreements contained in this Article shall be covenants running with the land and shall be binding upon the stockholder, his heirs, personal representatives, successors and assigns, and all instruments affecting title to any lot or other tract of land described and located in a decreed plan for augmentation and any water rights appertaining thereto shall be subject to the provisions and agreements contained in this Article.

ACCEPTANCE OF A STOCK CERTIFICATE SHALL CONSTITUTE AN AGREEMENT ON THE PART OF THE HOLDER THEREOF TO ABIDE BY ALL PROVISIONS OF THE ARTICLES OF INCORPORATION, BY-LAWS, AND RULES AND REGULATIONS OF THIS COMPANY.

NOTICE

THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THIS CERTIFICATE IN EVERY PARTICULAR WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

FOR VALUE RECEIVED, I/we hereby sell, assign and transfer unto

_____

_____

(_____) *Shares of the Capital Stock of MOUNTAIN MUTUAL RESERVOIR COMPANY represented by this Certificate, and do hereby irrevocably constitute and appoint the MOUNTAIN MUTUAL RESERVOIR COMPANY attorney to transfer the said stock on the books of said Company with full power of substitution in the premises.*

*Dated*_____ _____

*In presence of*_____ _____

04-07-1993: payment and closing sheet from north fork associates.

Form 10-113
R (6/78)

U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

PAYMENT AND CLOSING SHEET

PROJECT		
Florissant Fossil Beds National Monument		
COUNTY		STATE
Teller		CO
TRACT(S)		ACREAGE(S)
N/A Water Rights		N/A

VENDOR'S NAME	ADDRESS	PHONE	VENDOR'S AGENT
North Fork Associates	2525 S. Wadsworth Lakewood, CO 80227	(303) 989-6932	

TOTAL PURCHASE PRICE (Including $ _____ (SEVERANCE DAMAGE) ..... $ 10,484.00
LESS DEPOSIT OR OPTION MONEY ..... (_____)
LESS SALVAGE VALUE .....(TRACT(S)) ..... (_____)
LESS RETAINED ESTATE VALUE:
($ _____) X (___ %) X (_____) YEARS ..... (_____)
AMOUNT OF U.S. TREASURY CHECK NO. 3007 36859136, DATED 4/7/93 $ 10,484.00

ITEM	PAYMENTS BY VENDOR	PAYMENTS FROM TREASURY CHECK
Mortgage Payment To:		
Principal		
Interest from To		
Prepayment penalty or release fee		
Mortgage Payment To:		
Principal		
Interest from To		
Prepayment penalty or release fee		
Other Liens or Judgments Paid:		
Taxes Paid: N/A		
All five years preceding closing—YES NO		
Preceding Year's Taxes Paid: (19) $ N/A		
Escrowed For Current Year's Taxes: (19)		
Broker's Commission, if any		
Notary Fees		
Recording Fees		
State Revenue Stamps or Transfer Tax		
Curative Material Recording Fees ( )		
Miscellaneous Items and Fees Paid:		
TOTAL PAYMENTS FROM U.S. TREASURY CHECK		$ -0-
BALANCE DISBURSED TO VENDOR AT CLOSING AND CONVEYANCE OF TITLE		$ 10,484.00

The above is a complete, true and correct account of funds disbursed by the Vendor and the undersigned Agent and a report of the actions taken in closing the transaction.

Date	Name of Closing Agent	Signature of Closing Agent
4/28/93	Richard A. Young, NPS-RMR-PA	Richard A. Young

I (we) have examined the above closing statement and find it correct and hereby approve the disbursements shown therein. I (We) further acknowledge receipt of the check as listed below, payable to the undersigned:

Date of Check	Check Drawn on:	Amount of Check
4/7/93	U.S. Treasury	$10,484.00

Typed Name of Payee(s)	Signature of Payee(s)
North Fork Associates	
Typed Name of Payee(s) By: William M. Blatchley	Signature of Payee(s) William M. Blatchley
Typed Name of Payee(s)	Signature of Payee(s)
Typed Name of Payee(s)	Signature of Payee(s)

Contract No. CX 1200-3-L126
Date: March 30, 1993

WATER RIGHTS PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into this 22 day of March, 1993, by and between NORTH FORK ASSOCIATES, a limited partnership, party of the first part (hereinafter referred to as "Seller"), The United States of America, for the use of the National Park Service, United States Department of the Interior, party of the second part (hereinafter referred to as "Purchaser"), and MOUNTAIN MUTUAL RESERVOIR COMPANY, a Colorado corporation, (hereinafter referred to as "Reservoir Company").

WITNESSETH:

A. WHEREAS, the Seller and the Reservoir Company are the owners of the following described water rights (hereinafter referred to as the "Water Rights") and physical facilities:

1. **SPINNEY MOUNTAIN RESERVOIR**

Located on the South Platte River, with the left abutment of the dam at a point whence the Southwest corner of Section 36, Township 12 South, Range 74 West, 6th P.M., Park County, Colorado, bears South 23°26' West a distance of 8314.3 feet. North Fork Associates/Mountain Mutual Reservoir Company have a deeded right from the City of Aurora for a firm annual delivery of 80 acre-feet from the water decreed to the Spinney Mountain Reservoir including but not limited to the following:

Decree	Appropriation Date	Amount (Acre-Feet)
1973; Case No. W-7395	March 26, 1973	86,000

The waters are decreed for domestic, irrigation, municipal and all other beneficial uses. As stated in a special warranty deed dated March 23, 1987, recorded in Park County on May 29, 1987, at Book 411, Page 876, from the City of Aurora, grantor, to Seller and Reservoir Company, grantees, the supply of water which is lawfully available to the Seller and subject to this Agreement includes an undivided interest in the right of first use of a firm yield of 80 acre-feet of water per annum from "any of the water rights owned by Aurora and decreed for storage in Spinney Mountain Reservoir."

2. **WOODSIDE RESERVOIR**

Not yet constructed, but will be located in the East 1/2 Southwest 1/4, Section 26, Township 6 South, Range 72 West, 6th P.M., Park County, Colorado. North Fork Associates/Mountain Mutual Reservoir Company own all of the physical facilities and the water rights decreed to the Woodside Reservoir as follows:

Decree	Appropriation Date	Amount (Acre-Feet)
1978; Case No. W-8771-77 Case No. 82CW369	September 1, 1977 Change in Location and Filler Ditch	50

This reservoir is decreed for domestic, municipal, commercial, irrigation, recreation, light industrial, piscatorial, fire fighting, exchange and all other beneficial uses. An application for quadrennial finding of reasonable diligence with respect to the Woodside Reservoir, Case No. 82CW355, was approved by the Water Court, Water Division No. 1, on October 5, 1988.

3. LOWER SACRAMENTO CREEK RESERVOIR COMPANY

The Lower Sacramento Creek Reservoir Company, a Colorado corporation, owns and operates the Lower Sacramento Creek Reservoir No. 1. The Reservoir is located in the Northeast 1/4 Northwest 1/4, Section 32, and the Southeast 1/4 Southwest 1/4, Section 29, Township 9 South, Range 77 West, 6th P.M., Park County, Colorado. North Fork Associates owns 932 shares of a total of 3,700 shares in the Company (a 25.2% interest). The Reservoir has been constructed and is entitled to store water under the following decree:

Decree	Appropriation Date	Amount (Acre-Feet)
1974; Case No. W-7741-74	July 25, 1974	40
Case No. 84CW250	Use of Res. as Recharge Facility	
Case No. 85CW465	Use of Res. as Recharge Facility	

The water may be used for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River and its tributaries. Other ownerships in the reservoir have transferred water rights to Lower Sacramento Creek Reservoir No. 1 in which Seller has no interest.

Each of the three reservoirs may be filled and used on their own decrees or by exchange or transfer.

4. GUIRAUD 3T DITCH

The headgate is located on the right bank of the Middle Fork of the South Platte River in the Northeast 1/4 of Section 8, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado, at a point whence the Northeast corner of the Northeast 1/4 of said section bears North 63°35' East, 1,305 feet. North Fork Associates/Mountain Mutual Reservoir Company own 1.866 c.f.s. of the water rights decreed to the Guiraud 3T Ditch as follows:

Adjudication Date	Appropriation Date	Amount
October 18, 1889 Original adjudication Water Dist. 23	July 1, 1867	20 c.f.s

Originally decreed for irrigation, this water right has been subject to various change proceedings.

5. GLASMAN DITCH AND GLASMAN DITCH NO. 2

The headgate is located in Park County on the right bank of Elk Creek at a point from which the Western 1/4 corner of Section 26, Township 6 South, Range 72 West of the 6th P.M. bears North 52°44' West, a distance of 2,030 feet, more or less. The water rights decreed to the ditch are as follows:

Adjudication Date	Appropriation Date	Amount
May 22, 1913	May 1, 1885	1.0 cfs (a)
Case No. 83-CW-002	August 31, 1981	0.7 cfs (b)

(a) In Water Case No. 81-CW-144, 6.0 acre feet of the historic consumptive use of the Glasman Ditch was changed from irrigation use to allow utilization as a credit to Woodside Reservoir's annual evaporation losses and/or irrigation.

(b) Glasman Ditch No. 2 conditionally decreed for domestic, commercial, irrigation, piscatorial, recreational, municipal and all other beneficial uses. Application for Quadrennial Finding of Reasonable Diligence was filed in the office of the Water Clerk for Water Division No. 1 during the month of November, 1988, water case number 88CW191 and was approved May 31, 1989.

B. WHEREAS, Seller is willing to sell and Purchaser is willing to buy a proportionate share of the aforementioned water rights in equal priority with all other owners thereof, in amounts sufficient to meet the needs of Purchaser for replacement water under its plan of augmentation as more fully described hereinafter; and,

C. WHEREAS, the purchase of such water rights is authorized by the Act of August 7, 1946, 60 Stat. 885 and the Act of September 2, 1960, 74 Stat. 737, more specifically 16 U.S.C. § 17j-2(g) and the Act of August 8, 1953, 67 Stat. 496, 16 U.S.C. § 1d; and

D. WHEREAS, the Reservoir Company, a non-profit corporation under the Colorado Non-Profit Corporation Act, was organized for the purposes and with powers, among others, to receive and hold title to direct flow and storage water rights, reservoirs and interests therein, as well as lands, easements, rights-of-way, and other facilities in trust for its stockholders and to administer such water rights and operate facilities, related thereto, for the benefit of its stockholders in accordance with individual plans for augmentation contracted for only by Seller, its successors and assigns and approved by a decree or decrees entered by the District Court of Water Division No. 1; and,

NOW THEREFORE, in consideration of the premises and the mutual promises, conditions and covenants hereinafter contained, the parties hereto mutually agree and covenant as follows:

DEFINITIONS

1. As used herein, unless altered by context, the following terms shall mean:

a. Share of Stock - A share of stock or "share" shall be one share of the capital stock issued by the MOUNTAIN MUTUAL RESERVOIR COMPANY, which share will represent the right to receive 0.0314 of an acre foot of replacement water per year from the direct flow and storage rights and facilities owned or available to the Reservoir Company.

b. Plan for Augmentation - For purposes of this agreement, "Plan for Augmentation" means a detailed water program designed to provide Purchaser with a source of water enabling it and its assigns to replace the out of priority steam depletions associated with the use of water at the Development described herein. Said plan will encompass a change of water rights uses and water exchanges.

c. Development - The Development, known as Florissant Fossil Beds National Monument, is a National Park Service facility lying in Township 13 South, Range 70 West and Township 13 South Range 71 West of the 6th P.M., Teller County, Colorado, containing 6000 acres, more or less, on which Purchaser provides or may provide water service.

PURCHASE AGREEMENT

2. The Development includes or may include a visitor center, administrative building and staff housing. Water is to be supplied by one or more wells located throughout the Development. Water will be used for in-building, domestic, commercial, fire protection and turf irrigation purposes. All unconsumed water from in-building uses within the Development will be treated by a septic tank-soil absorption system.

3. Preliminary estimates of the water uses at the existing Development plus future growth of the Development indicate that 19.3 shares of stock will be required. Proposed augmentation requirements have been based on estimates of the potential growth of the Development provided by the Purchaser. Purchaser acknowledges that water usage in excess of that contemplated will require additional replacement water from that contemplated herein.

4. Seller agrees to sell and Purchaser agrees to buy 19.3 shares of the capital stock of the Reservoir Company, subject to certain terms, conditions and covenants as hereinafter set forth for the total purchase price of $10,484.00. For the purpose of any adjustment in the quantity of replacement water as determined by the Water Court, the unit price of the replacement water shall be $14,000.00 per acre-foot.

5. Purchaser understands that the 0.606 acre-feet of augmentation water represented by the 19.3 shares may be delivered by Seller and the Reservoir Company from any of the Water Rights and physical facilities described above. Notwithstanding the foregoing, to ensure that sufficient replacement water will be available to Purchaser each year, Seller agrees to commit to Purchaser's Plan for Augmentation approximately 0.462 acre-feet of the historic yield of the Guiraud 3T Ditch and approximately 0.144 of an acre-foot of the storage water delivered from Spinney Mountain Reservoir or combination of reservoirs owned by Seller or in which Seller has an ownership interest. The figures set forth herein include an estimate for stream transportation charges which are the responsibility of Purchaser as more particularly described herein. Seller shall be responsible for all evaporation charges from the reservoirs described in Section "A". The specific quantity of water to be committed from each source may be modified by the Water Court decree, and Seller and the Reservoir Company will comply with said decree.

6. Seller agrees to transfer to Mountain Mutual Reservoir Company, or to assign from the uncommitted portions of previous transfers to said Company, a sufficient quantity of water from the water rights owned by Seller to supply Purchaser's water replacement requirements. Subject to modification by the terms and conditions of Purchaser's Augmentation Decree, Seller agrees that the transfer shall include approximately 0.144 of an acre-foot of consumptive use water, of the annual water contract deliveries from Spinney Mountain Reservoir and approximately 0.021 of a cubic-foot-per-second of Seller's Guiraud 3T Ditch entitlement. Shares of stock sold to Purchaser, shall be issued by the Reservoir Company from Seller's transfers of water rights to said Reservoir Company in sufficient quantity to supply Purchaser's water replacement requirements.

7. Seller warrants that it has title to the water rights and can convey same and that said shares shall be conveyed to Purchaser free and clear of all liens, taxes and financial encumbrances.

8. The Reservoir Company shares sold by Seller to Purchaser are warranted to be sufficient to yield 0.606 acre-feet, less transportation charges, at Purchaser's Development in Sections 23, Township 13 South, Range 71 West, 6th P.M. Transportation charges shall be calculated from the historic head gate of the Guiraud 3T Ditch and Spinney Mountain Reservoir to the point of Purchasers required replacement at the confluence of Twin Creek with the South Platte River at Lake George.

9. Purchaser agrees to provide legal counsel for representation before the Water Court. It is mutually understood and agreed that Seller has no responsibility to provide counsel.

10. Purchaser agrees to provide, at Purchaser's expense, a consulting engineer specializing in water rights matters, who shall assist purchaser's legal counsel. Said consulting engineer shall assist in negotiations with the objectors to the Plan for Augmentation and participate in all hearings for the presentation of the proposed decree to the Water Court. Within thirty days of the signing of this contract, Purchaser will diligently pursue the development of a plan for augmentation and water rights exchange.

TERMS

11. The purchase price paid by Purchaser to Seller for the Water Rights required to supply Purchaser's needs and which are to be conveyed by Seller to Purchaser shall be paid as follows:

    a. The purchase price for the Water Rights described herein shall be the total sum of $10,484.00 inclusive of a one-time administrative fee of $2,000.00.

    b. Such sum shall be paid by United States Treasury check and shall be paid to North Fork Associates at Lakewood, Colorado, or elsewhere as it may direct.

    c. Upon receipt of payment, Seller shall deliver to Purchaser the stock certificate issued by the Reservoir Company for 19.3 shares.

CRITERIA

12. The shares of stock in the Reservoir Company to be sold to Purchaser have been estimated upon the basis of the total volume of replacement water estimated to be required to serve the Development. The volume of replacement water contemplates compensation for the consumptive use of water incurred as follows:

Use	Water Requirement	Unit	Quantity	CU Rate	Replace Require Ac-Ft	Including Transp. Charges Ac-Ft
Visitor Center	annual average	gallons	398,000	10%	0.122	0.127
Maintenance	annual average	gallons	37,000	10%	0.011	0.012
Housing	annual average	gallons	711,600	10%	0.218	0.227
Irrigation	annual average	acres	0.14	1.66a.f./ac.	0.228	0.240
				Totals	0.579	0.606

All of the above estimates include transportation charges of 2.7% from Spinney Mountain Reservoir and 5.2% from the Guiraud 3T Ditch.

13. All stream losses associated with delivery of the replacement water to Purchaser's Development from the historic headgate of the Guiraud 3T Ditch and Spinney Mountain Reservoir shall be the responsibility of the Purchaser, as noted at item 12, above, and as the Water Court may direct.

14. The price for adjusting upward or downward the acre-foot of replacement (consumptive use) water is based on $14,000.00 per acre-foot.

15. Seller agrees to furnish, and hereby grants Purchaser the option to purchase, the exact number of shares in excess of the 19.3 shares at the prices shown in paragraph 14 as are necessary for implementation of Purchaser's plan for augmentation as determined by the Water Court thus enabling Purchaser to provide the water requirements of its Development. The option shall be limited for the purpose of this agreement to 20 shares, unless agreed upon in writing between the Seller and Purchaser.

CONDITIONS

16. The Plan for Augmentation to be initiated and processed by Purchaser and its consultants shall effect the following results: To permit a change in the point of diversion, type and place of use of portions of the Water Rights owned by Seller including storage water in Spinney Mountain Reservoir and direct flow

rights decreed to the Guiraud 3T Ditch which, in turn, would enable Purchaser to utilize said waters by exchange for replacement purposes to operate a water system for the Florissant Fossil Beds National Monument in Section 23, Township 13 South, Range 71 West, 6th P.M., in Teller County, Colorado, as more fully described in Paragraph 2 above.

17. The Water Court proceedings contemplated by this agreement shall include whatever action is necessary to accomplish the above described result.

    a. A portion of the annual allotment from Spinney Mountain Reservoir will be reserved to meet the water replacement requirements of Purchaser.

    b. Use of the Guiraud 3T Ditch water right for augmentation purposes will require a change in point of diversion, place and type of use. Seller agrees and covenants that it has the ability to remove and has removed from irrigation, dried up, and monumented to the satisfaction of the State and Division Engineers approximately 0.667 acre, more or less, of those lands historically irrigated with Seller's Guiraud 3T Ditch water rights, for each acre-foot of historic direct-flow consumptive use water required for Purchaser's augmentation plan or such other acreage as may be required by the decree approving Purchaser's Plan for Augmentation.

18. a. The contemplated change of water rights and Plan for Augmentation will include an exchange of direct flow water rights from the point of delivery of a portion of the Guiraud 3T Ditch water rights at or near Hartsel to direct flow rights diverting at the point where depletions from Purchaser's Development occur within the drainage of Grape Creek, tributary to Twin Creek, tributary to the South Platte River, and will replace depletions during the historic irrigation season resulting from the use of water by Purchaser, as more fully described in Paragraph 2 above. The point of exchange shall be at the confluence of Twin Creek with the South Platte River which is at Lake George.

    b. A portion of the annual allotment from Spinney Mountain Reservoir will be reserved to meet the water replacement requirements of the Development or it may be transferred to Woodside Reservoir or Lower Sacramento Creek Reservoir No. 1 by exchange, when required, for storage and release together with or in lieu of release of water stored under the Woodside and Lower Sacramento Creek Reservoir priorities to meet the water replacement requirements of the Purchaser's water system as a result of depletions from water use during periods when the direct flow rights are out of priority and to supply other depletion requirements.

19. Upon approval of the Plan for Augmentation and entry of the decree approving same, Seller will, if it has not previously done so, assign, transfer and convey by special warranty deed to the Reservoir Company that portion of the Water Rights required by such decree to replace the total consumptive use of water which is the subject matter of the Plan for Augmentation.

20. It is understood and agreed that the Purchaser shall become a stockholder in Mountain Mutual Reservoir Company and the shares of stock of the Reservoir Company, shall be transferred in accordance with the Bylaws of the Company to the Purchaser. As hereinabove provided, the Seller will purchase and cause the Reservoir Company to issue to Purchaser, or its designee, 19.3 shares of stock or whatever greater or lesser amount may be required after water court approval and shall deliver same to Purchaser or its designee, following approval of the Plan for Augmentation and upon receipt of the payments herein promised to be made by Purchaser. If Purchaser determines that it has a surplus of replacement water above and beyond its own needs, such water may be sold or leased to third parties provided the use by third parties is pursuant to law and in accordance with the Reservoir Company Bylaws. Any transfer of stock to third parties shall be recorded in the stock book and records of the Reservoir Company.

Any transfer or sale of stock by Purchaser which calls for delivery of the purchased replacement water to locations outside of the South and Middle Forks of the South Platte River drainage basin shall only be made with the written consent of the Reservoir Company, which consent shall not be unreasonably withheld, but any such third party transferee shall be charged with transportation losses if the point of delivery is downstream of the confluence of Twin Creek and the South Platte River at Lake George.

COVENANTS

21. It is mutually understood and agreed that Purchaser, its assigns, transferees, grantees, and successors in title, including any quasi-municipal district which may be formed to administer the water facilities of Purchaser shall be subject to and be bound by the following covenants, to-wit:

Purchaser, for itself, its transferees, grantees, and successors in title shall be:

a. Bound by all of the terms and conditions set forth in the Plan for Augmentation decree to be obtained by Purchaser. The property covered by the Plan for Augmentation outlined herein shall be subject, in particular, to the provisions of any protective covenants and declaration of covenants to be furnished in accordance with the Bylaws of the Reservoir Company relating to the terms and conditions upon which an owner may obtain a well permit from the State Engineer and drill an on-site well or central municipal-type well to supply water for its own use.

b. Required not to waste water or use it for any purpose other than those authorized in the Plan for Augmentation decree and, if Purchaser commits waste or uses the water for any other purpose not permitted, by the decreed plan of augmentation, then it is agreed that the Reservoir Company may withhold its replacement water. Purchaser also agrees that the Reservoir Company may withhold its replacement water from it if it has not paid its pro-rata share of operating expenses regularly made when due and payable.

c. Required to pay its pro-rata share of operating expenses of the Reservoir Company, for the lawful and reasonable operations of the Reservoir Company in accordance with the Bylaws of the Reservoir Company. It is agreed and understood that the Purchaser shall not be responsible for any operating expenses incurred prior to the date of this instrument.

d. Bound by and subject to all the provisions of the Bylaws and the Articles of Incorporation of the Reservoir Company, except as modified hereby.

e. It is further agreed and understood that all obligations of the Purchaser hereunder are subject to the availability of appropriated funds.

Neither North Fork Associates nor the Reservoir Company will be:

f. Required to furnish the physical water supply to meet the annual water requirements of Purchaser. Purchaser will pay costs for the drilling of and equipping any well(s) it constructs or operates.

g. Required to pay costs for the construction and maintenance of an on-site sewage disposal system(s) or central water and sewage system(s) on Purchaser's land. Purchaser shall be responsible for all expenses incurred in the operation and maintenance of such central water and sewage disposal system(s).

22. In order to insure continuing supervision and enforcement of this agreement, the Purchaser and its successors in interest, shall supervise enforcement of the terms, conditions and covenants of this agreement and the Plan for Augmentation.

23. Seller does covenant and agree with Purchaser as follows:

    a. Seller shall cause all water augmentation facilities intended to be operated by the Reservoir Company either to be constructed within a reasonable period following the date the decree of the Water Court approving the Plan for Augmentation becomes final or provide an alternate storage facility. Purchaser shall not be required to pay for nor to be liable for the costs of construction or lease of water storage space subject to the provisions of the Bylaws of the company.

    b. The Plan for Augmentation submitted by Purchaser in the Water Court shall be conducted by attorney(s) selected by the Purchaser at Purchaser's sole cost and expense. Purchaser's selection of the United States Attorney General to process the Plan for Augmentation is approved by Seller.

    c. The Plan for Augmentation to be filed with for the Water Court shall be developed using engineer(s) selected by Purchaser at Purchaser's sole cost and expense. Purchaser's selection of the engineering firm of Blatchley Associates, Inc. is approved by Seller. The Purchaser shall have sole and exclusive discretion in the employment of said engineers.

    d. Seller will be consulted in the development of the Plan for Augmentation and must consent to same prior to filing with the Water Court, which consent will not be unreasonably withheld.

MISCELLANEOUS PROVISIONS

24. In order for Purchaser to proceed with the Plan for Augmentation as herein required, Seller covenants to aid and assist Purchaser in preparation of the Plan for Augmentation, participate in its processing and attend court hearings as required at no additional cost to Purchaser. Purchaser will provide Seller with all required subdivision data or additional data as requested to reasonably review Purchaser's Plan for Augmentation.

25. It is also mutually agreed that:

    a. In the event Seller defaults in the performance of any condition or covenant to be performed by it, prior to the filing of the Water Court Application described herein, then all payments made hereunder shall be returned to the Purchaser and the agreement shall be terminated. If Seller defaults subsequent to the filing of an application with the Water Court, Purchaser shall provide Seller with written notice of the specific default being alleged. Failure of Seller to correct the default within 15 days after receipt of the notification from Purchaser shall provide Purchaser with the option of terminating this agreement and recovering all payments made to Seller.

    b. If the Water Court denies Purchaser's Augmentation Plan because of a deficiency in Seller's water rights, then Seller will refund the full purchase price, including the administrative fee. Purchaser will return to Seller all shares of stock acquired hereunder. The term deficiency shall include but not necessarily be limited to a finding by the water court that the water rights are not satisfactory to prevent injury to other rights at the confluence of Twin Creek and the South Platte River at Lake George.

26. Seller shall not be required to pay any portion of the costs of any augmentation reservoir which may be required to be constructed as a result of Purchaser's Plan for Augmentation other than those reservoirs set forth in recital paragraph A herein. In no event shall Seller be responsible for the expense of the operation and maintenance of any such additional reservoir nor shall Seller be required to participate in or make contributions to the costs of acquisition of water rights in order to provide a physical supply of water to Purchaser's Development.

27. All headings set forth in this Agreement are intended for convenience only and shall not control or affect the meaning, construction or effect of this Agreement or of any of the provisions thereof.

28. This Agreement shall be binding upon the parties hereto, their heirs, administrators, executors, and assigns, and the parties hereto do covenant and agree that they themselves and their heirs, executors, administrators, and assigns will execute any and all instruments, releases, assignments, and consents that may be required of them in accordance with the provisions of this Agreement.

29. The Seller represents and it is a condition of this offer that no member of or delegate to Congress, or resident commissioner, shall be admitted to or share any part of this agreement, or to any benefits that may arise therefrom; but this provision shall not be construed to extend to any agreement if made with a corporation for its general benefit.

30. All obligations of the United States hereunder are subject to the availability of appropriated funds.

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

ATTEST:

UNITED STATES OF AMERICA

By _____

Richard A. Young
Chief, Division of Land Resources
Rocky Mountain Region
National Park Service
United States Department of the Interior

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

Subscribed and sworn to before me on this 19TH day of MARCH, 1993.
My commission expires MY COMMISSION EXPIRES OCTOBER 5, 1996.

_____
Notary Public

NORTH FORK ASSOCIATES,
A Limited Partnership

General Partner

MOUNTAIN MUTUAL RESERVOIR CO.
A Colorado Corporation

ATTEST:

(SEAL)

Secretary, Mountain Mutual
Reservoir Company

By
President

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

Subscribed and sworn to before me on this 22nd day of March, 1993.
My commission expires October 6, 1996.

Notary Public

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525

IN REPLY REFER TO:

October 18, 1993

L54(479)
FLFO\Water Rights

Memorandum

To: Regional Director, Western Region

From: Dan B. Kimball, Chief, Water Resources Division

Subject: Trip Report for Travel by Chris Gable and Dan Evans to Florissant Fossil Beds National Monument on September 8 - 9, 1993.

The purpose of this trip was to survey the locations of the Visitor Center Well #12 in the NW¼ NW¼ Sec.24, T13S R71W, 6th P.M. and the Sawmill Trail Well in the SW¼ NE¼ Sec.23, T13S R71W, 6th P.M. The survey data will be used to provide accurate locations of the wells for a water right application and well permits. If you have any questions, please feel free to contact Chuck Pettee or Chris Gable at (303) 225-3535 or (303) 225-3529, respectively.

Dan B. Kimball

Attachment

cc: FLFO - Superintendent
RMR - Wise
DOJ - Gheleta
SOL - Canaday
479 - Jackson, Flora, Flug, Johns

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525

IN REPLY REFER TO:

October 18, 1993

L54(479)
WR/FLFO

Memorandum

To: Dan B. Kimball, Chief, Water Resources Division

Through: Owen R. Williams, Chief, Water Rights Branch OWW 18oct93

From: Chris Gable, Hydrologist, Water Rights Branch

Subject: Trip Report for Travel by Chris Gable and Dan Evans to Florissant Fossil Beds National Monument on September 8 - 9, 1993.

PURPOSE: The purpose of this trip was to survey the locations of the Visitor Center Well #12 in the NW¼ NW¼ Sec.24, T13S R71W, 6th P.M. and the Sawmill Trail Well in the SW¼ NE¼ Sec.23, T13S R17W, 6th P.M. The survey was requested by Alice Johns. The requested accuracy was to survey within 10 feet.

ITINERARY: Departed Fort Collins, Colorado, on September 8, 1993, and arrived at Florissant Fossil Beds National Monument (FLFO) the same day. Departed FLFO on September 9, 1993, and returned to Fort Collins, Colorado.

CONTACTS: Tom Snoke, (FLFO, Maintenance Supervisor)

DISCUSSION: On September 8, 1993, Dan Evans and I located the monument marking the corner section of 13, 14, 23 and 24 and also the locations of Visitor Center Well #12 and the Sawmill Trail Well. After viewing each location, we examined on foot the proposed line of survey for approximately 1/2 mile from the Sawmill Trail Well back to the corner section monument. The survey began from this corner section monument. The direction of north was determined using a brunton compass. The survey proceeded based on a backsight, bearing north along the north-south line of sections 23 and 24. From an established station, each well was measured.

On September 9, 1993, the survey was completed with a closure back to the corner section monument.

ACTION ITEMS:

1. Submit site measurements to Alice Johns.

   Responsible party: Gable. Target Date: October 8, 1993.

2. Complete permit applications and submit to State Engineer.

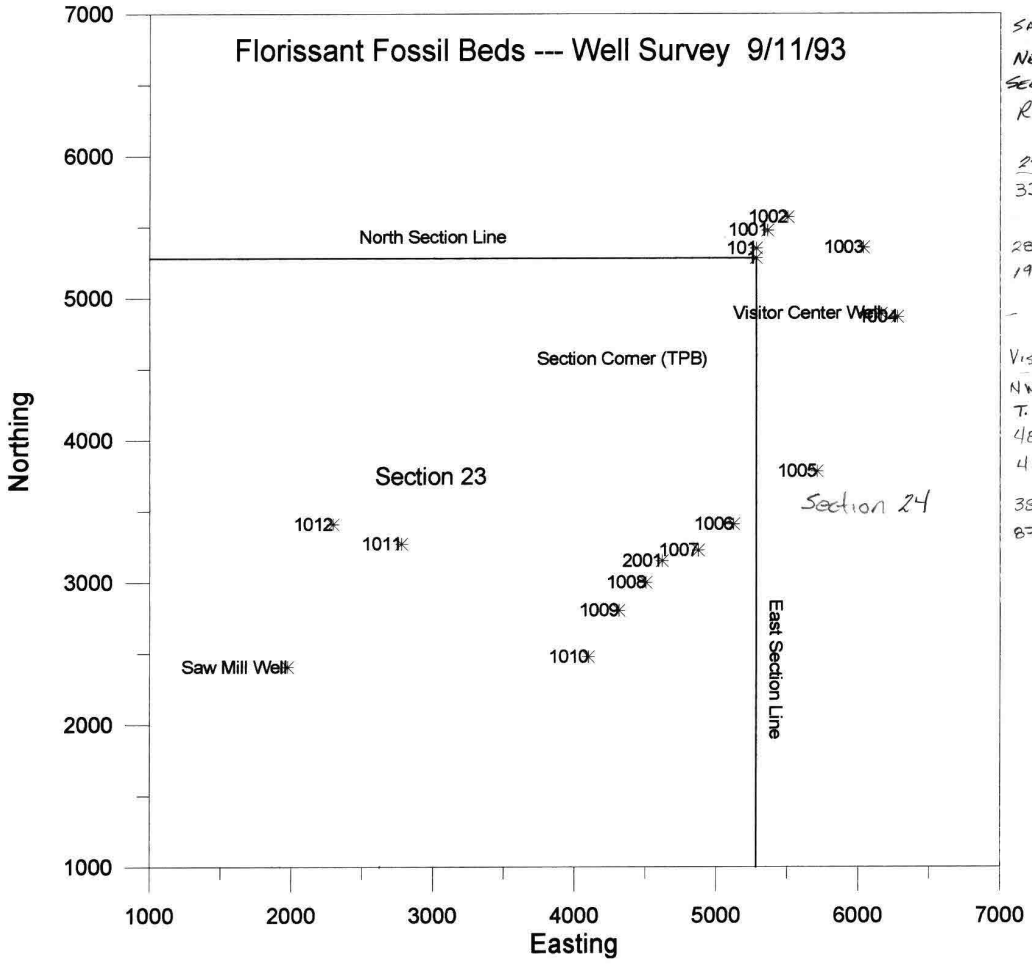
   Responsible party: Johns. Target Date: October 30, 1993.

3. Provide correct well locations to Department of Justice for inclusion in water right application.

   Responsible party: Johns. Target Date: As requested.



10-18-1993: well survey 9/11/93 from trip report for travel by chris gable and dan evans



2640

SAWMILL TRAIL WELL
NE¼ SW¼
SEC. 23, TWN 13S,
R. 71 W, 6th PM

2404.79 from S. LINE
3306.68' from E. LINE

2875.22' from N. LINE
1973.32' from W. LINE

VISITOR WELL
NW¼ NW¼ SEC. 24
T. 13S. R 71W. 6th PM
4890.22' from S. LINE
4400.11' from E. LINE

389.78 from N. LINE
879.89 from W. LINE

Alice,
The following are the results of the survey for the Visitor Center Well #12 and the Sawmill Trail Well at Florrisant Fossil Beds National Monument, conducted on September 8, 1993.

I've included the distances stated previouslyin our records and the distances derived from the survey as a comparison.

VISITOR CENTER WELL

NW¼ NW¼ Sec.24, T13S R71W, 6th P.M.

PREVIOUS RECORDS	SURVEY	DIFFERENCE
400 ft. from North sec. line	389.78 ft. from North sec. line	10.22 ft.
500 ft. from West sec. line	4400.11 ft. from East sec. line	379.89 ft.

SAWMILL TRAIL WELL

SW¼ NE¼ Sec.23, T13S R71W, 6th P.M.

PREVIOUS RECORD	SURVEY	DIFFERENCE
2500 ft. from South sec. line	2875.22 ft. from North sec. line	95.21 ft.
2000 ft. from West sec. line	3306.68 ft. from East sec. line	26.68 ft.

Attached is a graph created by Dan Evans.

Let me know if you have any questions or comments.

Chris Gable 10/04/93

Florissant Fossil Beds National Monument
National Park Service
12795 West Alameda Parkway, RMR-RN
Lakewood, Colorado 80228

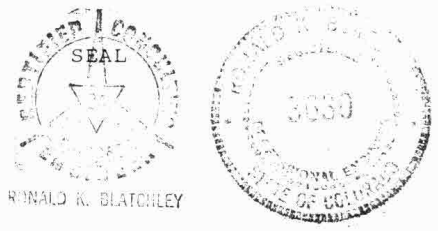
PLAN FOR AUGMENTATION
National Park Service
Florissant Fossil Beds National Monument
Order No. PX-1268-2-2417

Blatchley Associates, Inc.
2525 South Wadsworth Blvd., #306
Denver, CO 80227
File No. 627.1
May 1993

Plan for Augmentation
National Park Service
Florissant Fossil Beds National Monument
Order No. PX-1268-2-2417

The engineering studies, conclusions and recommendations contained in this report were prepared by and/or under the direction of Ronald K. Blatchley P.E.

Ronald K. Blatchley P.E.



PLAN FOR AUGMENTATION
National Park Service
Florissant Fossil Beds National Monument

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Exhibit A	Guiraud 3T Water	Following Text
Exhibit B	Spinney Mountain Reservoir Water	Following Text
Exhibit C	Administrative Forms	Following Text

Florissant Fossil Beds National Monument
Plan For Augmentation
Water Division No. 1

BACKGROUND

Florissant Fossil Beds National Monument (FLFO) administered by the National Park Service is located within Water Division 1, in Township 13 South, Range 70 West and Township 13 South, Range 71 West, 6th P.M. in Teller County, Colorado. The park contains approximately 6000 acres all within the drainage of Grape Creek which is tributary to Twin Creek, whose confluence is one-half mile below the Town of Florissant. Twin Creek is tributary to the South Platte River whose confluence is at Lake George, Colorado. See Figure 1.

The FLFO visitor center presently has limited water services supplied by a commercial-exempt well (Well #12, permit No. 154810A, Division 1 Court Case No. 90CW149) which would not allow sufficient water for the projected expansion of the facilities as will be described later. To satisfy the increased needs an application for a permit for the Saw Mill Trail Well was returned because the amount requested would exceed the allowance of a commercial exempt well.

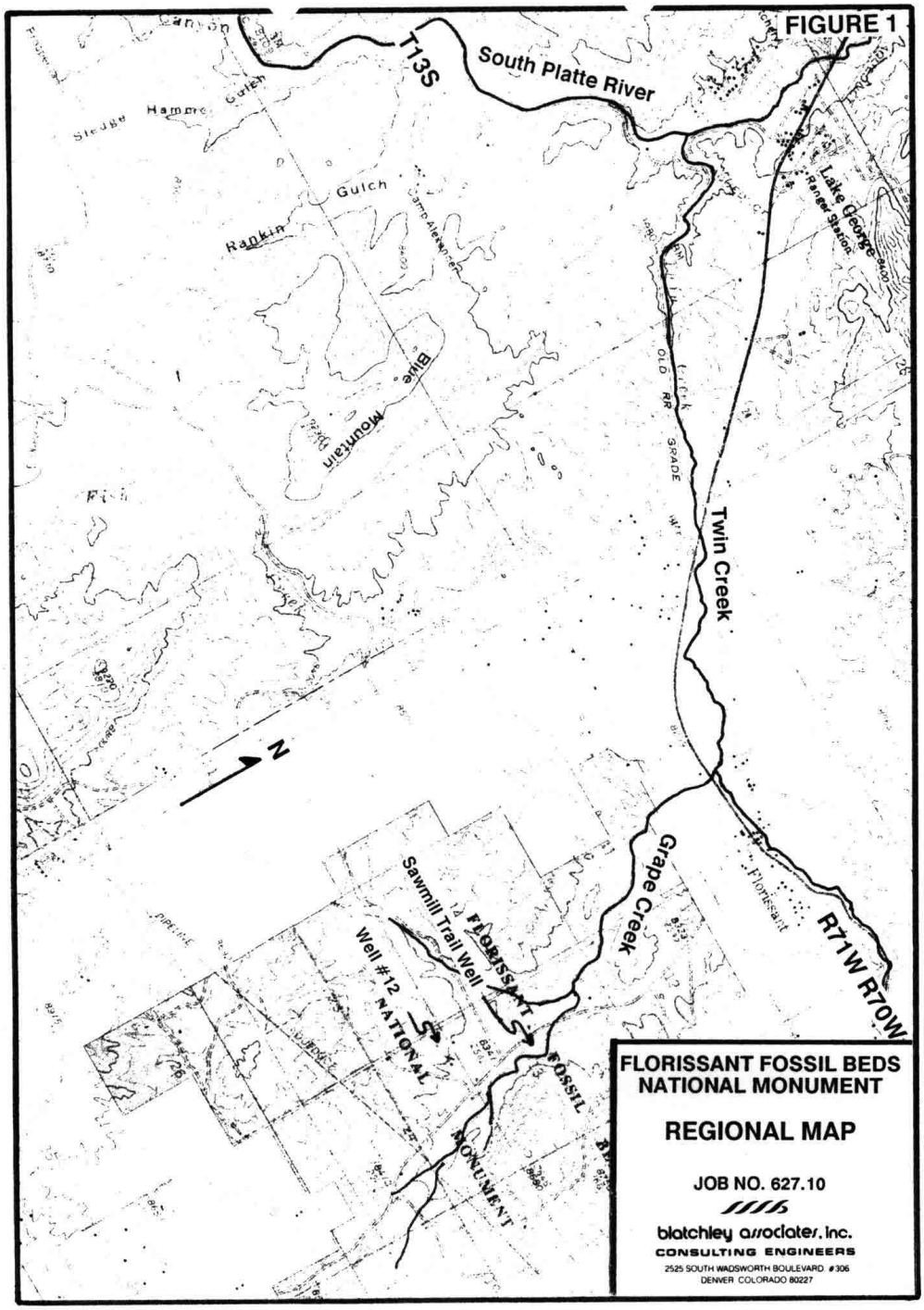
This report should provide sufficient engineering background data for making an application to the Division 1 Water Court for a plan for augmentation.

FUTURE WATER NEEDS

Data from the Design Analysis, Visitors Center/Administration Area Preliminary Design dated July 1990, as modified, was used to determine the future water requirements of the park. The following assumptions and calculations were used for the revised projections.

1. The initial projection of 295,000 visitors was revised downward to 200,000. Past monthly visitor numbers were used to distribute the projected number in the same ratio.

2. The proposed visitor center will use low-flush fixtures, 1.6 gallons for toilets, 1.25 gallons for urinals and 0.5 gallon for lavatories.


FIGURE 1
T13S
South Platte River
Hammo Gulch
Rankin Gulch
Blue Mountain
Lake George
Ranger Station
OLD RR GRADE
Twin Creek
Grade Creek
Florissant
R71W R70W
Sawmill Trail Well
Well #12
FLORISSANT FOSSIL BEDS NATIONAL MONUMENT
REGIONAL MAP
JOB NO. 627.10
blatchley associates, inc.
CONSULTING ENGINEERS
2525 SOUTH WADSWORTH BOULEVARD #306
DENVER COLORADO 80227

3. It is assumed that 85% of the visitors will use the restrooms equally divided between men and women and 50% of the men using the facilities will use the urinal.

4. Staff projected population was adjusted seasonally from 16 personnel in the winter months to 35 personnel in the summer.

5. Water use for staff was based on 10 gallon per capita per day.

6. Projected number of staff dwellings were two single family units and two duplex units for a total of six single family dwellings. Water requirements were based on 3.5 capita per unit and 80 gallons of water per day per capita.

7. Four summer staff trailer units' water use was calculated on 2.5 capita and 80 gallons per capita per day.

8. 6,000 square feet of turf or 24,000 square feet of garden irrigation will be allowed until such time when the water is needed for inside use. Lawn irrigation is based on 2.2 feet application and 1.66 feet consumptive use. Garden irrigation is based on 0.6 foot application and 0.41 feet consumptive use.

9. Vehicle washing is based on 75 gallon per washing with the waste water collected and discharged into a leach field. Consumptive use is assumed to be 10%.

10. All inside use water is assumed to have a 10% consumptive use rate based on a septic tank-soil absorption system.

11. Because of the possibility of developing a mechanical waste water treatment system or tying into the Florissant Water and Sanitation District waste water system, the option to do so and receive the appropriate credits should be incorporated into the decree to reflect a lower consumptive use rate than the septic tank - soil absorption systems. It is recommended that a 5% consumptive use rate be established for a mechanical wast water treatment system or if waste water is discharged to Florissant Water and Sanitation District the rate of consumptive use would be as required by the Districts waste water system.

Using these assumptions in Table 1, it is proposed that the total diversion from the wells would be 3.82 acre-feet of which 0.579 acre-feet would be consumed.

TABLE 1
WATER REQUIREMENT
FLORISSANT FOSSIL BEDS NATIONAL MONUMENT

		VISITOR CENTER				MAINTENANCE AREA				HOUSING					IRRIGATION			TOTAL WATER		
		RATIO OF VIS-	VISITORS NO. PER	WATER USED	STAFF NO. PER	WATER USED	STAFF NO. PER	WATER USED	VEHICLES WASH	WATER USED	NO. OF HOUSE	WATER USED	NO. OF TRAIL- ER	WATER USED	TOTAL INSIDE CU	IRRIG- ATED AREA	IRRIG WATER USED	IRRIG WATER CU	WATER USE	WATER USE	CU
MON	DAYS	ITORS	MONTH	(GAL)	DAY	(GAL)	DAY	(GAL)	INGS	(GAL)	UNITS	(GAL)	UNITS	(GAL)	(AF)	(Sq Ft)	(GAL)	(AF)	(GAL)	(AF)	(AF)
JAN	31	1.3%	2587	4425	10	3100	4	1240	0	0	6	52080			0.019				60845	0.187	0.019
FEB	28	1.4%	2777	4751	10	2800	4	1120	0	0	6	47040			0.017				55711	0.171	0.017
MAR	31	2.8%	5516	9436	10	3100	4	1240	6	450	6	52080			0.020				66306	0.203	0.020
APR	30	3.6%	7185	12291	12	3600	5	1500	12	900	6	50400			0.021				68691	0.211	0.021
MAY	31	8.4%	16847	28819	15	4650	8	2480	26	1950	6	52080	4	24800	0.035	6000	12288	0.028	127067	0.390	0.064
JUN	30	13.6%	27221	46565	25	7500	10	3000	26	1950	6	50400	4	24000	0.041	6000	31598	0.073	165012	0.506	0.114
JUL	31	23.3%	46544	79619	25	7750	10	3100	26	1950	6	52080	4	24800	0.052	6000	18432	0.042	187731	0.576	0.094
AUG	31	24.0%	47950	82025	25	7750	10	3100	26	1950	6	52080	4	24800	0.053	6000	18432	0.042	190137	0.584	0.095
SEP	30	12.5%	25077	42897	15	4500	8	2400	26	1950	6	50400			0.031	6000	17993	0.041	120140	0.369	0.073
OCT	31	5.5%	10986	18793	15	4650	8	2480	12	900	6	52080			0.024				78903	0.242	0.024
NOV	30	2.1%	4262	7290	12	3600	5	1500	6	450	6	50400			0.019				63240	0.194	0.019
DEC	31	1.5%	3048	5214	10	3100	4	1240	0	0	6	52080			0.019				61634	0.189	0.019
	365	100%	200000	342125		56100		24400		12450		613200		98400	0.352		98743	0.227	1245418	3.822	0.579
MAY-SEP	153		163639	279925		32150		14080		9750		257040		98400	0.212		98743	0.227	790087	2.425	0.439
OCT-APR	212		36361	62200		23950		10320		2700		356160		0	0.140		0	0.000	455330	1.397	0.140

TOTAL REQUIREMENTS

WATER SOURCE	DIST- ANTS (MILES	STREAM TRANS CHG (%)	NET CU (AF)	STREAM TRANS CHG (AF)	TOTAL CU (AF)
SPINNEY MT	21	2.73%	0.140	0.004	0.144
G3T DITCH	40	5.20%	0.439	0.023	0.462
TOTAL			0.579	0.027	0.606

SOURCE OF WATER

The water for the above mentioned uses will be drawn from one or more of the following sources:

1. The Sawmill Trail Well located in the NE1/4 SW1/4 Section 23, Township 13 South, Range 71 West, 6th P.M. and 2500 feet from the south section line and 2000 feet from the west section line. The depth of the well is 220 feet in fractured granite. The requested permit was under receipt number 15812B.

2. Well No. 12 located in the NW1/4 NW1/4 Section 24, Township 13 South, Range 71 West, 6th P.M. and 400 feet from the north section line and 500 feet from the west section line. This well is registered under permit number 154810A.

3. Other wells as needed.

WATER RIGHTS

The National Park Service has entered into an agreement with North Fork Associates and Mountain Mutual Reservoir Company, a non-profit Colorado Corporation, to purchase 19.3 shares of the Mountain Mutual Reservoir Company to provide sufficient water rights to replace depletions to the South Platte River system by the FLFO operation.

Mountain Mutual Reservoir Company was created for the following principal purposes:

1. To receive and hold title to direct flow and storage water rights, reservoirs and interests therein, lands, easements, rights-of-way, and other related facilities, in trust for its stockholders; and
2. To administer for its stockholders, water rights and operate facilities in accordance with individual plans for augmentation approved by the Water Court.

The holder of the 19.3 shares of stock is entitled to receive 0.606 acre feet of augmentation water per year from the water rights and storage facilities which Mountain Mutual Reservoir Company holds for the benefit of its shareholders. A copy of Mountain Mutual's Bylaws is on file with the Court.

It is proposed to provide a plan for augmentation whereby the depletions to Grape Creek will be augmented by exchange by the use of the Guiraud 3T Ditch (G3T) water right during the May through September period and by release(s) from Spinney Mountain Reservoir or other listed storage facilities during the October through April period. These sources, owned by North Fork Associates and Mountain Mutual Reservoir Company are more specifically described as follows:

1. **SPINNEY MOUNTAIN RESERVOIR**

Located on the South Platte River, with the left abutment of the dam at a point whence the Southwest corner of Section 36, Township 12 South, Range 74 West, 6th P.M., Park County, Colorado, bears South 23°26' West a distance of 8314.3 feet. North Fork Associates/Mountain Mutual Reservoir Company have a deeded right from the City of Aurora for a firm annual delivery of 80 acre-feet from the water decreed to the Spinney Mountain Reservoir including but not limited to the following:

Decree	Appropriation Date	Amount (Acre-Feet)
1973; Case No. W-7395	March 26, 1973	86,000

The waters are decreed for domestic, irrigation, municipal and all other beneficial uses. As stated in a special warranty deed dated March 23, 1987, recorded in Park County on May 29, 1987, at Book 411, Page 876, from the City of Aurora, grantor, to Seller and Reservoir Company, grantees, the supply of water which is lawfully available to the Seller and subject to this Agreement includes an undivided interest in the right of first use of a firm yield of 80 acre-feet of water per annum from "any of the water rights owned by Aurora and decreed for storage in Spinney Mountain Reservoir."

2. **WOODSIDE RESERVOIR**

Not yet constructed, but will be located in the Elk Creek drainage basin in the East 1/2 Southwest 1/4, Section 26, Town-

ship 6 South, Range 72 West, 6th P.M., Park County, Colorado. North Fork Associates/Mountain Mutual Reservoir Company own all of the physical facilities and the water rights decreed to the Woodside Reservoir as follows:

Decree	Appropriation Date	Amount (Acre-Feet)
1978; Case No. W-8771-77	September 1, 1977	50
Case No. 82CW369	Change in Location and Filler Ditch	

This reservoir is decreed for domestic, municipal, commercial, irrigation, recreation, light industrial, piscatorial, fire fighting, exchange and all other beneficial uses. An application for quadrennial finding of reasonable diligence with respect to the Woodside Reservoir, Case No. 82CW355, was approved by the Water Court, Water Division No. 1, on October 5, 1988.

3. **LOWER SACRAMENTO CREEK RESERVOIR COMPANY**

The Lower Sacramento Creek Reservoir Company, a non-profit Colorado corporation, owns and operates the Lower Sacramento Creek Reservoir No. 1. The Reservoir is located in the Northeast 1/4 Northwest 1/4, Section 32, and the Southeast 1/4 Southwest 1/4, Section 29, Township 9 South, Range 77 West, 6th P.M., Park County, Colorado. North Fork Associates owns 932 shares of a total of 3,700 shares in the Company (a 25.2% interest). The Reservoir has been constructed and is entitled to store water under the following decree:

Decree	Appropriation Date	Amount (Acre-Feet)
1974; Case No. W-7741-74	July 25, 1974	40
Case No. 84CW250	Use for Recharge	
Case No. 85CW465	Use for Recharge	

The water may be used for domestic, municipal, commercial, industrial, irrigation, fish and wildlife propagation, recreational and all other beneficial purposes, including exchange to compensate for depletions in the South Platte River and its tributaries. Other ownerships in the reservoir have transferred water rights to Lower Sacramento Creek Reservoir No. 1 in which

Seller has no interest.

Each of the three reservoirs may be filled and used on their own decrees or by exchange or transfer.

4. GUIRAUD 3T DITCH

The headgate is located on the right bank of the Middle Fork of the South Platte River in the Northeast 1/4 of Section 8, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado, at a point whence the Northeast corner of the Northeast 1/4 of said section bears North 63°35' East, 1,305 feet. North Fork Associates/Mountain Mutual Reservoir Company own 2.556 c.f.s. of the water rights decreed to the Guiraud 3T Ditch as follows:

Adjudication Date	Appropriation Date	Amount
October 18, 1889 Original adjudication Water Dist. 23	July 1, 1867	20 c.f.s.

Originally decreed for irrigation, this water right has been subject to various change proceedings. A decree authorizing a change of the point of diversion and place of use was entered on May 15, 1954, in Civil Action No. 3376, Park County District Court. Subsequent to 1954, various change of water right and plan for augmentation proceedings have either been decreed or are pending which are anticipated to reduce the quantity of water left at the Guiraud 3T Ditch headgate to 0 cfs. Historically, water diverted through the Guiraud 3T Ditch was used to irrigate 276.28 acres of hay meadows in Sections 9, 10 and 15, Township 11 South, Range 76 West, 6th P.M., Park County, Colorado. Past decrees have determined the average annual consumptive use under the Guiraud 3T Ditch to be 1.5 acre feet per acre. One cfs yields 21.825 acre-feet of consumptive use water per year. The owner of the lands historically irrigated by the 2.556 cfs now owned by North Fork Associates and Mountain Mutual Reservoir Company has contracted to remove 37.19 acres of land from irrigation. Said acreage has been surveyed and monumented in the field.

5. **GLASMAN DITCH AND GLASMAN DITCH NO. 2**

The headgate is located in Park County on the right bank of Elk Creek at a point from which the Western 1/4 corner of Section 26, Township 6 South, Range 72 West of the 6th P.M. bears North 52°44' West, a distance of 2,030 feet, more or less. The water rights decreed to the ditch are as follows:

Adjudication Date	Appropriation Date	Amount
May 22, 1913	May 1, 1885	1.0 cfs (a)
Case No. 83-CW-002	August 31, 1981	0.7 cfs (b)

(a) In Water Case No. 81-CW-144, 6.0 acre feet of the historic consumptive use of the Glasman Ditch was changed from irrigation use to allow utilization as a credit to Woodside Reservoir's annual evaporation losses and/or irrigation.

(b) Glasman Ditch No. 2 conditionally decreed for domestic, commercial, irrigation, piscatorial, recreational, municipal and all other beneficial uses. Application for Quadrennial Finding of Reasonable Diligence was filed in the office of the Water Clerk for Water Division No. 1 during the month of November, 1988, Water Case Number 88CW191, and was approved May 31, 1989.

UTILIZATION OF SUBJECT RIGHTS

In order to assure that sufficient augmentation water will be available for the Florissant Fossil Beds National Monument, North Fork Associates has agreed to assign to Mountain Mutual Reservoir Company for the benefit of The United States, its successors and assigns, and for use in this augmentation plan, 0.021 of a cubic foot per second of the Guiraud 3T Ditch priority, yielding 0.462 acre feet of water per year, from the 2.556 cubic feet per second above described. In addition, North Fork Associates has agreed to assign to Mountain Mutual Reservoir Company, 0.144 acre feet of its right to annual water deliveries from Spinney Mountain Reservoir. In order to provide augmentation water from the Guiraud 3T Ditch for use in this plan, North Fork Associates and Mountain Mutual Reservoir Company have caused 0.667 of an acre of the grounds historically irrigated by the Guiraud 3T Ditch to be removed from irrigation for each acre foot

of consumptive use water under the Ditch. Sufficient acreage has previously been monumented in the field and set aside for the benefit of plans for augmentation administered by Mountain Mutual Reservoir Company. The approval and monumentation of the dried up lands are on the basis of criteria which have been approved and accepted by the Water Court in prior plans for augmentation and which have been adopted by the State Engineer. Deliveries from Spinney Mountain Reservoir and the Guiraud 3T Ditch which are committed to other augmentation plans and stockholders of Mountain Mutual Reservoir Company are set forth in the attached Exhibits "A" and "B."

Depletions to the South Platte River drainage basin which are attributable to water use at the proposed development will be augmented during the period May through September, inclusive, by leaving the above referenced Guiraud 3T Ditch water rights in the stream. During times when the Guiraud 3T Ditch is not in priority and during the months of October through April, inclusive, depletions will be augmented by releasing water from Spinney Mountain Reservoir, the Lower Sacramento Creek Reservoir No. 1 or Woodside Reservoir. Transportation charges from the point where water is released to the stream system from Mountain Mutual Reservoir Company's facilities, to the point of exchange, shall be computed on the basis of 0.13 percent per mile.

In order to provide the necessary augmentation water for this and other augmentation plans, Mountain Mutual Reservoir Company will attempt to fill the Lower Sacramento Creek Reservoir No. 1 and Woodside Reservoir under the reservoirs' own priorities. If the structures cannot be so filled, Mountain Mutual Reservoir Company may elect to exchange water from Spinney Mountain Reservoir to storage in either Woodside Reservoir or Lower Sacramento Creek Reservoir No. 1. These exchanges have been decreed in prior plans for augmentation. Mountain Mutual Reservoir Company has previously agreed to limit the exchange between Woodside Reservoir and either Spinney Mountain Reservoir or Lower Sacramento Creek Reservoir No. 1 to those times when all vested water rights with priority dates senior to February 29, 1980,

which divert water from Elk Creek and/or the North Fork of the South Platte River between the point of diversion for Woodside Reservoir and the confluence of the North Fork and the main stem of the South Platte River are either in priority and fully satisfied to the extent of their call, or are out-of-priority because of a downstream call initiated by a more senior water right which can be at least partially satisfied by the release of Spinney Mountain Reservoir water. The rate of exchange is decreed to be limited to 5 c.f.s. Similarly, the exchange from Spinney Mountain Reservoir to Lower Sacramento Creek Reservoir No. 1 is limited to those times when all vested water rights with priority dates senior to February 29, 1980, which divert water from Sacramento Creek and/or the Middle Fork of the South Platte River between the point of diversion from the Lower Sacramento Creek Reservoir NO. 1 and Spinney Mountain Reservoir are either in priority and fully satisfied to the extent of their call, or are out-of-priority because of a downstream call initiated by a more senior water right which can be at least partially satisfied by the release of Spinney Mountain Reservoir water. The rate of exchange into Lower Sacramento Creek Reservoir No. 1 is limited to 2 c.f.s. Evaporation losses incurred by Woodside Reservoir will be replaced by six acre-feet of consumptive use water from the Glasman Ditch as decreed in Case No. 81CW144. Evaporation losses incurred by the Lower Sacramento Creek Reservoir No. 1 will be replaced by the exchange of Spinney Mountain Reservoir water to storage.

Due to the small volume of annual stream depletions projected to occur from the Florissant Fossil Beds National Monument, instantaneous stream depletions during times when the Guiraud 3T Ditch water right is not used for augmentation purposes, shall be aggregated and replaced by one or more release from storage of short duration. The rate and timing of an aggregated release shall be determined by the Division Engineer or his designated representative; provided, however, that an aggregated release should be required no more frequently than once per month. With respect to releases to be made from Spinney Mountain Reservoir,

the Mountain Mutual Reservoir Company and the Division Engineer, or his designated representative, shall provide the City of Aurora, operator of Spinney Mountain Reservoir, with at least 24 hours prior notice during regular working hours, Monday through Friday, of the required time and amount of such releases.

PROTECTION OF OTHER WATER RIGHTS

The exchange of the subject water rights will be at the confluence of Twin Creek and the South Platte River at Lake George, up Twin Creek approximately four miles to the confluence of Grape Creek one-half mile below the Town of Florissant, then up Grape Creek two miles to the point of depletion.

The Wilson Ditch is the one known intervening water right on Twin Creek. It is decreed for three cubic feet per second with an adjudication date of June 21, 1922. Because it is a junior water right, on an average it is only in priority approximately 20% of the time from May through August.

The maximum rate of depletion by Florissant Fossil Beds National Monument's use of the tributary water is estimated to be as follows:

Season	Rate in CFS	Rate in GPM
Winter (January)	0.0003	0.14
Summer (August)	0.0016	0.72

During the times the Wilson Ditch is in priority the depletions created by the Florissant Fossil Beds National Monument would have a diminutive effect to the available water in Twin Creek.

There are other exchange rights being established on Twin Creek. The one that may be the most senior exchange right may be established by Highland Lakes Water District Water Court application in Case No. 85-CW-363. The Highland Lakes application may establish a variable exchange right of less than one c.f.s. This case is scheduled before the Referee in February 1993. The Florissant Water and Sanitation District recently filed in Water Court in Case No 92-W-107 requesting an exchange right of 0.25

c.f.s. with a priority date of December 5, 1992. It may be necessary to subordinate FLFO's exchange rights to these two rights.

PLAN ADMINISTRATION

The proposed uses of water at Florissant Fossil Beds National Monument can be placed in two groups, irrigation and in-building use. Because the irrigation will probably be used in conjunction with the housing units it would be difficult and more expensive to meter the two uses separately. It is proposed that the total pumpage be metered from the well for record purposes but the consumptive use be calculated on a unit rate as shown on page 4 of Exhibit C.

Florissant Fossil Beds National Monument will file a monthly report as shown in Exhibit C to Mountain Mutual Reservoir Company. The company will then combine this with the other plans for augmentation in its system and make appropriate releases from its facilities.

An example of all of Mountain Mutual Reservoir Company's reporting forms are attached to this report as Exhibit "C."

Case No. 93-CW-

EXHIBIT A
TABULATION OF GUIRAUD 3-T WATER
IN PLANS FOR AUGMENTATION (PFA)
May 1993

Decreed Plans For Augmentation

Decree Date	Division 1 Case Number	Names of Application & Development	Decreed to PFA (cfs)	Surplus (cfs)
09/22/1983	W-6355-72	Mountain W&S Dist. J. T. McDowell & Sons	0.500	0.500(8)
12/03/1973	W-7440	Hartsel Ranch Corp. J. T. McDowell & Sons	2.000	0.0
11/11/1974	W-7466	Woodside Park Assoc., J. T. McDowell & Sons; Woodside Park	1.000	0.0
03/12/1975	W-7388	Parkview Associates Ltd., Parkview	0.330	0.0
03/12/1975	W-7590	Arnold C. Harms; Ravenswood	0.035	0.005
03/18/1975	W-7610	Beaver Ridge, ltd. James T. McDowell; Beaver Ridge Recreation Village	1.000	0.0
07/18/1975	W-7785-74	Venture 73 Partnership J. T. McDowell & Sons; Venture 73 Subdivision	0.080	0.0
12/02/1975	W-7784-74	L. S. Development Co., J. T. McDowell & Sons	0.460	0.770
03/08/1976	W-7742-74	T-R Development Corp; Valley of the Sun	0.710	0.0
07/29/1976	W-8107-75	Elkhorn Ranch Co., J. T. McDowell & Sons; Elkhorn Ranch	0.750	0.0
03/10/1977	W-8259-76	Helen M. Brockman, Ronald T. Grice, William L. Annen, James S. Mueller & Gerald J. Bylsma; Piano Meadows	0.074	0.0

Case No. 93-CW-

EXHIBIT A (Contd.)
TABULATION OF GUIRAUD 3-T WATER
IN PLANS FOR AUGMENTATION (PFA)
May 1993

Decreed Plans For Augmentation

Decree Date	Division 1 Case Number	Names of Application & Development	Decreed to PFA (cfs)	Surplus (cfs)
08/04/1977	W-8109-75	Western Union Realty Corp.; Western Union Ranch	3.500	0.0
04/11/1978	W-8625-77	F. B. Howes, Jr., D/B/A S & H Construction Co.; Broken Wheel Village	0.130	0.0
05/15/1978	W-8568-77	Chatfield East Development Co.	0.386	0.0
Dismissed	W-8572-77	Warm Springs Ranch	0.0	1.500(3)
05/17/1978	W-8389-76	Widdowfield & Parkview Assoc. Ltd; Widdowfield Subdivision	0.170	0.0
08/22/1978	W-8574-77	Richard R. Helmick, J. T. McDowell & Sons; Wildwood Recreational Village	1.250	0.0
12/07/1978	W-8648-77	Kenneth H. Winchell, J. T. McDowell & Sons	1.048	0.690(9)
12/07/1978	W-8668-77	Thomas L. Debonis, Roberta J. Debonis, & Venture 73 Partnership	0.170	0.0
01/16/1979	W-8345-76	J. T. McDowell & Sons	1.012(1)	0.0
05/10/1979	W-8770-77	Woodside Ltd.	(2)	0.0
07/30/1979	W-9358-78	Kenneth H. Barber, William W. Poleson, J. T. McDowell & Sons; Silverheels Ranch	0.500	0.0
03/25/1980	W-8480-77	Fairplay-Four Mile Creek Ltd; Foxtail Pines	0.640	0.0

Case No. 93-CW-

EXHIBIT A Contd.)
TABULATION OF GUIRAUD 3-T WATER IN PLANS FOR AUGMENTATION (PFA)
May 1993

Decreed Plans For Augmentation

Decree Date	Division 1 Case Number	Names of Application & Development	Decreed to PFA (cfs)	Surplus (cfs)
08/11/1980	79-CW-163	William W. Poleson; Michigan Hill Ranch	0.490	0.0
04/17/1981	80-CW-131	Thomas L. Debonis, Robert J. Debonis & Venture 73 Partnership; Spruce Hill	0.0(4)	0.0
12/02/1981	80-CW-194	Frank and Jean Ann Leach; Adventure Placer & Key Placer	0.170	0.0
06/15/1981	80-CW-195 (79-CW-163)	Melba Farr; Sun Mountain	0.130(6)	0.0
10/04/1983	81-CW-129	Woodside Park 5&6 Homeowners Association, North Fork Associates, Mountain Mutual Res. Co.; Woodside Park	0.0(5)	0.0
	TOTALS FROM DECREES AND PLANS		16.535	3.465

Case No. 93-CW-

EXHIBIT A (Contd.)
TABULATION OF GUIRAUD 3-T WATER
IN PLANS FOR AUGMENTATION (PFA)
May 1993

Plans for Augmentation Based on
North Fork Associates' 2.556 cfs(3)(8)

Date of Application	Decree Date	Division 1 Case Number	Names of Applicants & Development	Decree or Application Amount (cfs)
03/29/1980	05/02/1982	80CW050	North Fork Associates, Mountain Mutual Res. Co., Burland Meadows, Ltd.; Burland Meadows	.205
04/30/1981	06/09/1983	81CW144	North Fork Associates, Mountain Mutual Res. Co., Will-O-Wisp; Will-O-Wisp P.U.D.	.467
04/20/1981	05/16/1989	81CW145	North Fork Associates, Mountain Mutual Res. Co., Crystal Lake Resort Properties; Pine Valley North and Pine Valley South Subdivision	.020
07/01/1981	05/25/1983	81CW212	North Fork Associates Mountain Mutual Res. Co., Wagon Tongue Company; Wagon Tongue Subdivision	(10)
08/31/1981	05/13/1983	81CW282	North Fork Associates, Mountain Mutual Res. Co., David Hall, Golden Hill Estates	.024
05/27/1983	12/19/1983	83CW124	North Fork Associates Mountain Mutual Res. Co., Woodside Park 5 and 6 Homeowners Association; Woodside Park Units 5 and 6	.010
12/27/1983	12/12/1984	83CW323	North Fork Associates, Mountain Mutual Res. Co.; Raven's Subdivision	.001
04/26/1985	04/29/1987	85CW110	North Fork Associates, Mountain Mutual Res. Co., Camp ID-RA-HA-JE Assn.	.058

Case No. 93-CW-

EXHIBIT A (Contd.)
TABULATION OF GUIRAUD 3-T WATER
IN PLANS FOR AUGMENTATION (PFA)
May 1993

Plans for Augmentation Based on
North Fork Associates' 2.556 cfs(3)(8)

Date of Application	Decree Date	Division 1 Case Number	Names of Applicants & Development	Decree or Application Amount (cfs)
09/30/1985	12/24/1986	85CW254	Freedonia Company North Fork Associates Mountain Mutual Res. Co. Freedonia Ranch	.009
06/29/1988	06/27/1990	88CW102	Tranq. Ac Wtr. Supply, Inc. North Fork Associates	.060
08/28/1986(7)	12/04/1987	85CW326	Mooredale Ranch Resort, Inc.	.052
08/28/1987 12/20/1987(7)	06/02/1988	87CW148	Douglass Ranch Venture, Inc.	.113(11)
01/29/1988	11/22/1988	88CW013	Robert Kessler	.007
03/30/1988	11/18/1988	88CW060	Jeff. Co. Sch. Dist. R-1 North Fork Assoc. Mountain Mutual Res. Co.	.034
12/ /1988	06/29/1990	88CW205	Marcus J. Pardi North Fork Assoc. Mountain Mutual Res. Co.	.003
05/30/1989	07/03/1990	89CW079	Maurice W. Davis North Fork Assoc. Mountain Mutual Res. Co. Rancho Mirage	.022
08/31/1990	04/03/1991	90CW063	Hendrie Associates, Ltd. North Fork Assoc. Mountain Mutual Res. Co.	.014
06/28/1991	01/22/1992	91CW050	James P. Campbell North Fork Assoc. Mountain Mutual Res. Co.	.007
12/31/1991	11/17/1992	91CW119	Sharon F. Manning Charles W. Manning North Fork Assoc. Mountain Mutual Res. Co.	.028

Case No. 93-CW-

EXHIBIT A (Contd.)
TABULATION OF GUIRAUD 3-T WATER
IN PLANS FOR AUGMENTATION (PFA)
May 1993

Plans for Augmentation Based on
North Fork Associates' 2.556 cfs(3)(8)

Date of Application	Decree Date	Division 1 Case Number	Names of Applicants & Development	Decree or Application Amount (cfs)
06/30/1992	11/18/1992	92CW074	Conifer Associates North Fork Assoc. Mountain Mutual Res. Co.	.070
07/31/1992	01/29/1993	92CW087	Maurice Davis North Fork Assoc. Mountain Mutual Res. Co. Belle Meade Subdivision	.040
09/30/1992	In Process	92CW107	Florissant Water And Sanitation District North Fork Assoc. Mountain Mutual Res. Co.	.238
11/30/1992	In Process	92CW124	Safari Ranch, Ltd. North Fork Assoc. Mountain Mutual Res. Co.	.010
	In Process		National Park Service North Fork Assoc. Mountain Mutual Res. Co.	.021
	TOTAL OF CURRENT (May 1993) NORTH FORK ASSOCIATES' OBLIGATIONS TO PLANS FOR AUGMENTATION			1.407
	SURPLUS FROM NORTH FORK ASSOCIATES' OWNERSHIP OF 2.556 CFS			1.149

FOOTNOTES FOR EXHIBIT A

Decreed Plans for Augmentation

(1) Due to an error in estimating the area irrigated by the Guiraud 3T Ditch, 1.012 cfs was abandoned.

(2) Depletions were covered by the 1.0 cfs of Guiraud 3T right in Case No. W-7466.

(3) The right for 1.500 cfs was acquired by North Fork Associates from Warm Springs Ranch. W-8572-77 was dismissed by stipulation.

EXHIBIT A (Contd.)
TABULATION OF GUIRAUD 3-T WATER
IN PLANS FOR AUGMENTATION (PFA)
May 1993

Plans for Augmentation Based on
North Fork Associates' 2.556 cfs(3)(8)

(4) Case No. 80CW131 was an application for amendment to Case No. W-8668-77, involving no additional use of Guiraud 3T water.

(5) Case No. 81CW129 was an application to modify the uses of water decreed in Case Nos. W-7466 and W-8770-77. No additional use of Guiraud 3T water is involved. Also, none of the 2.556 cfs of North Fork Associates' ownership of Guiraud 3T water is involved.

(6) Applicant purchased 0.13 cfs out of 0.30 cfs surplus in Case No. 79CW163.

(7) Application amendment date.

(8) The right of 0.366 cfs of the 0.50 cfs surplus Guiraud 3T water right in W-6355 was acquired by Agreement by North Fork Associates from Mountain Water and Sanitation District.

(9) Ownership successor to W-8648-77, i.e., Theodore Zigan, sold the 0.470 cfs surplus (10.25 ac-ft CU) plus 0.22 cfs (4.75 ac-ft CU) from the augmentation plan water to North Fork Associates Managing Partners. The 0.22 cfs may be subject to approval by the Water Court.

(10) Mountain Mutual Reservoir Company water rights have been withdrawn from Case No. 81CW212.

(11) 0.026 cfs of Mountain Mutual Reservoir Company's water rights have been withdrawn from 87CW148.

Case No. 93-CW-

EXHIBIT B
CURRENT OBLIGATIONS AGAINST 80 ACRE-FEET ANNUALLY
AVAILABLE FROM SPINNEY MOUNTAIN RESERVOIR
May 1993

Date of Application	Decree Date	Division 1 Case Number	Names of Application & Development	Amount of Obligation Ac-Ft Per Year
06/22/1977	05/13/1980 08/30/1985	W-8564-77	M.D. Properties 1978, Ltd.; Conifer Center	2.49
03/29/1980	05/02/1982	80CW050	North Fork Associates Mountain Mutual Res. Co. Burland Meadows Ltd. Burland Meadows	3.50
04/20/1981	10/04/1983	81CW129	Woodside Park 5 & 6 Homeowners Association, North Fork Associates, Mountain Mutual Res. Co., Woodside Park Unit One Homeowners' Association, Inc., Woodside Park Homeowners' Association Units 2, 3 and 4, Woodside Park	4.00
04/30/1981	06/09/1983	81CW144	North Fork Associates Mountain Mutual Res. Co. Will-O-Wisp Will-O-Wisp P.U.D.	8.19
04/30/1981	05/16/1989	81CW145	North Fork Associates Mountain Mutual Res. Co. Crystal Lake Resort Prop. Pine Valley North and Pine Valley South Subdivisions	0.55
07/01/1981	05/25/1983	81CW212	North Fork Associates Mountain Mutual Res. Co. Wagon Tongue Company Wagon Tongue Subdivision	(c)
08/31/1981	05/13/1983	81CW282	North Fork Associates Mountain Mutual Res. Co. David Hall Golden Hill Estates	0.73
12/27/1983	12/12/1984	83CW323	North Fork Associates Mountain Mutual Res. Co. Raven's Subdivision	0.04

Case No. 93-CW-

EXHIBIT B (Contd.)
May 1993

Date of Application	Decree Date	Division 1 Case Number	Names of Application & Development	Amount of Obligation Ac-Ft Per Year
04/26/1985	04/29/1987	85CW110	North Fork Associates Mountain Mutual Res. Co. Camp ID-RA-HA-JE Assn.	1.48
09/30/1985	12/24/1986	85CW254	Freedonia Company North Fork Associates Mountain Mutual Res. Co. Freedonia Ranch	0.146
01/30/1986	12/24/1986	86CW021	Tiny Town Investment Corp. 285 Business Center	4.00
06/29/1988 06/29/1988	06/27/1990 06/27/1990	88CW102 88CW102	Tranq. Ac. Water Supply, Inc. North Fork Associates	1.47[a]
08/28/1986[b]	12/04/1987	85CW326	Mooredale Ranch Resort, Inc.	1.24
12/31/1986	03/15/1988	86CW372	Pete C. Kuyper	15.00
08/28/1987 12/30/1987[b]	06/02/1988	87CW148	Douglass Ranch Venture, Inc.	0.933
10/30/1987	06/07/1990	87CW200	Mountain W&S Dist.	3.000
01/29/1988	11/22/1988	88CW013	Robert Kessler	0.113
03/30/1988	11/18/1988	88CW060	Jeff. Co. Sch. Dist. R-1 North Fork Assoc. Mountain Mutual Res. Co.	0.331
12/ /1988	06/29/1990	88CW205	Marcus J. Pardi North Fork Assoc. Mountain Mutual Res. Co.	0.031
05/30/1989	07/03/1990	89CW079	Maurice W. Davis North Fork Associates Mountain Mutual Res. Co. Rancho Mirage	0.678
06/28/1991	01/22/1992	91CW050	James P. Campbell North Fork Assoc. Mountain Mutual Res. Co.	0.128
12/31/1991	11/17/1992	91CW119	Sharon F. Manning Charles W. Manning North Fork Assoc. Mountain Mutual Res. Co.	0.395[a]

EXHIBIT B (Contd.)
May 1993

Date of Application	Decree Date	Division 1 Case Number	Names of Application & Development	Amount of Obligation Ac-Ft Per Year
06/30/1992	11/18/1992	92CW074	Conifer Associates North Fork Assoc. Mountain Mutual Res. Co.	1.540[a]
07/31/1992	01/29/1993	92CW087	Maurice Davis North Fork Assoc. Mountain Mutual Res. Co. Belle Meade Subdivision	1.167[a]
09/30/1992	In Process	92CW107	Florissant Water And Sanitation District North Fork Assoc. Mountain Mutual Res. Co.	0.808[a]
11/30/1992	In Process	92CW124	Safari Ranch, Ltd North Fork Assoc. Mountain Mutual Res. Co.	0.174[a]
	In Process		National Park Service North Fork Assoc. Mountain Mutual Res. Co.	0.144[a]
Sub-Total of obligations				52.278
Transportation charges when not included above				2.932
Evaporation losses at Lower Sacramento Creek Reservoir				1.600
TOTAL OBLIGATIONS AGAINST MOUNTAIN MUTUAL RESERVOIR COMPANY'S USE OF 80 ACRE-FEET PER YEAR FROM SPINNEY MOUNTAIN RESERVOIR				56.810

(a) Includes Transportation Charges
(b) Application Amendment Date
(c) Mountain Mutual Reservoir Company water rights have been withdrawn from Case No. 81CW212

EXHIBIT C
YEARLY ACCOUNTING FOR REPLACEMENT OF DEPLETIONS DIRECTLY FROM STORAGE
November 1, 19___ to October 31, 19___

Case No. 92-CW-124
Sheet 1 of 5

Name of Development & Case No.	Obligation For Project Replacement From Storage		From Spinney Mtn. Res.			From Woodside Res.			From Lower Scramento Creek Res. No. 1			From All Reservoirs
	Full Develop. AF	Present Develop. AF	Amount Released To Stream AF	Trans. Chgs. % AF	Net Depletion Replacement AF	Amount Released To Stream AF	Trans. Chgs. % AF	Net Depletion Replacement AF	Amount Released To Stream AF	Trans. Chgs. % AF	Net Depletion Replacement AF	Total Net Depletion Replacement AF
Conifer Center W-8564	2.49			8.7			3.1			12.5		
Burland Meadows 80-CW-050	3.50			8.7			1.4			12.5		
Woodside 5 & 6 81-CW-129	4.00			8.7			0.0			12.5		
Will-O-Wisp 81-CW-144	8.19			8.7			1.4			12.5		
Pine Valley N. 81-CW-145	0.55			8.7			1.4			12.5		
Golden Hills 81-CW-282	0.73			0.0			3.1			0.0		
Raven's Sub-division 83-CW-323	0.04			10.5			4.9			14.3		
Camp ID-RA-HA-JE 85-CW-110	1.48			5.4			0.0			9.2		
Freedonia Ranch 85-CW-254	0.146			5.3			0.0			9.1		
Tranquil Acres 88-CW-102	1.47			6.9			3.1			10.7		
Mooredale Ranch 85-CW-326	1.24			5.0			(0.6)			8.8		
Tinytown 86-CW-021	4.00			9.6			3.9			13.4		
Pete C. Kuyper 86-CW-372	15.00			3.0			0.0			6.8		
Douglass Ranch 87-CW-148	0.933			6.2			0.6			10.0		
Mtn. W&S Dist. 87-CW-013	3.00			5.9			0.3			9.7		
Robert Kessler 88-CW-013	0.113			6.2			0.6			10.0		
Elk Cr. Sch. 88-CW-060	0.331			6.0			0.6			9.8		
Marcus J. Pardi 88-CW-205	0.031			10.5			4.9			14.3		
Rancho Mirage 89-CW-079	0.678			8.7			2.4			12.5		
Beaver Ridge #4 91-CW-050	0.128			0.0			3.1			0.0		
Wildhorn Ranch 91-CW-119	0.372			5.8			3.1			9.6		
Conifer Ridge 92-CW-074	1.417			8.7			2.4			12.5		
Belle Meade 92-CW-087	1.074			8.7			2.4			12.5		
Florissant Water & Sanitation Dist 92-CW-107	0.786			2.8			3.1			6.6		
Safari Ranch 92-CW-124	0.174			0.0			3.1			1.3		
Florissant Fossil Beds N.M.	0.144			2.8			3.1			6.6		

Case No.
Sheet 2 of 5

EXHIBIT C
LOWER SACRAMENTO CREEK RESERVOIR NO. 1 OPERATIONS
WATER YEAR November 1, 19___, to October 31, 19___
Acre-Feet
Lower Sacramento Creek Reservoir No. 1 Accounting

Month	(1) Storage At Beginning Of Month	(2) Storage At End of Month	(3) Total Releases	(4) Total Stored (Gaged)	(5) Stored By GJT Right	(6) Stored by Storage Releases	(7) Exch. Trans. Charge	(8) Amount Stored 6-7	(9) Stored Under Own Rights 4-5-6	(10) Total Net Losses 1-2-3-4	(11) MMRC Storage At Beginning Of Month	(12) MMRC Share of LSCR #1 Net Loss If 9>0, enter 27% x (10-9). If 9<0, enter 27% x (10).	(13) MMRC Releases For Depletions	(14) MMRC Charge On Storage 8-12-13	(15) MMRC Storage At End Of Month 11+14
Nov.															
Dec.															
Jan.															
Feb.															
Mar.															
Apr.															
May															
Jun.															
Jul.															
Aug.															
Sep.															
Oct.															
TOTALS															

Case No.
Sheet 3 of 5

EXHIBIT C
WOODSIDE RESERVOIR OPERATIONS
WATER YEAR November 1, 19___, to October 31, 19___

Month	(1) Storage At Beginning Of Month	(2) Storage At End of Month	(3) Releases For Depletions	(4) Total Net Gain In Storage 2 - 1 + 3	(5) Stored by Exchange: Storage Releases	(6) Stored by Exchange: Transportation Charges	(7) Amount Stored 5 - 6	(8) Net Amount Stored Under Own Right 4 - 7
Nov.								
Dec.								
Jan.								
Feb.								
Mar.								
Apr.								
May								
Jun.								
Jul.								
Aug.								
Sep.								
Oct.								
TOTALS								

EXHIBIT C
WATER ACCOUNTING FORM
FLORISSANT FOSSIL BEDS NATIONAL MONUMENT
Case No. _____
November 1 ____ to October 31 ____

	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT
(1) Reading Date												
(2) Turf Equiv.[a] (Ac)												
(3) Turf Avg CU Rate (Ft)							0.117	0.480	0.441	0.324	0.298	
(4) Irrigation CU (2) X (3) (AF)												
(5) Irr Application (4)/0.75 (AF)												
(6) Sawmill Tr Well BOM Reading (Gal)												
(7) EOM Reading (Gal)												
(8) Water Diverted (7) - (6) (Gal)												
(9) Visitor Center Well BOM Reading (Gal)												
(10) EOM Reading (Gal)												
(11) Water Diverted (10) - (9) (Gal)												
(12) Total Diverted (8) + (11) (Gal)												
(13) (12)/325,851 (AF)												
(14) In-building Use (13) - (5) (AF)												
(15) In-building CU (14) X 0.10 (AF)												
(16) Total CU (4) + (15) (AF)												

Abreviations: Div = diversion; BOM = beginning of month; EOM = end of month; CU = consumptive use; Irr = Irrigation

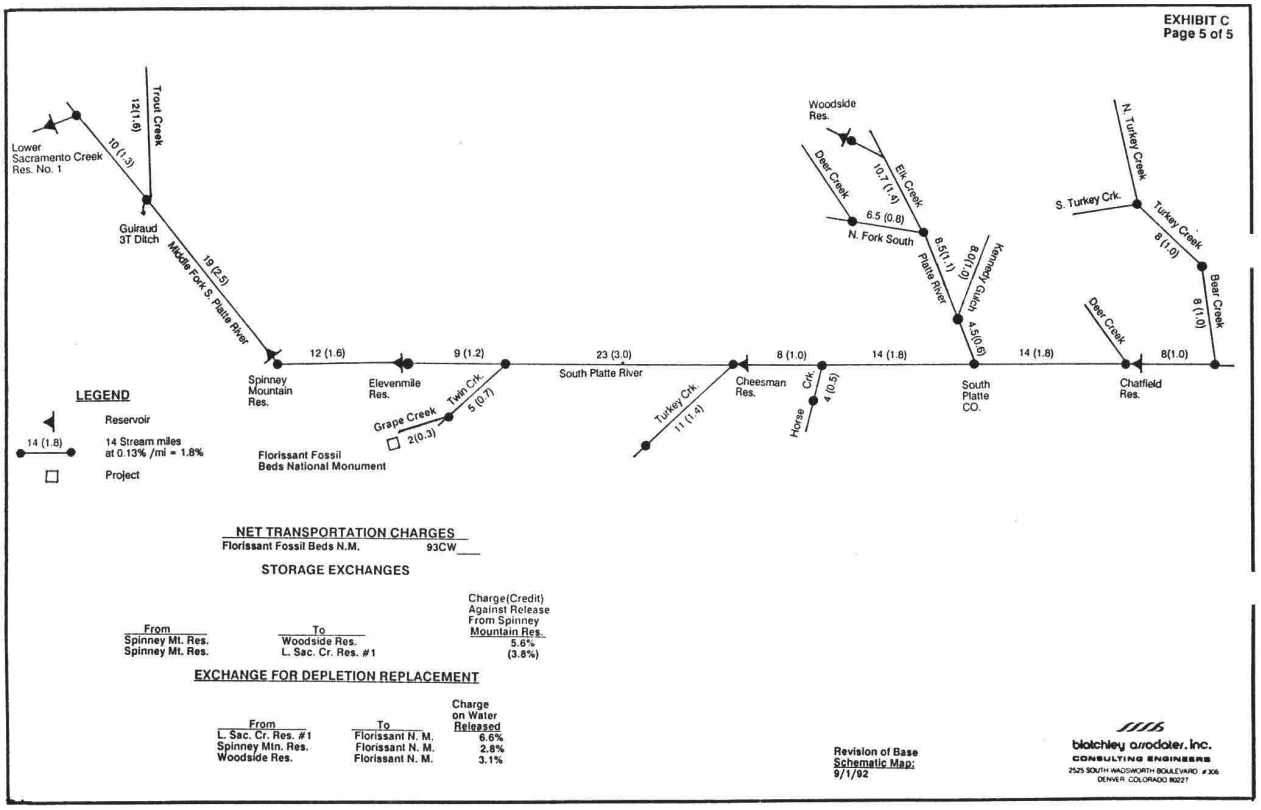
[a] ((_____ Sq Ft of lawn) + (_____ Sq Ft garden/4))/43,560 = _____ Acres

Sum of May-Sep Line (16) _____

Send a completed copy of this form monthly to Mountain Mutual Reservoir Co.

Sum of Nov-Apr & Oct Line (16) _____

EXHIBIT C
Page 5 of 5



NET TRANSPORTATION CHARGES
Florissant Fossil Beds N.M. 93CW___

STORAGE EXCHANGES

From	To	Charge(Credit) Against Release From Spinney Mountain Res.
Spinney Mt. Res.	Woodside Res.	5.6%
Spinney Mt. Res.	L. Sac. Cr. Res. #1	(3.8%)

EXCHANGE FOR DEPLETION REPLACEMENT

From	To	Charge on Water Released
L. Sac. Cr. Res. #1	Florissant N. M.	6.6%
Spinney Mtn. Res.	Florissant N. M.	2.8%
Woodside Res.	Florissant N. M.	3.1%

Revision of Base Schematic Map: 9/1/92

blotchley associates, inc.
CONSULTING ENGINEERS
2525 SOUTH WADSWORTH BOULEVARD #306
DENVER, COLORADO 80227

01-28-1993: report of telephone conversation; re: metering data is only good in 1990.

REPORT OF TELEPHONE CONVERSATION

DATE 1/28/91 TIME 1500 AM/PM

PROJECT FLFO VC

NPS PERSON ON CALL Bill Hansen ☒ I CALLED ☐ S/HE CALLED

PERSON Carolyn

ORGANIZATION FLFO

ADDRESS

TELEPHONE NUMBER

DISCUSSION Carolyn returned my call w/ Visitor Center water use information @ FLFO. She said metering only occurred in 1986, 1989 & 1990 and only 1990 data is good.

Year	Water Use (gal)	Ac-Ft/Yr
1990	168,172	0.516
1989	~146,000	0.448
1986	~112,000	0.344

00-00-0000: well completion and pump installation report; permit no. mh-15812.

THIS FORM MUST BE SUBMITTED WITHIN 60 DAYS OF COMPLETION OF THE WORK DESCRIBED HEREON. TYPE OR PRINT IN BLACK INK.

C ORADO DIVISION OF WATER RESC CES

1313 Sherman Street - Room 818
Denver, Colorado 80203

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER mh-15812

WELL OWNER National Park Service

ADDRESS 12795 W. Alameda Parkway, Denver, CO, 80225

NE ¼ of the SW ¼ of Sec. 23,

T. 13 S, R. 71 W, 6th P.M.

DATE COMPLETED May 30, 19 90

WELL LOG

From	To	Type and Color of Material	Water Loc.
0	5	Black Topsoil	
5	8	Pink & Black Gravel	
8		Gravels Pink & Black very Damp	
9		Water	9
9	15	Large Gravels 1½ GPM	
15	40	Decomposed Pink & Black measured at 25' 2 GPM	
47		Centralizer	
40	75	Red Decomposed measured at 69' 10 GPM	
75	105	Red Decomposed more consolidated	
102		Centralizer	
105	150	Solid Rose Granite w/Quartz	
150	155	Solid Rose Granite w/Quartz	
155		Fractured	155
155	174	Solid Rose Granite w/Quartz	
174	175	Fractured	174
175	200	Solid Rose Granite W/Quartz	
200	220	Solid Rose Granite w/Quartz w/Black	
		Balance of Hole Not Cased at Owners Request	

TOTAL DEPTH 220'

Use additional pages necessary to complete log.

HOLE DIAMETER

12 in. from 0 to 70 ft.

10 in. from 70 to 166 ft.

6 in. from 166 to 220 ft.

DRILLING METHOD air percussion

CASING RECORD:

Plain Casing

Size	& kind	from	to
8	steel	+1½	30'6" ft.
6	pvc	9	36
6	pvc	46	56 ft.
6	pvc	71	76
6	pvc	81	91 ft.
6	pvc	101	140
6	pvc	145	165

Perforated Casing

Size	& kind	from	to
6	pvc	36	46 ft.
6	pvc	56	71
6	pvc	76	81 ft.
6	pvc	91	101
6	pvc	140	1456 ft.

GROUTING RECORD

Material cement

Intervals 0 - 30

Placement Method tremie pipe

GRAVEL PACK: Size #4-6 Silica Sand

Interval 30 - 155

TEST DATA

Date Tested June 5, 1990

Static Water Level Prior to Test 10' 6" ft.

Type of Test Pump Submersible Pump

Length of Test 12 Hours

Sustained Yield (Metered) 18 GPM

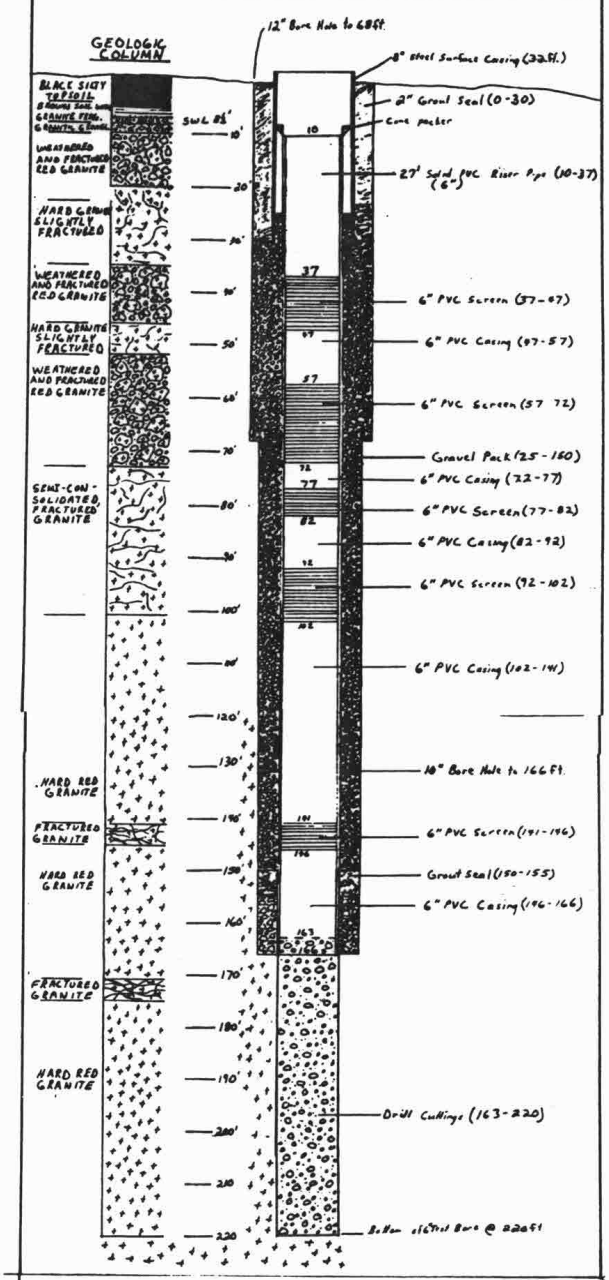
Final Pumping Water Level 141 Feet

00-00-0000: diagram of well.

C-3

NATIONAL PARK SERVICE
DENVER SERVICE CENTER

Area: Park General			of 1
Project: Drill and Complete Water Well	By: S. Jacobs	Checked	Proj.
Feature: Construction of well	Date: 3-29-90	Date Reviewed: 5-25-90	Account



Notes:
1. Well Pump tested at 180 gpm on June 6, 1990
2. Formation is unstable from 157 to 166
3. Additional well development is recommended prior to installing pump.
4. 8" Steel Casing is 18" above ground elevation.

SCALE
Vertical: 1" = 16'
Horizontal: 1" = 8"

THIS FORM MUST BE SUBMITTED WITHIN 60 DAYS OF COMPLETION OF THE WORK DESCRIBED HEREON. TYPE OR PRINT IN BLACK INK.

ORADO DIVISION OF WATER RES CES
1313 Sherman Street - Room 818
Denver, Colorado 80203

WELL COMPLETION AND PUMP INSTALLATION REPORT

PERMIT NUMBER mh-15812

WELL OWNER National Park Service — NW ¼ of the SW ¼ of Sec. 23

ADDRESS 12795 W. Alameda Parkway, Denver, CO. 80225 — T. 13 S, R. 71 W, 6th P.M

DATE COMPLETED May 30, 1990

HOLE DIAMETER

12 in. from 0 to 70 ft.

10 in. from 70 to 166 ft.

5 in. from 166 to 220 ft.

DRILLING METHOD air percussion

WELL LOG

From	To	Type and Color of Material	Water Loc.
0	5	Black Topsoil	
5	8	Pink & Black Gravel	
8		Gravels Pink & Black very Damp	
9		Water	9
9	15	Large Gravels 1½ GPM	
15	40	Decomposed Pink & Black measured at 25' 2 GPM	
47		Centralizer	
40	75	Red Decomposed measured at 69' 10 GPM	
75	105	Red Decomposed more consolidated	
102		Centralizer	
105	150	Solid Rose Granite w/Quartz	
150	155	Solid Rose Granite w/Quartz	
155		Fractured	155
155	174	Solid Rose Granite w/Quartz	
174	175	Fractured	174
175	200	Solid Rose Granite W/Quartz	
200	220	Solid Rose Granite w/Quartz w/Black	
		Balance of Hole Not Cased at Owners Request	

TOTAL DEPTH 220'

Use additional pages necessary to complete log.

CASING RECORD: Plain Casing

Size 8	& kind steel	from +1½	to 30'6"	ft.
6	pvc	9	36	
Size 6	& kind pvc	from 46	to 56	ft.
6	pvc	71	76	
Size 6	& kind pvc	from 81	to 91	ft.
6	pvc	101	140	
6	pvc	145	165	

Perforated Casing

Size 6	& kind pvc	from 36	to 46	ft.
6	pvc	56	71	
Size 6	& kind pvc	from 76	to 81	ft.
6	pvc	91	101	
Size 6	& kind pvc	from 140	to 1456	ft.

GROUTING RECORD

Material cement

Intervals 0 - 30

Placement Method tremie pipe

GRAVEL PACK: Size #4-6 Silica Sand

Interval 30 - 155

TEST DATA

Date Tested June 5, 1990

Static Water Level Prior to Test 10' 6" ft.

Type of Test Pump Submersible pump

Length of Test 12 Hours

Sustained Yield (Metered) 18 GPM

Final Pumping Water Level 141 Feet

Other Supporting Information

Jeff Hughes
08/11/2004 11:52 AM
MDT

To: Ken Springer/FLFO/NPS@NPS
cc: Ann Gavin/DENVER/NPS@NPS, Gary L Anderson/DENVER/NPS@NPS, Jeff Mow/FLFO/NPS@NPS, Dan McGlothlin/FTCOLLINS/NPS@NPS
Subject: Re: FLFO Sawmill rail well

Ken,

I have searched the many different files in our office and spoke with Rick Inglis and Larry Martin of our Division and could find no reference to more than one well being drilled in the vicinity of the Sawmill Trail Well. I did find a document that stated that the Sawmill Trail Well was originally constructed as a monitoring well, but there was no reference to any other wells.

I believe that the Denver Service Center was responsible for drilling the well(s) and recommend you talk to them for documentation.

I have found a copy of the Visitor Center #12 Well and am sending this to you along with lots of other background information on this well, the Sawmill Trail Well, and even a little on the original Visitor Center #1 Well. While there is a fair amount of paper here and much of it pretty boring to read, I believe a lot will be gained by going through it all. I think you will see a method to the madness.

I will also try to get you a copy of all the water right information we have for FLFO on CD and mail that to you. I need to have it updated to include much of the goings on in the last year or so. Then you will have it electronically. It contains a lot of vital information on park water rights.

I did not contact David Nettles when I could find no information on other monitoring wells. I will be out of the office until August 23. Please contact me after that and we can go over what to do next.

Jeff

****
Jeffrey C. Hughes, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525
(970) 225-3527 (direct)
(970) 225-9965 (fax)
jeff_hughes@nps.gov
****

Ken Springer

Ken Springer
08/06/2004 09:47 AM
MDT

To: Jeff Hughes/FTCOLLINS/NPS@NPS
cc: Ann Gavin/DENVER/NPS@NPS, Jeff Mow/FLFO/NPS@NPS, Gary L Anderson/DENVER/NPS@NPS
Subject: FLFO Sawmill rail well

Hi, Jeff,

At the end of July, Gary Anderson received a letter from Water Division One, Office of the State Engineer, Division of Water Resources in Greeley asking about the status of three monitoring and observation holes dug by the NPS in 1990. The letter is signed by David Nettles, and their phone number is 970-352-8712. They would like a reply to their questions by Sept. 30, 2004.

Gary called me about the wells, and we've determined they are referring to the Sawmill Trail well(s). It appears one of these monitoring wells was turned into the Sawmill Trail well, and we have water rights from this well. They want to know if we got a permit for one or more of the wells, and if one or more were

abandoned. :-)

I asked David Nettles to fax me the information he had on these wells. What I didn't know before is that when we use the Sawmill Trail well, we are supposed to abandon the current visitor center well. At least that's the information in the paperwork from David Nettles.

I've been looking through the records I have here, and can find no information regarding the two remaining monitoring wells other than the well logs themselves. So I have no clue as to whether we ever plugged the wells, or even what our plans were for the remaining two monitoring wells.

FYI, I now have GPS coordinates for all 3 wells if you are interested in them.

So, we need to find out what the paperwork status is of all these wells (well... we know the paperwork status of the one well, but apparently this part of the state doesn't. :-)) and get that information to David Nettles. It might be easiest and the least confusing if you gave him a quick call about this.

I'd also like to know what information you find out about the 2 monitoring wells. I'd spotted them out there before, and just assumed they had something to do with the Sawmill Trail well but didn't know for sure.

On a separate water subject, I had a different Colorado Public Health inspector here this year for the water system inspection. I was asked if I had a copy of the well permit for the VC well, and I had no clue if one was here or not. So that fact was noted in the inspection report. I've never seen one nor been asked for one. In going through all the water information I have here, I didn't find a well permit. But I did find a note from you saying you had requested one. If you can easily lay your hands on your copy, would you photocopy it and mail it to me?

I'll be on leave from Aug. 10-26.

Thanks.

Ken Springer
Facility Manager
Florissant Fossil Beds Nat. Mon.
P.O. Box 185 <--mail address
15807 Teller County Road 1 <-- shipping address
Florissant, CO 80816
Phone 719-748-3253
Fax 719-748-3164
Ken_Springer@nps.gov
http://www.nps.gov/flfo/

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oakridge Drive, Suite 250
Fort Collins, Colorado 80525-5596

IN REPLY REFER TO:

January 15, 2004

L54 (2380)
FLFO/Water Rights

Memorandum

To: Jeff Mow, Superintendent, Florissant Fossil Beds National Monument

From: Chuck Pettee, Chief, Water Rights Branch

Subject: Transmittal of Decree Granting a Finding of Reasonable Diligence for the Sawmill Trail Well in Florissant Fossil Beds National Monument, Case No. 02CW024, Water Division 1

Please find the above-mentioned decree attached for your records. Please note that the United States has until October, 2009 to submit proof of beneficial use of water from this well or to file another application for Reasonable Diligence.

If you have any questions concerning this matter, please contact Jeff Hughes of my staff at (970) 225-3527.

Chuck Pettee

Attachment

Cc: (all w/Attachment)
IMRO – Reber
SOL (Denver) – Fahmy
2380 (McGlothlin, FLFO Docket 11-Sawmill Trail Well)

FILE

DISTRICT COURT, WATER DIVISION 1, COLORADO 901 Ninth Avenue, Greeley, CO 80631 (970) 351-7300	
CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA – IN TELLER COUNTY, COLORADO.	COURT USE ONLY
Attorney for Applicant United States of America: James J. DuBois, #13206 U.S. Department of Justice Environment and Natural Resource Division 999 18th St., Suite 945 Denver, CO 80202 james.dubois@usdoj.gov Phone: (303) 312-7341 Fax: (303) 312-7379	Case Number: 02CW024 Water Court
FINDINGS AND RULINGS OF THE REFEREE AND JUDGMENT AND DECREE OF THE WATER COURT	

This matter has come before the Water Referee, Water Division No. 1, upon the Application for Finding of Diligence of the United States of America. The Referee, having considered the pleadings, and the evidence presented, and being fully advised in the premises hereby makes the following Findings of Fact, and Ruling of the Referee:

FINDINGS OF FACT

1. The application herein was filed with the Water Clerk for Water Division No. 1 on February 26, 2002. The name and address of the applicant are as follows:

United States of America
Department of the Interior
National Park Service,
1201 Oakridge Dr., Suite 250
Fort Collins, CO 80525
(970) 225-3500

2. Timely and adequate notice of these proceedings has been given in the manner required by law. The time for filing statements of opposition and for seeking leave to intervene has expired. The Court has jurisdiction over all persons who have standing to appear herein, whether they have appeared or not.

3. No person or entity has filed a Statement of Opposition or sought to intervene in this matter. The Division Engineer filed a Summary of Consultation on July 3, 2002 recommending approval of the application.

4. Neither the land nor the water which is the subject of this application is located within the boundaries of any designated ground water basin.

5. The water rights that are the subject of this application are as follows:

Sawmill Trail Well

a) Location: Well is located on public lands in the NW1/4, SW1/4, Sec. 23, T.14S, R.71W, NMPM, in the Florissant Fossil Beds National Monument. Distances from protracted section lines: 2,405 feet from South section line and 1,973 feet from West section line.

b) Source: Groundwater, tributary to Grape Creek, tributary to Twin Creek, Tributary to South Platte River.

c) Appropriation Date: February, 1990

d) Amount: 3.5 acre-feet/yr (20.0 gallons per minute)

e) Use: Domestic and commercial uses, including drinking water, restroom use, maintenance and irrigation.

f) Depth: 220 feet.

6. The Florissant Fossil Beds National Monument, National Park Service is the owner of the land on which the point of diversion is located.

7. The Sawmill Well was completed in May, 1990, but the Visitor's Center and Museum which it is to serve had not been constructed, and water was not immediately placed to beneficial use for the intended purposes. During the diligence period, the National Park Service

("NPS") has revised the development plans for the facilities to be served by the well in order to meet changed federal funding criteria. In addition, the NPS has actively sought Congressional funding for facilities necessary to the completion of the appropriation. In 2001, funding was obtained and construction begun for Stump shelters which are part of the development to be served by the well. In addition, during the diligence period the United States pursued legal action to secure approval of a plan for augmentation necessary to allow out-of-priority use of the Sawmill Well.

CONCLUSIONS OF LAW

8. The application herein is one contemplated by law, and this Court has jurisdiction over the subject matter of this proceeding.

9. The Application herein was filed with the Water Clerk in accordance with the provisions of §37-92-302(1)(a) 10 C.R.S. and referred to the Water Referee in accordance with the provisions of §37-92-203(7), 10 C.R.S.

10. Timely and adequate notice of the filing and of the contents of the application herein was given in the manner provided by law, and this Court has jurisdiction over all persons or entities affected hereby, whether they have appeared or not. §37-92-302, 10 C.R.S.

11. During the diligence period the United States has been diligent in seeking to complete the appropriation and apply water from the Sawmill Well to beneficial use within a reasonable time.

RULING OF THE REFEREE

IT IS, THEREFORE, THE RULING OF THE REFEREE:

12. The Application of the United States of America for a Finding of Reasonable Diligence is approved, and the conditional water rights continued as described in Paragraph 5.

13. This water right shall be administered in priority with respect to other water rights.

14. Each of the foregoing findings of fact and conclusions of law is incorporated herein as if set out in full and is hereby modified to the extent necessary to make it a Ruling of the Referee.

01/20/04 TUE 12:02 FAX 3033127380 005

O-JT

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

03 NOV -3 PM 12: 24

Dated October 10, 2003

BY THE REFEREE:

RAYMOND S. LIESMAN
Water Referee
Water Division No. 1
State of Colorado

NO PROTEST HAVING BEEN TIMELY FILED IN THIS MATTER, THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.

Prior to or during the month of October, 2009 and every six years thereafter until the conditional right is decreed absolute, the owner or user thereof, if it is desired to maintain the same, shall file an application for finding of reasonable diligence with this Court. Applicant shall notify this Court of any change in mailing address.

Dated: 10/21/03

BY THE COURT:

ROGER A. KLEIN
Water Court Judge
Water Division 1
State of Colorado

10-30-2003: Letter to NPS from DOJ regarding Notice of Referee Ruling

U.S. Department of Justice

Environment and Natural Resources Division

KJH:HEngelhart

Helena M. Engelhart
General Litigation Section
999 Eighteenth Street
Suite 945, North Tower
Denver, Colorado 80202

Telephone (303) 312-7307
Facsimile (303) 312-7379
Helena.Engelhart@usdoj.gov

October 30, 2003

via United States Mail

Water Resources Division
National Park Service
U. S. Department of the Interior
1201 Oak Ridge Dr., Suite 250
Fort Collins, CO 80525

Re: Concerning the Application for Water Rights of the United States of America, in Teller County, Colorado Case No. 02CW024

Dear Mark:

Enclosed for your records is the Notice of Referee Ruling entered October 10, 2003, and forwarding the Findings and Rulings of the Referee and Judgment and Decree of the Water Court of the same date

If you have any questions, please do not hesitate to contact Jim DuBois directly at (303) 312-7341.

Sincerely,

Helena Engelhart
Legal Assistant

Enclosures

District Court, Water Division 1, State of Colorado Court Address: 901 9th Ave P. O. Box 2038 Greeley, CO 80632	
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: **UNITED STATES OF AMERICA** **IN Teller COUNTY/COUNTIES**	▲ **COURT USE ONLY** ▲ Case Number: 02CW024
NOTICE OF REFEREE RULING	

James DuBois, Esq.
US Department of Justice
Environmental & Natural Resource Div.
999 18th St., Ste. 945
Denver, CO 80202

Division Engineer/Water Court pick up tray

State Engineer
1313 Sherman St., Suite 818
Denver, CO 80202

The Water Court Referee for Water Division No. 1 has instructed me to forward a copy of this Ruling. Please check the Ruling carefully. If any errors are found, notify the Water Clerk's Office immediately. If you have any questions regarding this matter, please direct them to the Water Referee at (970) 351-7300, ext. 4598 or by e-mail to ray.liesman@judicial.state.co.us.

You have twenty days after the above mailing to file with the Water Clerk any pleading in protest to or in support of the Referee's Ruling. Any such pleading must be filed on or before ***October 30, 2003*** plus any additional time allowed by Rule 6(e) C.R.C.P. In absence of any pleading, the Judge of the Water Court will enter the Referee's Ruling as a Decree after ***October30, 2003.***

Dated: October 10, 2003

By Ruth M. Mohlang
Laurie Laue, Water Clerk
Water Division 1

DISTRICT COURT, WATER DIVISION 1, COLORADO 901 Ninth Avenue, Greeley, CO 80631 (970) 351-7300 CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA – IN TELLER COUNTY, COLORADO.	COURT USE ONLY
Attorney for Applicant United States of America: James J. DuBois, #13206 U.S. Department of Justice Environment and Natural Resource Division 999 18th St., Suite 945 Denver, CO 80202 james.dubois@usdoj.gov Phone: (303) 312-7341 Fax: (303) 312-7379	Case Number: **02CW024** (94CW083) Water Court
FINDINGS AND RULINGS OF THE REFEREE AND JUDGMENT AND DECREE OF THE WATER COURT	

This matter has come before the Water Referee, Water Division No. 1, upon the Application for Finding of Diligence of the United States of America. The Referee, having considered the pleadings, and the evidence presented, and being fully advised in the premises hereby makes the following Findings of Fact, and Ruling of the Referee:

FINDINGS OF FACT

1. The application herein was filed with the Water Clerk for Water Division No. 1 on February 26, 2002. The name and address of the applicant are as follows:

United States of America
Department of the Interior
National Park Service,
1201 Oakridge Dr., Suite 250
Fort Collins, CO 80525
(970) 225-3500

missing next page.

("NPS") has revised the development plans for the facilities to be served by the well in order to meet changed federal funding criteria. In addition, the NPS has actively sought Congressional funding for facilities necessary to the completion of the appropriation. In 2001, funding was obtained and construction begun for Stump shelters which are part of the development to be served by the well. In addition, during the diligence period the United States pursued legal action to secure approval of a plan for augmentation necessary to allow out-of-priority use of the Sawmill Well.

CONCLUSIONS OF LAW

8. The application herein is one contemplated by law, and this Court has jurisdiction over the subject matter of this proceeding.

9. The Application herein was filed with the Water Clerk in accordance with the provisions of §37-92-302(1)(a) 10 C.R.S. and referred to the Water Referee in accordance with the provisions of §37-92-203(7), 10 C.R.S.

10. Timely and adequate notice of the filing and of the contents of the application herein was given in the manner provided by law, and this Court has jurisdiction over all persons or entities affected hereby, whether they have appeared or not. §37-92-302, 10 C.R.S.

11. During the diligence period the United States has been diligent in seeking to complete the appropriation and apply water from the Sawmill Well to beneficial use within a reasonable time.

RULING OF THE REFEREE

IT IS, THEREFORE, THE RULING OF THE REFEREE:

12. The Application of the United States of America for a Finding of Reasonable Diligence is approved, and the conditional water rights continued as described in Paragraph 5.

13. This water right shall be administered in priority with respect to other water rights.

14. Each of the foregoing findings of fact and conclusions of law is incorporated herein as if set out in full and is hereby modified to the extent necessary to make it a Ruling of the Referee.

Dated October 10, 2003

BY THE REFEREE:

RAYMOND S. LIESMAN
Water Referee
Water Division No. 1
State of Colorado

NO PROTEST HAVING BEEN TIMELY FILED IN THIS MATTER, THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.

Prior to or during the month of October, 2009 and every six years thereafter until the conditional right is decreed absolute, the owner or user thereof, if it is desired to maintain the same, shall file an application for finding of reasonable diligence with this Court. Applicant shall notify this Court of any change in mailing address.

Dated: _____

BY THE COURT:

_____
ROGER A. KLEIN
Water Court Judge
Water Division 1
State of Colorado

02-03-2003: Telefax concerning Request to File Water Court Application for a Finding of Dilligence

02/03/03 MON 16:02 FAX 303 231 5363 SOLICITOR/DENVER →→→ NPS FT COL ☑001

TELEFAX MESSAGE

OFFICE OF THE REGIONAL SOLICITOR
U.S. DEPARTMENT OF THE INTERIOR
755 PARFET ST. SUITE 151
LAKEWOOD, CO 80215
VOICE (303) 231-5353
FAX (303) 231-5363

TO: Jeff Hughes

OFFICE: WRB

FAX NUMBER: _____

TELEPHONE NUMBER: _____

FROM: Peter Fahmy

NUMBER OF PAGES (Including cover sheet): 3

DATE: 2 - 3 - 2003

SPECIAL INSTRUCTIONS: Hope this is useful.

PETER A. FAHMY
Water Rights Attorney

OFFICE OF THE SOLICITOR
DEPARTMENT OF THE INTERIOR
755 PARFET STREET, SUITE 151
LAKEWOOD, CO 80215
(303) 231-5353 EXT. 222
FAX (303) 231-5363
E-MAIL: peter_fahmy@ios.doi.gov

WATER RIGHTS BRANCH
NATIONAL PARK SERVICE
1201 OAK RIDGE DRIVE
FORT COLLINS, CO 80525
(970) 225-3535
FAX (970) 225-3565
E-MAIL: peter_fahmy@nps.gov
peter_a_fahmy

February 19, 2002

James J. DuBois, Esq.
General Litigation Section
999 18th Street
Suite 945 - North Tower
Denver, CO 80202

RE: Request to File Water Court Application for a Finding of Diligence

Dear Jim:

On behalf of the Superintendent of Florissant Fossil Beds National Monument, I hereby request that you file a application with the water court for Water Division No. 1 for a finding of diligence for the conditional water right associated with the Sawmill Trail Well. A draft of the application and the accompanying affidavit, along with a check for the filing fee, will be provided to you shortly by Jeff Hughes, a hydrologist at the Water Rights Branch of the National Park Service.

This filing for diligence is necessary to maintain a conditional water right decreed to the Sawmill Trail Well in Case No. 94CW083, a copy of which is attached. In paragraph 32 of that decree, the court expressly ordered that the conditional water right awarded to the Sawmill Trail Well was "continued in full force and effect until February 2002." The court further ordered that in order to maintain this conditional water right after such date, an application for a finding of reasonable diligence must be filed prior to the end of February 2002.

The draft application for diligence was prepared using the latest form available from the website for the Colorado water courts and contains all of the required information. Reference to the diligence activities is contained in the superintendent's affidavit, which will be appended to the application.

In the event that you require assistance with this application, I am available upon sufficient notice. Agency assistance will be provided by the superintendent, Ms. Jean H. Rodeck, and Mr. Hughes of the Water Rights Branch.

If you have any questions or concerns regarding this request, please contact me at your convenience.

Cordially yours,

Peter A. Fahmy
Water Rights Attorney

Enclosure

00-00-2002: Correspondence regarding Diligence Claim Form and copy of application



"Tetreault, Judy" <Judy.Tetreault@usdoj.gov>

09/03/2002 04:18 PM AST

To: "'Jeff_Hughes@nps.gov'" <Jeff_Hughes@nps.gov> (Receipt Notification Requested) (IPM Return Requested)
cc: "Dubois, James" <James.Dubois@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Subject: WD 1 Florissant FBeds

Pursuant to your inquiry: We did file the Application for Reasonable Diligence, the DE issued a Consultation Report in June. We have not rec'd any responses, although will need to wait the due time. Once that time has expired we can file a proposed Decree.
Jim: Please make any corrections to my assumed procedure. Thanks, J.

Jean Rodeck
09/03/2002 03:18 PM
MDT

To: Mike Snyder/DENVER/NPS@NPS, Tom Ulrich/FLFO/NPS@NPS, Ken Springer/FLFO/NPS@NPS
cc: Karen Wade/DENVER/NPS@NPS, Hal Grovert/DENVER/NPS@NPS, John Wessels/DENVER/NPS@NPS, Becky Debs/DENVER/NPS@NPS, Ron Everhart/DENVER/NPS@NPS, Sheryl Sether/FLFO/NPS@NPS, (bcc: Jeff Hughes/FTCOLLINS/NPS)
Subject: RE: Diligence claim for Florissant Fossil Beds NM (Case #02CW024)

FYI - Here is everything we know to date. I couldn't stand the suspense so contacted Jeff Hughes. Here is his reply. I particularly like the suggestions for ways to assist in getting a facility within the next six years ... *I hope that we have everyone's support to do this.* This jumping and dumping our badly needed facility has gone on now for 13 years. It is starting to be dangerous just on account of the possibility of losing our water, much less the health and safety problems connected with these moldering buildings.

We will be getting the word about our claim from this request. I would like to leave here knowing for sure that we still have water for the new facility! We did everything within our time limit, we did everything right, with Jeff Hughes incredible help. This facility has got to be built in the next six years to keep our water. You all know how very important water is and how easy it is to lose it and how hard it is to buy it back.

Bill Blatchley, Mountain Mutual Reservoir Company, says, if there was no one opposing our Diligence Claim submitted in February, the next thing to do is have the attorney write a Proposed Decree, a one or two page document identifying the well and saying we want to continue the claim to the conditional water right for another six years.

I will continue working with Jeff of the Water Resources Division in Fort Collins about this process.

jr

Jean H. Rodeck, Superintendent
Florissant Fossil Beds National Monument
P.O.Box 185, Florissant, CO 80816-0185
719-748-3253, Fax 719-748-3164
----- Forwarded by Jean Rodeck/FLFO/NPS on 09/03/2002 02:45 PM -----

Jeff Hughes
09/03/2002 11:50 AM
MDT

To: Jean Rodeck/FLFO/NPS@NPS
cc:
Subject: RE: Diligence claim for Florissant Fossil Beds NM (Case #02CW024)

Jean,

For your information. I will send you a copy of this 1-page document. Basically, it is the State Engineer's recommendation to the water court to approve our application for diligence. This is good. The water court referee will need to approve it and issue a ruling to make it final.

Assuming this will occur, we will then have 6 years to get things rolling. I spoke with Peter Fahmy (Dept. of the Solicitor) about how to stop the funding for the new Visitor's Center from continuously being delayed. He though that Dept. of Justice could assist by requesting the NPS to start work on the VC before the proof of beneficial use becomes due in 6 years. Also, your idea about seeking the assistance of Congressional Representatives was good too.

Please ask if you have any questions!

Jeff

Jeff Hughes
09/03/2002 11:50 AM MDT

To: Jean Rodeck/FLFO/NPS@NPS
cc:
Subject: RE: Diligence claim for Florissant Fossil Beds NM (Case #02CW024)

Jean,

For your information. I will send you a copy of this 1-page document. Basically, it is the State Engineer's recommendation to the water court to approve our application for diligence. This is good. The water court referee will need to approve it and issue a ruling to make it final.

Assuming this will occur, we will then have 6 years to get things rolling. I spoke with Peter Fahmy (Dept. of the Solicitor) about how to stop the funding for the new Visitor's Center from continuously being delayed. He though that Dept. of Justice could assist by requesting the NPS to start work on the VC before the proof of beneficial use becomes due in 6 years. Also, your idea about seeking the assistance of Congressional Representatives was good too.

Please ask if you have any questions!

Jeff

----- Forwarded by Jeff Hughes/FTCOLLINS/NPS on 09/03/2002 11:46 AM -----

"Engelhart, Helena" <Helena.Engelhart@usdoj.gov>
09/03/2002 01:19 PM AST

To: '"Jeff_Hughes@nps.gov"' <Jeff_Hughes@nps.gov> (Receipt Notification Requested) (IPM Return Requested)
cc:
Subject: RE: Diligence claim for Florissant Fossil Beds NM (Case #02CW024)

Hi Jeff,

Checking on that information for you. Jim DuBois - attorney assigned, Judy Tetreault or I will be getting back to you shortly per your request.

Helena,
GLS/LSA

-----Original Message-----
From: Jeff_Hughes@nps.gov [mailto:Jeff_Hughes@nps.gov]
Sent: Tuesday, September 03, 2002 11:07 AM
To: Engelhart, Helena
Cc: Jean_Rodeck@nps.gov
Subject: Diligence claim for Florissant Fossil Beds NM (Case #02CW024)

Helena,

I was speaking with Jean Rodeck, Superintendent of Florissant Fossil Beds National Monument this past Friday. She was inquiring as to the status of the diligence claim for the Sawmill Trail Well within the monument. I told her I would check with Justice to see if they have heard anything new.

This is Colorado Water Court Case #02CW024

The last piece of information I have is a 1-page summary of consultation held on June 24, 2002. The document is dated July 3, 2002.

Is there any more information? If not,do you have any idea when to expect to hear something from the court?

Thank you. Please contact me if you have any questions,

Jeff

****
Jeffrey C. Hughes, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525
(970) 225-3527 (direct)
(970) 225-9965 (fax)
jeff_hughes@nps.gov
****



"Dubois, James" <James.Dubois@usdoj.gov>
02/22/2002 06:27 PM EST

To: "'Jeff_Hughes@nps.gov'" <Jeff_Hughes@nps.gov> (Receipt Notification Requested) (IPM Return Requested)
cc:
Subject: RE: Florissant

Jean showed up and signed. All is well. Things will get filed next week.

Jim

-----Original Message-----
From: Jeff_Hughes@nps.gov [mailto:Jeff_Hughes@nps.gov]
Sent: Friday, February 22, 2002 11:06 AM
To: Dubois, James
Subject: Re: Florissant
Importance: High

Jim,

As I stated in my voicemail message, the one correction I have is in paragraph 1. Please remove the letter "n" from the word "Bends"

Also, I would appreciate it if you send me a copy of the package you send to the water court for our files.

Thanks!

Jeff

****
Jeffrey C. Hughes, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525
(970) 225-3527 (direct)
(970) 225-9965 (fax)
jeff_hughes@nps.gov
****

"Dubois, James" <James.Dubois@usdoj.gov>
02/22/2002 11:32 AM EST

To: "'Jeff_Hughes@nps.gov'" <Jeff_Hughes@nps.gov> (Receipt Notification Requested) (IPM Return Requested)
cc:
Subject: Florissant

Jeff:

Here is Jean's affidavit back, with some changes. Have her read it through to make sure it is still accurate and correct. If so, have her sign, get it notorized, and fed ex it back to me. I will tinker with the application later this morning, and we need to arrange for signing of the verification. Thanks for the help.

Jim



"Dubois, James" <James.Dubois@usdoj.gov>
02/22/2002 01:57 PM EST

To: "'Jeff_Hughes@nps.gov'" <Jeff_Hughes@nps.gov> (Receipt Notification Requested) (IPM Return Requested)
cc:
Subject: florissant application for diligence.

Jeff:

Here is a redraft of the application for diligence in Word format. Please review this, and make sure that all is correct. If so, then someone needs to sign the verification. Usually, the verification is modified to reflect the status/relationship of signer to applicant - for instance Chuck as head of water rights branch or some such. You can make those changes to the verification and have it signed and sent to me. Call me if you have questions.

Jim



#100197 v1 - wd1 florissant diligence.doc

Submit original plus three copies

☒ District Court Water Division No. 1, Colorado Court Address: P. O. Box 2038 Greeley, CO 80632 **CONCERNING THE APPLICATION FOR WATER RIGHTS OF:** **Applicant: United States of America** **IN TELLER COUNTY.**	**COURT USE ONLY**
If Represented by an Attorney, Attorney's Name and Address: James DuBois U.S. Department of Justice Environment and Natural Resources Division 999 18th Street, Suite 945 Denver, CO 80202 Phone Number: (303) 312-7341 E-mail: james.dubois@usdoj.gov FAX Number: (303) 312-7379 Atty. Reg. #: 13206	Case Number: Division No. 1 Courtroom
APPLICATION: ☒ FOR FINDING OF DILIGENCE **☐ TO MAKE ABSOLUTE**	

1. Name, address, telephone number(s) (residence and business) of applicant(s)

   National Park Service
   Water Resources Division
   1201 Oakridge Dr. Suite 250,
   Fort Collins, CO
   Attn: Chief, Water Rights Branch
   (970) 225-3505

2. Name of structure: (well, spring, ditch, reservoir): Sawmill Trail Well

3. Describe conditional water right (as to each structure) giving the following from the Referee's Ruling and Judgment and Decree:

   A. Date of Original Decree: February 28, 1996 Case No.: 94CW083 Court: Water Division No. 1

   B. Legal description: include distance and bearing from established government section corner or quarter corner; or distances from section lines, and indicate ¼ ¼, section number, township, range and meridian; include map). The location may include UTM coordinates based on Zone 13 and NAD27(CONUS) datum. In urban areas, include street address, lot, block, and subdivision:

Submit original plus three copies

Required Description: County	NE 1/4 of the	SW 1/4	Section 23	Township 13 N or S ☐ ☒	Range 71 E or W ☐ ☒	Principal Meridian 6th Principle Baseline and Meridian
Distance from section lines (section lines are typically not property lines) 2,405 Feet from ☐ N ☐ S and 1,973 Feet from ☐ E ☐ W						
Street Address: Florissant Fossil Beds National Monument, P. O. Box 185, Florissant, Colorado 80816						
Subdivision:	Lot	Block				

Optional Additional Description: GPS location information in UTM format
Required settings for GPS units are as follows: Format must be UTM; Zone must be 13; Units must be Meters Datum must be NAD27 (CONUS) and; Units must be set to true north.

Were points averaged? ☐ YES ☐ NO	Northing _____ Easting _____

C. Source: Groundwater, tributary to Grape Creek, tributary to Twin Creek, Tributary to South Platte River.

D. Appropriation Date: February, 1990 Amount: 20 g.p.m, 3.5 af/yr

E. Use: Domestic and commercial uses, including drinking water, restroom use, maintenance and irrigation

F. Depth: (if well) 220 feet

4. Provide a detailed outline of what has been done toward completion or for completion of the appropriation and application of water to a beneficial use as conditionally decreed, including expenditures: (add additional sheets if necessary)

Please see attached affidavit. Funding for this development has been submitted and actively sought each year from 1995 through 2001. In 2001, the Stump shelters, which are part of the Monument development that will ultimately be served by the well, were funded and are presently under construction. The Resource Protection, Education and Museum and Visitor Center are scheduled to be funded and construction begun in fiscal year 2005.

5. If claim to make absolute
Water applied to beneficial use:
A. Date: _____ Amount: _____

Use: _____

Submit original plus three copies

B. Description of place of use where water is applied to beneficial use:

6. Names(s) and address(es) of owner(s) of the land on which structure is or will be located, upon which water is or will be stored, or upon which water is or will be placed to beneficial use.

Florissant Fossil Beds National Monument
P. O. Box 185
Florissant, CO 80816

****PLEASE NOTE:** The owner of any conditional water right shall notify the clerk of the court that decreed the conditional water right of any change in mailing address.

THOMAS L. SANSONETTI
Assistant Attorney General
JOHN W. SUTHERS
United States Attorney

_____
James J. DuBois, #13206
U.S. Department of Justice
Environment and Natural Resources Division
999 18th Street, Suite 945
Denver, Colorado 80202
(303) 312-7341

Attorneys for United States of America

Submit original plus three copies

VERIFICATION

I, _____, state under oath that I have read this application and verify its content.

_____
Applicant

Subscribed and affirmed, or sworn to before me in the County of _____, State of _____, this _____ day of _____, 20 _____.

My commission expires: _____

_____
Notary Public

Jean Rodeck AT
NP-FLFO@NPS_CCMA
IL
02/04/2002 12:44 PM
MST

To: Jeff Hughes/FTCOLLINS/NPS, Ken Springer AT
NP-FLFO@NPS_CCMAIL
cc: Peter A Fahmy/FTCOLLINS/NPS, Dan McGlothlin/FTCOLLINS/NPS,
Bill Hansen/FTCOLLINS/NPS
Subject: Re[2]: Sawmill trail well diligence claim

Jeff, //Have made comments after the two slash marks, ending with jr...jr

What a way to spend a Saturday! :-)

I went up on the hill where the maps indicate the well should be, and could find no sign of a casing. So we obviously haven't mown any grass around the casing. // Would nave no reason to do anything around the casing because we don't have time to do things that don't immediately benefit the operation of the Monument. jr. :-) Based on what I've learned today, I think there should be some GPS info around here for that well.

I will be at Facility Condition assessment training Feb 4-8, but I'll see what I can find regarding the GPS info, and if possible, locate that casing when I come back if you would like. We have the ability to provide you with digital photos of what I find if you also would like.

On the bright side- maybe. I've sent email today to my predecessors to see what, if anything, they can remember about this well. // The well has just been sitting there awaiting the construction of the Monument facilities! This Monument has no funding or time to do things that don't benefit the day to day operations. There would be absolutely no reason to do anything to the well as everything was done in 1990 that CAN be done by us through the next 12 years, other than put in a project proposal every year for the badly needed facility. jr

I also went through parts of this office I've never touched. The well log says this well was completed May 30, 1990. I've found a full sized set of blue prints for "Visitor Center and Admin. Area", preliminary design, done by the Denver Service Center. It is 52 pages in length, and the draftsman's date is 7/90. It is signed as Recommended by Kenneth Raithel [jr], Assistant Manager, 7/12/90 and as Recommended by Noel Poe [jr], Superintendent, 8/23/90. It is further signed as approved by Jack Neckels [jr], Director-Region, 11/29/90.

That do you any good? :-) I have an unsigned half-sized set, and an unsigned full sized set as well. //I can send those to you right now as we seem to have more than enough. jr

If anything other than the stump shelter construction has been put on blueprints after this, I've found nothing so far. I'll keep looking when I get back if you wish. //We have no more construction drawings than those 1990 plans. jr

Ken

_____ Reply Separator _____

Subject: Sawmill trail well diligence claim
Author: Jeff Hughes at NPS
Date: 1/31/02 12:08 PM

Jean and Ken,

I spoke with Peter Fahmy today. Peter is an Office of the Solicitor attorney dedicated to working on NPS water rights issues.

Peter has seen the write up you provided via email last week. Peter believes that we will need more evidence to support our diligence claim in the Colorado Water Court system. We need to show that we have done something besides ask for it to be built.

For instance, do we have any architectural plans for this Visitor Center? Have we described what will be built in a GMP? What sort of planning or other pre-construction work has been accomplished? What we really need to show is that we have done all the work we can and that the funding is all we need to get this Center constructed.

I asked these questions to Ken earlier, but I'll ask it again. Have we done anything to the well after it has been constructed? Have we conducted any pump tests? Have we taken any water quality samples from the well? Have we ordered and/or installed a pump and related piping? Have we painted the well casing that sits above the ground? Have we mowed the grass around the well casing? Anything else? You can see what level of detail I am getting at here. We need to show that we are preparing to make the well operational and will do so as soon as we receive funding.

If we have done nothing than we may want to do a pump test before the end of February....

Please let me know if any of this or related information exists so that we can make the diligence claim.

Please contact me if you have any questions.

thanks!

Jeff

****
Jeffrey C. Hughes, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525
(970) 225-3527 (direct)
(970) 225-9965 (fax)
jeff_hughes@nps.gov
****



Jeff Hughes
01/31/2002 12:08 PM
MST

To: Jean Rodeck at NP-FLFO@NPS_CCMAIL@NPS, Ken Springer at NP-FLFO@NPS_CCMAIL@NPS
cc: Peter A Fahmy/FTCOLLINS/NPS@NPS, Dan McGlothlin/FTCOLLINS/NPS@NPS, Bill Hansen/FTCOLLINS/NPS@NPS
Subject: Sawmill trail well diligence claim

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Please contact me if you have any questions.

thanks!

Jeff

****
Jeffrey C. Hughes, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525
(970) 225-3527 (direct)
(970) 225-9965 (fax)
jeff_hughes@nps.gov
****

00-00-2002: Correspondence and copy of Affidavit; check for filing fees

Jeff Hughes
02/22/2002 11:05 AM
MST

To: James.Dubois@usdoj.gov
cc:
Subject: Re: Florissant

Jim,

As I stated in my voicemail message, the one correction I have is in paragraph 1. Please remove the letter "n" from the word "Bends"

Also, I would appreciate it if you send me a copy of the package you send to the water court for our files.

Thanks!

Jeff

****
Jeffrey C. Hughes, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525
(970) 225-3527 (direct)
(970) 225-9965 (fax)
jeff_hughes@nps.gov
****

"Dubois, James" <James.Dubois@usdoj.gov>

"Dubois, James" <James.Dubois@usdoj.gov>
02/22/2002 11:32 AM
EST

To: "'Jeff_Hughes@nps.gov'" <Jeff_Hughes@nps.gov> (Receipt Notification Requested) (IPM Return Requested)
cc:
Subject: Florissant

Jeff:

Here is Jean's affidavit back, with some changes. Have her read it through to make sure it is still accurate and correct. If so, have her sign, get it notorized, and fed ex it back to me. I will tinker with the application later this morning, and we need to arrange for signing of the verification. Thanks for the help.

Jim

AFFIDAVIT

I, Jean H. Rodeck being first duly sworn upon oath, depose and state:

1. I am Superintendent of Florissant Fossil Beds National Monument, located in Florissant, Colorado.

2. I have been employed by the National Park Service on a permanent basis since November of 1960 and have been employed as Superintendent of Florissant Fossil Beds National Monument since September 1, 1995.

3. In my role as Superintendent, I have been responsible for the management and operation of Florissant Fossil Beds National Monument. This includes providing for the enjoyment of visitors to the Monument.

4. Florissant Fossil Beds National Monument was created on August 20, 1969 "to preserve and interpret for the benefit and enjoyment of present and future generations the excellently preserved insect and leaf fossils and related geologic sites and objects at the Florissant lakebeds…"(Public Law 91-60, 83 Stat. 101).

5. In anticipation of the construction of a new visitor center complex, the Sawmill Trail well was completed on May 30, 1990. A 12-hour pump test was completed on June 5, 1990. As provided for in the Findings of Fact, Conclusions of Law, Judgment and Decree of the Water Court Approving Underground Water Rights, a Plan for Augmentation, including Exchanges, and Change of Water Rights, signed by the District Court, Water Division 1 on February 28, 1996 for Case Number 94CW083 (94CW083), the Sawmill Trail well was granted a conditional water right for 20 gallons per minute, not to exceed 3.5 acre-feet per year to provide water for use at the new visitor center and other facilities.

6. Development plans for maintenance, research, interpretation, and administration, facilities, including the visitor center, were completed in 1989 at a cost of nearly $500,000. National Park Service criteria for line-item construction subsequently changed in 1995 and this request disappeared from the national listing. In order to meet new criteria, the development package was revised in 1995. This new package includes an administrative, research, interpretive and visitor facility, permanent stump shelters (to protect large fossil tree stumps), amphitheater and an outdoor exhibit area. Funding for this development has been submitted and actively sought each year from 1995 through 2001. In 2001, the Stump shelters, which are part of the Monument development that will ultimately be served by the well, were funded and are presently under construction. The Resource Protection, Education and Museum and Visitor Center are scheduled to be funded and construction begun in fiscal year 2005.

7. As stated in 94CW083, Florissant Fossil Beds National Monument has an agreement in place for purchasing water from North Fork Associates. This water will be used as replacement water for expected depletions to the stream system.

8. Florissant Fossil Beds National Monument continues to pursue the construction and completion of the facilities that will require water under this conditional water right. Circumstances and fiscal constraints beyond the control of the Monument have prevented this construction to date. The National Park Service continues to seek the necessary funding and make every effort to begin construction, and to put the water to use.

Dated this day of February, 2002

Jean H. Rodeck

On this day of February, 2002, before me the undersigned notary, Jean H. Rodeck, being duly sworn, personally appeared and executed this instrument.

Notary Public

My commission expires



Jeff Hughes
02/21/2002 02:52 PM
MST

To: Jean Rodeck at NP-FLFO@NPS_CCMAIL@NPS, Ken Springer at NP-FLFO@NPS_CCMAIL@NPS, james.dubois@usdoj.gov
cc: Dan McGlothlin/FTCOLLINS/NPS@NPS, Peter A Fahmy/FTCOLLINS/NPS@NPS
Subject: FLFO diligence filing - Sawmill Trail well

Jean, Jim and Ken,

Just to let everyone know where things stand in this issue. I sent Jim the electronic file copy of Jean's Affidavit via email (and on a disk with overnight mail) that include the corrections that Ken gave me yesterday. I also sent Jim the check for filing fees ($91.00). Judy Tetreault (Dept. of Justice) called me today and confirmed that both the disk and check were received. Jim said that he (or someone at DoJ) would fill out the State form to submit the diligence claim.

As everyone knows, Jean will have to sign the affidavit and have it notarized, then get it back to DoJ to have it submitted to Greeley by Feb 28th. Jim said he was going to tinker with the affidavit a little bit. I also know that Jim, Judy and I will be out of the office all of next week. Please let me know tomorrow if there will be any problems getting this package to the water court by next Thursday, Feb 28..

Jeff

****

Jeffrey C. Hughes, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525
(970) 225-3527 (direct)
(970) 225-9965 (fax)
jeff_hughes@nps.gov

****

00-00-2002: Correspondence and copy of Affidavit; check for filing fees, cont

Jeff Hughes
02/20/2002 01:58 PM
MST

To: james.dubois@usdoj.gov
cc: Dan McGlothlin/FTCOLLINS/NPS@NPS
Subject: FLFO affidavit - Sawmill Trail well

Jim,

Here is Jean's affidavit (Word File)

Also, the location of the well is 2,405 feet from the south section line and 1,973 from the west section line (NE1/4 SW1/4 Sec 33, T13S, R71W, 6th PM.

Let me know if you have any questions.

Jeff



Rodeck_affidavit.doc

****
Jeffrey C. Hughes, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525
(970) 225-3527 (direct)
(970) 225-9965 (fax)
jeff_hughes@nps.gov
****

AFFIDAVIT

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1. I am Superintendent of Florissant Fossil Bends National Monument, located in Florissant, Colorado.

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3. In my role as Superintendent, I have been responsible for the management and operation of Florissant Fossil Beds National Monument. This includes providing for the enjoyment of visitors to the Monument.

4. Florissant Fossil Beds National Monument was created on August 20, 1969 "to preserve and interpret for the benefit and enjoyment of present and future generations the excellently preserved insect and leaf fossils and related geologic sites and objects at the Florissant lakebeds…"(Public Law 91-60, 83 Stat. 101).

5. In anticipation of the construction of a new visitor center complex, the Sawmill Trail well was completed on May 30, 1990. A 12-hour pump test was completed on June 5, 1990. As provided for in the Findings of Fact, Conclusions of Law, Judgment and Decree of the Water Court Approving Underground Water Rights, a Plan for Augmentation, including Exchanges, and Change of Water Rights, signed by the District Court, Water Division 1 on February 28, 1996 for Case Number 94CW083 (94CW083), the Sawmill Trail well was granted a conditional water right for 20 gallons per minute, not to exceed 3.5 acre-feet per year to provide water for use at the new visitor center and other facilities.

6. During 1989, development plans for maintenance, research, interpretation, and administration, facilities, including the visitor center, were completed at a cost of nearly $500,000. The plans include 52 pages of blueprints outlining the details of each building. In 1995, the complex was the fourth priority in the region to be funded and about 15th in the nation. National Park Service criteria for line-item construction subsequently changed in 1995 and this request disappeared from the national listing. Since the existing request to construct the facilities would not meet the new criteria, the package was revised. This new package includes an administrative, research, interpretive and visitor facility, permanent stump shelters (to protect large fossil tree stumps), amphitheater and an outdoor exhibit area, while eliminating the housing and maintenance areas and the entrance station. This request was submitted each year from 1995 through 2001. In 2001, the Stump shelters were funded and are presently under construction. Currently, The construction date for the Resource Protection, Education and Museum and Visitor Center is scheduled to be funded and construction begin in fiscal year 2005.

7. As stated in 94CW083, Florissant Fossil Beds National Monument has an agreement in place for purchasing water from North Fork Associates. This water will be used as replacement water for expected depletions to the stream system as outlined in this document.

8. Florissant Fossil Beds National Monument has every intention to construct the facilities that will require water under this conditional water right. Circumstances beyond my control have prevented this construction to date. However, I believe that the funding will be available in fiscal year 2005 and every effort to begin construction, and to put the water to use, will be made at that time.

Dated this day of February, 2002

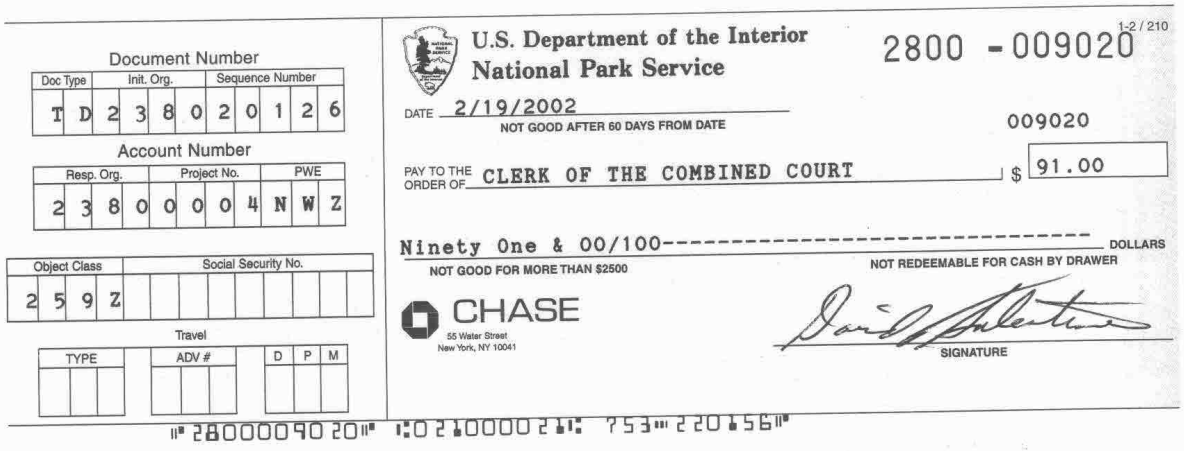
Jean H. Rodeck

On this day of February, 2002, before me the undersigned notary, Jean H. Rodeck, being duly sworn, personally appeared and executed this instrument.

Notary Public

My commission expires

00-00-2002: Correspondence and copy of Affidavit; check for filing fees, cont



Document Number

Doc Type	Init. Org.	Sequence Number
TD	23	80201 26

Account Number

Resp. Org.	Project No.	PWE
23	8000004	NWZ

Object Class	Social Security No.
259Z	

Travel

TYPE	ADV #	D	P	M

U.S. Department of the Interior
National Park Service

2800 - 009020 1-2 / 210

DATE 2/19/2002
NOT GOOD AFTER 60 DAYS FROM DATE

009020

PAY TO THE ORDER OF CLERK OF THE COMBINED COURT $ 91.00

Ninety One & 00/100---------- DOLLARS

NOT GOOD FOR MORE THAN $2500

NOT REDEEMABLE FOR CASH BY DRAWER

CHASE
55 Water Street
New York, NY 10041

SIGNATURE

⑈28000090 20⑈ ⑆021000021⑆ 753⑈220156⑈

Copy of check for diligence filing fees for Sawmill trail well.
Sent to Jim Dubois, DOJ on 20 Feb 2002
J. Hughes

Jeff Hughes
02/11/2002 12:44 PM
MST

To: Ken Springer AT NP-FLFO@NPS_CCMAIL
cc: Dan McGlothlin/FTCOLLINS/NPS@NPS
Subject: Re: Sawmill Trail Well

Ken,

I have forwarded the email that you and Jean have sent to me to the U.S. Dept. of Justice. They will decide if we need to supply anything else. Peter Fahmy, of the Solicitor's office, expects to prepare an affidavit for Jean to sign to submit to the water court as part of our diligence claim. I will let you know more when I know more.

Right now, I do not need photos of the well, unless they show obvious upkeep.

I'll keep you posted of anything new that I learn

Jeff

****
Jeffrey C. Hughes, Hydrologist
National Park Service, Water Resources Division
1201 Oakridge Dr. Suite 250
Fort Collins, CO 80525
(970) 225-3527 (direct)
(970) 225-9965 (fax)
jeff_hughes@nps.gov
****

Ken Springer AT NP-FLFO@NPS_CCMAIL

Ken Springer AT NP-FLFO@NPS_CCMAIL
02/11/2002 11:56 AM
MST

To: Jeff Hughes/FTCOLLINS/NPS
cc:
Subject: Sawmill Trail Well

Hi, Jeff,

Not seeing any email messages, can I assume you need no further information from me?

FYI, the topo map of the well locations is incorrect as far as the Sawmill Trail well is concerned. After I got home from physically looking for the well, I took the survey locations home with me and plotted the location using DeLorme's 3D Topo Quads I have.

I know exactly where that well is, I've been by it, and have some photos I took of it last spring if you are interested.

That's all I know for now.

Ken

National Park Service
U.S. Department of the Interior

Water Resources Division
Natural Resource Program Center

1201 Oakridge Drive
Suite 250
Fort Collins, CO 80525

970-225-3500 phone
970-225-9965 fax

Water Resources Division Fax

To: Peter Fahmy

Fax number: (303) 231-5363

From: Jeff Hughes, Water Rights Branch

Date: 4 February 2002

Pages to follow: 1

Comments:

Peter,

I spoke with Jean Rodeck, Superintendent of Florissant Fossil Beds NM (FLFO) this morning. She said that FLFO has done nothing else other than what has been listed in her briefing statement (dated January 18, 2002 and attached). They have had no extra funding to do anything. She described in great detail how poorly funded this park is, but I won't go in to that here.

As stated in her Statement, the park did originally spend $500,000 to have the original design work done in the late 1980's. Jean says they have 52 pages of blueprints documenting architectural plans of the Visitor Center. The well is installed and I believe there was a pump test done at the time of installation, but nothing later. Again, they have had no funding.

Jean does have some documentation showing that FLFO keeps requesting the Visitor Center be built, although it would be in a format that is difficult to show to people who do not know the NPS budget request format.

She also said that there is some legislation proposed by Joel Hefley that may be in the Federal Register that states to the effect that FLFO's can spend no more than $ 3.0 million on the new Visitor Center. I did not sound as if she had a copy of this yet.

I will be in Lake Mead this Tuesday through Wednesday. I will talk to you on Thursday about what to do next. If you wish, you may speak directly with Jean at (719) 748-3253. She will be in all week and is a very pleasant person to speak with.

Jeff

EXPERIENCE YOUR AMERICA
The National Park Service cares for special places saved by the American people so that all may experience our heritage.

BRIEFING STATEMENT
USE OF SAWMILL TRAIL WELL FOR
FLORISSANT FOSSIL BEDS NATIONAL MONUMENT

STATUS OF CONSTRUCTION OF THE RESOURCE PROTECTION, EDUCATION AND MUSEUM FACILITY AS OF JANUARY 2002:
The last budget listing for Line-Item Construction, dated August 30, 2001, listed the Resource Protection, Education and Museum Facility for FLFO to be included in the FY2005 appropriation.

The history of this facility extends from 1989, when the plans for the development of the Monument maintenance, research, interpretation, and administration facilities were completed, at a cost of nearly $500,000. In 1995, the complex was the fourth priority in the region, and somewhere around 15th in the nation. Criteria for Line-Item Construction changed in 1995, and the package fell completely off the entire national listing. It was to have been constructed in 1998.

Realizing the new criteria would not acknowledge the past approval of the plans and drawings, the package was split into administrative, research, interpretive and visitor facility, a single building, and the permanent stump shelters, amphitheater and outdoor exhibit area. The housing, maintenance area, and entrance station were dropped completely. The new package was submitted in 1995, 1996, 1997, 1998, 1999, 2000, and 2001. During that time, the Stump Shelters were funded for FY2001 and are under construction. The construction date of the Resource Protection, Education and Museum Facility went from FY2002, to FY 2004 and, at the end of the last fiscal year, stopped at FY2005.

SAWMILL TRAIL WELL USE:
The need for the major facility for the protection and operation of the Monument remain even more crucial than in 1989. The building and trailer in use at present are deteriorating rapidly and have been outgrown.

As the maintenance and housing facilities are restored in the long-range development of the Monument, the use of water at Florissant will increase. There is no water supply at the present maintenance facility, the 1890s Maytag Barn. There is no housing.

NOTE: Congress controls the Line-Item Construction program. It is far beyond the control of this national monument. Use of the well will begin in FY2005, for the main facility.

[sgd]
Jean H. Rodeck
Superintendent
1-18-02

Ken Springer AT NP-FLFO@NPS_CCMA IL
01/24/2002 09:34 AM MST

To: Jeff Hughes/FTCOLLINS/NPS
cc:
Subject: Sawmill Trail Well Briefing Statement

Jeff,

Jean Rodeck wrote the attached file about the Sawmill Trail well.

Is this sufficient? If not, let us know what else you would like us to try to provide.

Ken

 - wateruse.doc

BRIEFING STATEMENT
USE OF SAWMILL TRAIL WELL FOR
FLORISSANT FOSSIL BEDS NATIONAL MONUMENT

STATUS OF CONSTRUCTION OF THE RESOURCE PROTECTION, EDUCATION AND MUSEUM FACILITY AS OF JANUARY 2002:
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Realizing the new criteria would not acknowledge the past approval of the plans and drawings, the package was split into administrative, research, interpretive and visitor facility, a single building, and the permanent stump shelters, amphitheater and outdoor exhibit area. The housing, maintenance area, and entrance station were dropped completely. The new package was submitted in 1995, 1996, 1997, 1998, 1999, 2000, and 2001. During that time, the Stump Shelters were funded for FY2001 and are under construction. The construction date of the Resource Protection, Education and Museum Facility went from FY2002, to FY 2004 and, at the end of the last fiscal year, stopped at FY2005.

SAWMILL TRAIL WELL USE:
The need for the major facility for the protection and operation of the Monument remain even more crucial than in 1989. The building and trailer in use at present are deteriorating rapidly and have been outgrown.

As the maintenance and housing facilities are restored in the long-range development of the Monument, the use of water at Florissant will increase. There is no water supply at the present maintenance facility, the 1890s Maytag Barn. There is no housing.

NOTE: Congress controls the Line-Item Construction program. It is far beyond the control of this national monument. Use of the well will begin in FY2005, for the main facility.

[sgd]
Jean H. Rodeck
Superintendent
1-18-02

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525-5596

February 21, 1996

IN REPLY REFER TO:
L54(2380)

Memorandum

To: Superintendent, Florissant Fossil Beds National Monument

From: Chief, Water Rights Branch

Subject: Referee's Ruling Concerning Underground Water Rights, a Plan For Augmentation, Including Exchanges, and Change of Water Rights (Case No. 94CW083) at Florissant Fossil Beds National Monument

A copy of the above-captioned ruling, which has been signed by the water referee for Colorado Water Division 1 (South Platte River Basin), was FAXed to you and to Ralph Canaday of the Office of the Solicitor, Denver, on February 20, 1996, for review and approval. If the NPS wishes to protest the ruling, pleadings must be filed by the NPS's legal counsel (Allison Rumsey, Department of Justice) by February 27, 1996. If no pleadings are received, the Judge of the Water Court will incorporate the Referee's Ruling in the court decree.

The South Platte River Basin, in which Florissant Fossil Beds National Monument (FLFO) is located, is fully appropriated; only senior water rights with early dates of priority are assured a supply of water on a sustained year-round basis. This ruling represents the culmination of six years of effort by the National Park Service and its legal counsel to obtain sufficient water rights at Florissant Fossil Beds National Monument (FLFO) to serve existing and future needs. The ruling is virtually identical to a draft decree submitted to the water court by Ms. Rumsey on behalf of the United States, NPS; and agreed to by the United States and opposers to the United States' application (Highland Lakes Water District and the State Engineer for the State of Colorado). The material contained in the ruling was previously reviewed and approved by legal counsel, by the previous superintendent of FLFO, by my staff, and by Blatchley Associates, (the NPS's contractor). I, therefore, recommend that the NPS accept the ruling.

To assist you in this matter, let me provide a little background. In February 1990, the Denver Service Center drilled a test well (Sawmill Trail Well) in an attempt to secure a water supply for planned facilities at FLFO. Through discussions between the NPS and the Colorado State Engineer's Office, it became apparent that NPS had insufficient water rights to cover existing water withdrawals from Visitor Center Well #12 at FLFO, let alone those for planned facilities.

To obtain the needed water rights, the Water Resources Division contracted with Blatchley Associates of Lakewood Colorado to locate senior water rights for purchase and prepare a Plan of Augmentation. The NPS purchased 19.3 shares of the capital stock of the Mountain Mutual Reservoir Company from North Fork Associates. The shares represent the right to receive 0.606 acre-feet of augmentation water per year from the water rights and storage facilities of Mountain Mutual. Essential elements of the Plan of Augmentation prepared by Blatchley Associates have been incorporated into the ruling, including the following:

--Withdrawals of ground water are allowed from Visitor Center Well #12, Sawmill Trail Well, and if these do not meet the specified needs of the NPS, up to 3 additional wells. A maximum of 3.5 acre-feet of water per year may be used by park visitors and employees for domestic and commercial purposes, including drinking water, restroom use, maintenance and irrigation, at a visitor center, administrative offices, and residences. A maximum of 0.3 acre-feet per year will be used for irrigation.

--To offset depletions to the river system caused by the NPS's water withdrawals from Visitor Center Well #12 and Samill Trail Well, senior water rights purchased by the NPS from Mountain Mutual Reservoir Company will be used to augment stream flows and thereby prevent injury to other water right holders.

--Mountain Mutual Reservoir Company will administer the purchased water rights and operate Mountain Mutual Reservoir Company facilities. Mountain Mutual will make the required release of augmentation water through in-stream delivery of replacement water from its various direct flow and water storage facilities.

The ruling creates for the NPS certain responsibilities:

"It shall be the responsibility of the Park Service to maintain a water accounting form on a monthly basis indicating the total water pumped, area of total lawn and garden irrigated and the amount of water consumed. The form shall be submitted to Mountain Mutual Reservoir Company and Water Division #1 at least annually prior to November 1" (page 11, item 29). (This is the same form that FLFO has been submitting under the Temporary Water Supply Plan, and was submitted last fall).

Under the ruling, a conditional water right will be awarded for the Sawmill Trail Well. The NPS will obtain an absolute water right when it follows the state's procedures to maintain the conditional right or to place the water to beneficial use. "If the United States desires to maintain such a conditional decree, an application for a finding of reasonable diligence shall be filed on or before Feb. 2002, or a showing made on or before such date that the conditional water right for Sawmill Trail Well has become an absolute water right by reason of the completion of the appropriation." (Page 13, item 33.) Thus, FLFO must keep a written record of the NPS's efforts to develop the new facilities and water distribution system at FLFO, including reasons for any delays.

In addition, the water rights purchase agreement between the United States and North Fork Associates executed in March of 1993 requires the NPS to pay a pro-rata share of operating expenses of the Mountain Mutual Reservoir Company on a regular basis, subject to the availability of appropriated funds. (The monument should have a copy of this purchase agreement, if not, I would be glad to provide one.)

Please contact Alice Johns of my staff by February 23, 1996, and let her know if the ruling is acceptable to you. If there are any concerns, we will be glad to assist in addressing them by working with legal counsel. If you would like further information concerning the NPS's responsibilities, please contact me or Alice Johns at (970)224-3505 and (970)225-3534, respectively, or via cc:mail.

cc: Deputy Field Director, Intermountain Field Area - Everhardt (w/o attachment)
Rocky Mountain Cluster - Nickels (GRTE)
Rocky Mountain SSO - Superintendent (Snyder) (w/o attachment)
Rocky Mountain SSO - Wylie (w/o attachment)
SOL (Denver) - Canaday (w/attachment)
DoJ (Washington) - Rumsey (w/o attachment)
Blatchley Associates - Bill Blatchley (w/o attachment)

bcc: Dockets, FLFO (w/attachment)

JUN 0 7 1994

L54(479)
FLFO/Water Rights

Allison Rumsey
General and Litigation Section
Department of Justice
P O Box 663
Washington D C 20044-0663

Dear Allison:

I have enclosed a check in the amount of $159.00, payable to the Clerk of the Water Court. This check is to cover filing fees for an application for underground water rights, approval of a plan for augmentation, including exchanges, and change of water rights, for Florissant Fossil Beds National Monument.

Please have someone in the Office of the Clerk of the Water Court acknowledge receipt by completing the enclosed form and returning it to this office.

If you have any questions, please give me a call at (303)225-3534.

Alice Johns
Hydrologist, Water Rights Branch

Enclosures

cc: (w/o enclosures)
479 - Williams, Cox, Rouse
Blatchley and Associates, Inc. - Bill Blatchley

bcc: (w/enclosure)
479 - Dockets 11 and 12

RECEIPT OF PAYMENT

Please acknowledge receipt of payment for $159.00, to cover filing fees for an application for underground water rights, approval of a plan for augmentation, including exchanges, and change of water rights, for Florissant Fossil Beds National Monument, by completing the following information and returning it to the address listed below.

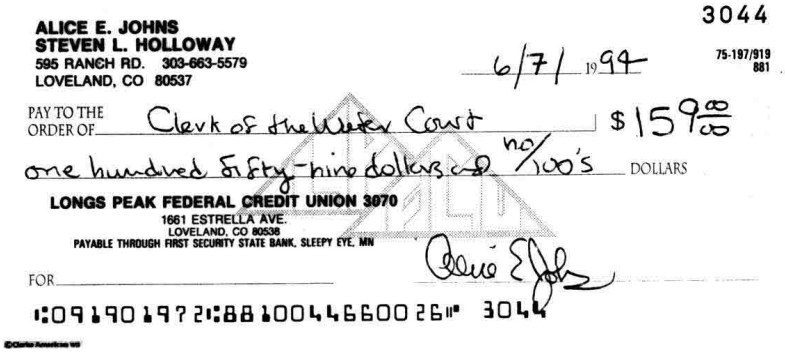
Received Payment on _____

Check Number _____

Payment acknowledged by _____

National Park Service
Water Resources Division
Water Rights Branch (Attn: Alice Johns)
1201 Oak Ridge Dr, STE 250
Fort Collins, CO 80525

06-07-1994: copy of the check from alice johns for filing fee.



ALICE E. JOHNS
STEVEN L. HOLLOWAY
595 RANCH RD. 303-663-5579
LOVELAND, CO 80537

3044

75-197/919
881

6/7/1994

PAY TO THE ORDER OF Clerk of the Water Court $159.00

one hundred fifty-nine dollars and no/100's DOLLARS

LONGS PEAK FEDERAL CREDIT UNION 3070
1661 ESTRELLA AVE.
LOVELAND, CO 80538
PAYABLE THROUGH FIRST SECURITY STATE BANK, SLEEPY EYE, MN

FOR

Alice E Johns

:091901972: 88100446600 26" 3044

December 7, 1993

L54(479)
FLFO/Water Rights

Mike Gheleta, Attorney
General Litigation Section
Environment and Natural Resources Division
U.S. Department of Justice
999 18th Street, Suite 945
Denver, CO 80202

Re: Application for Underground Water Rights, and a Plan For Augmentation and Change of Water Rights, Including Exchanges, at Florissant Fossil Beds National Monument

Dear Mike:

As you requested on August 19, 1993, at a meeting with Alice Johns of my staff, the following items are enclosed:

1) A summary report regarding the above cited case,
2) A copy of the existing contract (Scope of Work, and Purchase Order) between Blatchley Associates, Inc., and the National Park Service (NPS), and,
3) Recommended actions to secure permits and water rights.

Florissant Fossil Beds National Monument (FLFO) will operate its water supply system under a temporary substitute water supply plan until a decree is signed by the Division 1 Water Judge. The temporary plan, **submitted September 10, 1993, is valid for one year.**

To discuss the recommended actions and if you have any questions, please contact Alice Johns or Denise Newberry of my staff, at (303) 225-3534 or (303) 225-3525.

Sincerely,

Owen R. Williams
Chief, Water Rights Branch

Enclosures
cc: (all w/enclosures)
FLFO - Superintendent
RMR - Wise
SOL - Mihan
479 - Kimball, Jackson, Flora, Johns
Blatchley Associates, Inc. - William Blatchley

bcc: Docket 11 and 12 (w/enclosures)

Summary Report

Prepared by
Denise Newberry
Water Rights Branch, Water Resources Division
December 7, 1993

Summary of Facts Relating to Application for Underground Water Rights, and a Plan For Augmentation and Change of Water Rights, Including Exchanges at Florissant Fossil Beds National Monument

The National Park Service's (NPS's) water rights at Florissant Fossil Beds National Monument (FLFO) are inadequate in priority, type, and amount to provide an assured supply of water for projected visitor and administrative uses.

The NPS is planning to construct a new park visitor center and support facilities. In anticipation of the new facilities, the NPS's Denver Service Center (DSC), in February of 1990, received permission from the State and developed one production well, the Sawmill Trail Well, under well Permit No. MH-15812. The NPS was allowed by the State Engineer's Office (SEO), one year to complete the well and begin using the water or the well would need to be plugged. In April of 1990, DSC requested permission from the State to install a pump and use ground water from the Sawmill Trail Well. The State Engineer denied the DSC application to install a pump. NPS was informed by the Division of Water Resources, Ground Water Section, that Sawmill Trail Well could not be completed and water put to beneficial use without a water right.

In mid-February 1991, the NPS requested that the Department of Justice transfer the water right for a "commercial exempt" use at Visitor Center Well #12 (FLFO's current water supply) to Sawmill Trail Well. This was an interim measure, so that the Sawmill Trail Well would not need to be plugged.

In March of 1991, it became apparent to both the NPS and the SEO that withdrawals from Visitor Center Well #12 had been exceeding the 0.33 acre-feet per year allowed under permit for a commercial exempt well. Apparently against the recommendation of the SEO, the Change of water rights from Visitor Center Well #12 to Sawmill Trail Well was approved. However, the SEO would not approve a "commercial exempt" permit for Sawmill Trail Well unless the NPS could demonstrate that it would not use more than 0.33 acre-feet at that well. Thus, the NPS has a water right decree for a commercial exempt well for the Sawmill Trail Well, but no permit from the SEO. For Visitor Center Well #12, the NPS has an approved permit for a commercial exempt well, but no water right.

At this point it became clear that the only way to ensure a supply of water for the park's current and future needs, which exceeded that allowed for a commercial exempt well, was through the

purchase of senior water rights and a plan for augmentation. In September of 1993, a contract was awarded to Blatchley Associates, Inc. to prepare a water rights valuation study, a substitute water supply plan, and a plan for augmentation. All of these products have been completed by Blatchley Associates, Inc. In addition, Blatchley Associates, Inc., is continuing to provide technical/expert support to obtain underground water rights, approval of the Plan for Augmentation, and change of water rights.

Blatchley Associates, Inc., completed the valuation study and recommended the purchase of water shares from the Mountain Mutual Reservoir Company to ensure a year-round supply of water without the need of constructing an additional water storage reservoir. The NPS purchased 19.3 shares (0.606 acre-feet) of the Mountain Mutual Reservoir Company under Water Rights Purchase Agreement, Contract CX1200-3-1126, dated March 3, 1993. The water shares are the basis for the Plan for Augmentation, prepared in May 1993, by Blatchley Associates, Inc.

Under the Plan for Augmentation, the total diversion from the wells at FLFO is estimated to be 3.82 acre-feet of which 0.579 acre-feet would be consumed. The total amount of water to be augmented is the amount consumed (0.579 acre-feet), plus transmission losses (0.027 acre-feet).

The water will be drawn from the Sawmill Trail Well, Visitor Center Well No. 12, and other wells as needed. The augmentation water would be released from the water rights and storage facilities which Mountain Mutual Reservoir Company holds for the benefit of its shareholders as described in the Plan for Augmentation, to offset downstream impacts from the well diversions at FLFO.

In May, 1993, the NPS submitted to the State Engineer a temporary substitute water supply plan for FLFO. The NPS accepted conditions of the temporary substitute water supply plan, as set forth in the State Engineer's August 10, 1993, letter, and modified by the Assistant State Engineer's August 25, 1993, letter, to Blatchley Associates, Inc. This was followed by written acceptance (see letter dated September 10, 1993, from Owen R. Williams, Chief, Water Rights Branch). (In the August 25, 1993 letter, the Assistant State Engineer modified Condition No. 6 of the plan such that the annual volume limitations of 0.3 acre-feet and 0.33 acre-feet for Visitor Center Well #12 and the Sawmill Trail Well were increased to 1-acre-foot for each well. A review of past water diversion records by Blatchley Associates, Inc., concluded that the 1-acre-foot volume limitations would be adequate).

As a term of the temporary substitute water supply plan, the annual water use must be reported to the District 23 Water Commissioner by November 1, of each year. Water use at FLFO for 1993 was reported by the Superintendent of the monument (see letter

of November 3, 1993, from Dale A. Ditmanson, Superintendent, FLFO). The Superintendent stated that water use for the monument in previous years was incorrectly recorded by a staff person who transcribed information from monthly reports and left out a decimal point, and to note that the use is considerably less than prior reports. However, the reported amount of water diverted for 1993 (18,574 gallons per year), seemed unusually low. Tom Harrington of the NPS's DSC, Engineering Services Division, checked the accuracy of the meter and concluded that the use should have been recorded at 185,740 gallons per year.

FLFO will operate its water supply system under a temporary substitute water supply plan until a decree is signed by the Division 1 Water Judge. The temporary substitute water supply plan, submitted September 10, 1993, is valid for one year, with extensions being granted by the State Engineer when appropriate.

Locations of Visitor Center Well #12 and the Sawmill Trail Well were surveyed within 10 feet in September 1993, to ensure that locations are correct on the water right application and any permit applications that need to be filed. The survey revealed the location of Visitor Center Well #12 differs by about 380 feet from the surveyed location; the location of the Sawmill Trail Well was about 95 feet from the location previously recorded.

ORDER FOR SUPPLIES OR SERVICES

PAGE 1 OF 1 PAGES

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

1. DATE OF ORDER	2. CONTRACT NO. (If any)	3. ORDER NO.	4. REQUISITION/REFERENCE NO.
09/11/92	OPEN MARKET	PX-1268-2-2417	1268-2-0232

5. ISSUING OFFICE (Address correspondence to)
NATIONAL PARK SERVICE RMR-AC
P. O. BOX 25287
DENVER, CO 80225-0287

6. SHIP TO: (Consignee and address, ZIP Code)
NATIONAL PARK SERVICE ATTN: STEVE CHANEY
12795 WEST ALAMEDA PARKWAY, RMR-RN
LAKEWOOD CO 80228

SHIP VIA: BEST WAY

7. TO: CONTRACTOR (Name, address and ZIP Code)
BLATCHLEY AND ASSOCIATES
2525 S. WADSWORTH, SUITE 306
LAKEWOOD, CO 80227

ATTN: R.K. BLATCHLEY

(303) 989-6932

8. TYPE OF ORDER
[X] A. PURCHASE — Reference your VERBAL QUOTE
Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheets, if any, including delivery as indicated. This purchase is negotiated under authority of: FAR 13
[ ] B. DELIVERY — Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.

9. ACCOUNTING AND APPROPRIATION DATA
1268-2102-414 B259Z C31

10. REQUISITIONING OFFICE
RR & INFO: STEVE CHANEY, RMR-RN

11. BUSINESS CLASSIFICATION (Check appropriate box(es))
[X] SMALL [ ] OTHER THAN SMALL [ ] DIS-ADVAN-TAGED [ ] WOMEN-OWNED

12. F.O.B. POINT	14. GOVERNMENT B/L NO.	15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date)	16. DISCOUNT TERMS
DESTINATION	N/A	09-29-93	NET 30
13. PLACE OF INSPECTION AND ACCEPTANCE			
N/A			

17. SCHEDULE (See reverse for Rejections)

ITEM NO. (A)	SUPPLIES OR SERVICES (B)	QUANTITY ORDERED (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)	QUANTITY ACCEPTED (G)
1	WATER RIGHTS VALUATION STUDY, "SUBSTITUTE WATER SUPPLY PLAN", "PLAN OF AUGMENTATION" AND TECHNICAL/EXPERT SUPPORT FOR A WATER RIGHT APPLICATION FOR FLORISSANT FOSSIL BEDS NM PER THE ATTACHED SCOPE OF WORK.	1	JOB	6552.00	6,552.00	
2	EXPERT WITNESS OPTION 1 1. TRANSPORTATION TO DENVER AND/OR GREELEY LS $40.00 2. DAILY PER DIEM RATE $50.00 3. HOURLY RATE $85.00 HR $50.00 HR	1	LS	3448.00	3,448.00	

18. SHIPPING POINT	19. GROSS SHIPPING WEIGHT	20. INVOICE NO.		17(H). TOT. (Cont. pages)
SEE BILLING INSTRUCTIONS ON REVERSE	21. MAIL INVOICE TO: (Include ZIP Code) NATIONAL PARK SERVICE ATTN: RMR-AF P.O. BOX 25287, DENVER, CO 80225		10,000.00	17(I). GRAND TOTAL

22. UNITED STATES OF AMERICA BY (Signature) Frank R Morrissey

23. NAME (Typed) FRANK R MORRISSEY 303-969-2792 RM-116
TITLE: CONTRACTING/ORDERING OFFICER

NATIONAL PARK SERVICE

NPS FORM 10-3470 (3-92)

Water Rights Valuation Study, "Substitute Water Supply Plan", "Plan of Augmentation", and Water Right Application for Florissant Fossil Beds National Monument

Background

The information presented herein should not be relied on by the contractor without verification.

The Florissant Fossil Beds National Monument (park), administered by the National Park Service (NPS), is located within Colorado Water Division 1, Teller County, in Township 13 South, Range 70 West, and Township 13 South, Range 71 West, 6th P.M., south of Twin Creek, a tributary to the South Platte River. The park receives an estimated 100,000 visitors annually and requires a year-round dependable water supply.

A. Current Water Supply

Currently the park uses water from a "commercial-exempt" well (Well #12) to serve its needs (ATTACHMENT A). However, existing water needs may exceed the amount permitted for a "commercial-exempt" well. Total recorded water use at Visitor Center Well No. 12 was approximately 0.5 acre-feet in 1990. The decreed "commercial-exempt" water right for Well #12 was recently transferred to the Sawmill Trail Well (see below) to provide water for new facilities planned for the park. The park has initiated conservation measures to reduce water use. It is not known if historical water use at the monument has exceeded the permitted amount.

B. Future Water Supply

The NPS is planning to construct a new park visitor center and support facilities. Future water needs are to be met by using water from Sawmill Trail Well, an existing well, for which the NPS has a decreed water right for a "commercial-exempt" well (ATTACHMENT B). However, the NPS estimates future water needs will exceed the amount allowed by the State for a "commercial-exempt" well. Therefore, it is anticipated that NPS will need to obtain a water right and permit for Sawmill Trail Well as a "commercial (non-exempt)" well.

Preliminary estimates are that approximately 5.6 acre-feet per year (afy) of water will be required for these new facilities. This is comprised roughly of 2.2 afy for sanitary and drinking facilities for visitor and administrative purposes, 0.2 afy for the maintenance yard, and 3.2 afy for residential and domestic purposes. The NPS developed the Sawmill Trail Well to provide for these future needs.

To provide a secure water supply for use at the monument during times of shortage, the NPS has determined that a water right priority date in the late 1870's will be required. If the existing "commercial-exempt" right is not adequate for park needs, then a transferrable senior water right, which is immune from priority date "calls on the river", is required.

Scope of Work

A. Water Valuation Study

The Water Valuation Study shall entail researching the costs and sources of supply for available water rights to be used in a "Substitute Water Supply Plan" and "Plan of Augmentation" for Florissant Fossil Beds National Monument. The NPS requires a dependable year-round water supply to serve park needs. The valuation study will include, for each source of supply, a written price quote, on a per acre-foot basis, an analysis of strengths and limitations associated with each available supply and a list of comparable water rights sales in the most recent two years. Analyses shall include a historical review of the dependability of the right, i.e. whether the right is subject to "calls" by senior water right holders and whether the right meets year-round needs of the park. The contractor shall inform the Government of any potential effects a source of supply might have on the acceptance of the "Substitute Water Supply Plan" and "Plan of Augmentation" by the State Engineer, the Water Court, or likely protestants.

B. Substitute Water Supply Plan

The "Substitute Water Supply Plan" (see COLO. REV. STAT. 37-92-101 et seq.) must meet the State Engineer's requirements for meeting current and planned water uses until such time as the Water Court rules upon the water right application and the "Plan of Augmentation".

C. Plan of Augmentation

The "Plan of Augmentation" (see COLO. REV. STAT. 37-92-101 et seq.) must meet the State Engineer's and the Water Court's requirements for such a plan to assure future water supplies at Florissant Fossil Beds National Monument. The objective of the plan is to provide augmentation water adequate to meet downstream rights as compensation for ground-water withdrawals from Sawmill Trail Well used to supply the new visitor center and other NPS facilities.

It shall be the responsibility of the contractor to inform the appropriate Government contacts of specifically what information is needed from the Government for the contractor to prepare the "Substitute Water Supply Plan" and the "Plan of Augmentation" and to timely inform the Government of when this information is needed. The contractor shall be responsible for the accuracy of all water-use calculations incorporated in the "Substitute Water Supply Plan" and the "Plan of Augmentation".

The contractor shall contact the Superintendent, National Park Service, Florissant Fossil Beds National Monument, (719) 748-3253, to obtain additional specific information on future needs for water, planned facilities, and projected visitation.

D. Water Right Application

As part of the water right application process, the contractor shall provide all necessary supporting factual materials for submittal to the Water Court and State Engineer. The contractor may be called upon to provide expert witnesses to United States' attorneys in water court proceedings regarding the water right application for Sawmill Trail Well and the "Plan of Augmentation".

Deliverables

The Contractor will provide the following:

1. Water Valuation Study -- The study will be due 30 days after contract award.

2. Draft "Substitute Water Supply Plan" -- The draft plan will be due 45 days after contract award. The government will review the draft plan and return comments to the contractor within 10 days of receipt of the draft "Substitute Water Supply Plan".

3. "Substitute Water Supply Plan" -- The plan will be due 10 days after the Contractor receives comments from the Government on the draft "Substitute Water Supply Plan".

4. Draft "Plan of Augmentation" -- The draft "Plan of Augmentation" will be due 60 days after the due date for the final "Substitute Water Supply Plan". The government will review the draft plan and return comments to the contractor within 10 days of receipt of the draft "Plan of Augmentation".

5. Final "Plan of Augmentation" -- The final "Plan of Augmentation" will be due 20 days after the Contractor receives comments from the Government on the draft "Plan of Augmentation".

6. Support during consideration of the "Substitute Water Supply Plan", "Plan of Augmentation" and Water Right Application by the State Engineer and the Water Court. The work requested under this contract shall include technical assistance as requested by the Government, including expert witness services and preparation of factual materials as needed by legal counsel.

Water Rights Valuation Study, "Substitute Water Supply Plan", "Plan of Augmentation", and Water Right Application for Florissant Fossil Beds National Monument

Minimum Requirements for Prospective Bidders

1. Bidders must have experience in preparing water augmentation plans in Colorado Water Division 1, as demonstrated by:

   a. The documented completion of three such plans by the bidder, which each was accepted by the water court. Each bidder shall list the titles of the "Plans of Augmentation" and the water-right case numbers with which the plans are associated.

   b. The enclosure with the bid, of a copy of one completed "Plan of Augmentation" accepted by the Water Court and the State Engineer. The copy will be used to verify the bidders completion of a "Plan of Augmentation".

2. Bidders must provide 3 references (name, address, telephone number) with knowledge of the bidder's expertise in preparing "Plans of Augmentation" and of the bidders experience as an expert witness in support of such plans. The references may be called to ascertain if the prospective bidder is an expert in the preparation of augmentation plans and is an effective expert witness.

Application for Underground Water Rights, and a Plan For Augmentation and Change of Water Rights, Including Exchanges, at Florissant Fossil Beds National Monument

Recommended Actions to Secure Permits and Water Rights

1. File permit applications for both wells, indicating the correct locations of the wells and types of use (locations of Visitor Center Well #12 and the Sawmill Trail Well were recently re-surveyed).

2. Rescind the Division 1 Water Court Case No. 91CW019 for the Sawmill Trail Well (it is for a commercial-exempt use which is not adequate for FLFO's needs).

3. Prepare an affidavit (draft attached), describing survey of the locations of the Sawmill Trail Well and Visitor Center Well #12 and attach to permit applications.

STATE OF COLORADO)
) SS.
COUNTY OF LARIMER)

I, Christine A. Gable, Hydrologist for the National Park Service, Water Resources Division, 1201 Oak Ridge Drive, Suite 250, Fort Collins, Colorado, 80525, and Daniel L. Evans, Research Associate, Colorado State University, working for the Water Resources Division, surveyed the locations of the Visitor Center Well #12 in the NW¼ NW¼ Sec. 24, T13S R71W, 6th P.M. and the Sawmill Trail Well in the SW¼ NE¼ Sec. 23, T13S R71W, 6th P.M., at Florissant Fossil Beds National Monument on September 8, 1993. The Visitor Center Well #12 is located 390 feet from the North section line and 4400 feet from the East section line, Sec. 24, T13S R71W, 6th P.M., and the Sawmill Trail Well is located 2875 feet from the North section line and 3307 feet from the East section line, Sec. 23, T13S R71W, 6th P.M., based on the survey described below:

The survey was requested by Alice Johns of the National Park Service, Water Resources Division. The requested accuracy was to survey within 10 feet.

EQUIPMENT: Sokkia/(Lietz), Electronic Total Station SET4
Accuracy: Horizontal 5"
Vertical 5"
Sokkia SDR33 Data Collector and Single Prism
4-Stage Range Plumbing Pole
Tripod, Extension Leg, Aluminum

PROCEDURE: On September 8, 1993, we located the monument marking the corner section of 13, 14, 23 and 24 and also the locations of Visitor Center Well #12 and the Sawmill Trail Well. After viewing each location, we examined on foot the proposed line of survey for approximately one-half mile, from the Sawmill Trail Well back to the corner section monument.

The survey began from this corner section monument. The direction of north was determined using a brunton compass. The survey proceeded based on a backsight bearing north along the north-south line of sections 23 and 24. From an established station, each well location was measured.

The survey was completed with a closure back to the corner section monument.

_____ _____
Christine A. Gable Date

_____ _____
Daniel L. Evans Date

Subscribed and sworn before me this ___ day of _____ 1993.

Notary Public _____

Residing at _____

My commission expires _____

CONFIDENTIAL
ATTORNEY WORK PRODUCT

September 15, 1992

L54(479)

Bill Blatchley
Blatchley Associates
2525 S. Wadsworth Blvd., #306
Lakewood, CO. 80227

Re: Information Pertaining to Sawmill Trail Well, Florissant Fossil Beds National Monument

Dear Mr. Blatchley:

Enclosed please find a copy of the file on the Sawmill Trail Well from the Water Rights Branch, Water Resources Division, National Park Service, which you requested in a September 14, 1992, telephone conversation with me. Materials include internal working documents and correspondence. Therefore, the file should, until reviewed by legal counsel, be considered confidential. Also, any calculations or other material--aside from approved state permits, signed water right applications, and court decrees--should not be relied upon without your verification.

Again, congratulations on obtaining the Government's contract for a valuation study, temporary water supply plan, and plan of augmentation at Florissant Fossil Beds National Monument. If you have any questions, please contact me at (303)493-1441.

Alice Johns

Alice E. Johns
Hydrologist

Attachment

bcc: FLFO - Superintendent
RMR - Wise, Morrisey
479 - Williams, McGlothlin, Hansen

FNP:AJOHNS:bb:(303)493-1441:09/15/92:B:\BLATCH.LET

08-06-1991: letter to betty mcgilvray, florissant water and sanitation district from national park

AUG 19 1991

United States Department of the Interior

NATIONAL PARK SERVICE

Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, Colorado 80816

IN REPLY REFER TO:

D5039 (FLFO-S)

August 6, 1991

Betty McGilvray
Florissant Water & Sanitation District
P.O. Box 565
Florissant, Colorado 80816

Dear Betty:

Since our meeting at Florissant Fossil Beds on June 21 we have been busy dealing with the issue of water rights and the development of a water system for future development of the Monument. I want to express my thanks to you and everyone involved with the Florissant Water & Sanitation District (FWSD) in providing information and working with us in investigating all the options. We especially appreciated the assistance of your consulting engineer, Paul Gilbert, in preparing cost estimates and systems analysis.

After careful consideration, involving construction costs and annual operating expenses, we feel that it would not be economical for the National Park Service (NPS) to connect to the Florissant water system. Using the figures provided by Paul it would cost between $673,000 to $753,000 to install the necessary equipment to deliver water to our facilities. This would amount to an initial investment of approximately $350,000 - $430,000 more than developing our own system as designed.

In addition, there does not appear to be a way for the NPS to recover any of these expenses through annual operations. We will still need to chlorinate the water at our end, requiring the necessary staff and equipment, and we will be paying a monthly water bill to the FWSD.

Our analysis focused only on the delivery of water. We have not investigated the feasibility of connecting to the FWSD sewer system. We hope that might still be an option for future development.

Again, my thanks for your assistance. Please give me a call at (719) 748-3253 if you need additional information.

Sincerely,

Dale A. Ditmanson
Superintendent

cc: Associate Director, Operations, RMR

NATIONAL PARK SERVICE 75 1916 - 1991

BRIEFING REPORT

Assessment of Cost for Water Rights and a Plan of Augmentation for for Florissant Fossil Beds N.M.

by
William R. Hansen
Hydrologist, Water Rights Branch
Water Resources Division
July 30, 1991

Issue

At the request of Homer Rouse, Associate Regional Director, Park Operations, Rocky Mountain Region, the Water Rights Branch (WRB) of the Water Resources Division inquired about the costs of purchasing augmentation water rights and preparing a Plan of Augmentation (P of A) and a Temporary Substitute Water Plan (TSWP) for Sawmill Trail Well at Florissant Fossil Beds National Monument (FLFO). Currently, the National Park Service (NPS) does not have water rights for Sawmill Trail Well and cannot continue planning and development of a new Visitor Center (VC) without a water source for drinking and sanitary facilities, a maintenance yard, and residential uses.

Visitor Center Water Needs

The Denver Service Center estimates that 5.6 acre-feet per year (afy) of water will be required at the new VC. This use is comprised of 2.2 afy for sanitary and drinking facilities for visitor and administrative purposes, 0.2 afy for the maintenance yard, and 3.2 for residential and domestic purposes. This is the amount of water which needs to be developed and delivered to the VC and associated out buildings and residential units. Base upon the projected types of use, approximately 1 to 1.5 afy of water will be consumed. The remaining 4.1 afy will be returned to the hydrologic system through evaporation or infiltration/percolation into the ground water aquifer. Prior to using Sawmill Trail Well, the State requires that the NPS purchase and make available water to augment downstream senior water rights for the 1 to 1.5 afy of projected consumptive use.

Estimated Cost of Water Rights

The WRB attempted to contact several companies/individuals in regard to the potential feasibility and cost of acquiring augmentation water rights for use at FLFO. Potential sellers include the Mountain Mutual Reservoir Company (MMRC), the Wilson Ditch Company (WDC), the Guirad 3T Ditch Company, and the Upper South Platte Water Conservation District. The following provides a summary of the responses received from these companies.

Bill Blatchley of Blatchley and Associates (an engineering firm) was contacted as a representative of MMRC. Mr. Blatchley said MMRC was created by a company

named North Fork Associates to be a turn-key water company whose primary intent was to sell augmentation water to small users such as home and store owners or small subdivisions. MMRC owns water rights in the Guirad 3T Ditch and 80 acre-feet of water in Spinney Mountain Reservoir (owned by Aurora). The priority date attached to the Guirad 3T Ditch rights is July 1, 1867. MMRC is guaranteed the first 80 acre-feet delivered from Spinney Mountain Reservoir. Mr. Blatchley said the water rights are never called and that guaranteed delivery of water can be made 365 days of the year. MMRC will certify to the State Engineer that the water exists and the NPS would only be required to buy what they need (i.e., the NPS would not have to purchase 1 afy in order to use 1/3 afy just to get objectors such as Colorado Springs to approve the P of A). The cost of these water rights would be $13,500 per acre-foot with a one time contract fee of $2,000. A $1 annual assessment fee is charged for each share held in the MMRC. An acre-foot of water equals 30 shares. The assessment fee covers administrative costs and is not expected to increase over time.

The WRB also contacted Mr. T.J. Calhoun of Mountain Properties in Florissant. Mr. Calhoun previously owned water rights to the upper portion of the Wilson Ditch. He has since sold the water rights to Mr. Ray Cluever in Denver. These ditch rights include 29 afy with a priority date of 1921. He said the water rights were about 475th on the call list and were called on a regular basis. He said he believed a storage reservoir could be built to accommodate use during dry periods. Due to the poor priority date and the potential need for constructing a storage reservoir, or paying for storage rights, no further inquiries were made.

The Guirad 3T Ditch Company and the Upper South Platte Water Conservation District (USPWCD) could not be reached at this time. It is the understanding of the WRB that the Guirad ditch rights could only be delivered about 5 months of the year. Therefore, the NPS would need to construct a storage reservoir or purchase storage rights to deliver water the remaining 7 months. It may still be beneficial to contact a Mr. Dick Housum with the USPWCD to determine if they have water rights for sale. Water rights purchased from USPWCD may be cheaper because they do not charge a brokers fee.

Estimated Cost - Plan of Augmentation/Temporary Substitute Water Plans

Blatchley and Associates and Craig Green, both consulting engineers, were contacted to determine what the potential costs of preparing a P of A, and if needed, a TSWP for FLFO. The Plan of Augmentation would evaluate potential water rights available for purchase (including priority dates, potential for being called by the State Engineer, and a review of the engineering estimates and consumptive uses) and develop alternatives scenarios and associated costs. A TSWP will probably be required to purchase or lease water rights for 1-2 years while the P of A is prepared and approved by the Water Court.

Blatchley Associates is a consulting engineering firm who also operates as the primary wholesaler and administrator of water shares in the MMRC. Mr. Blatchley recommended purchasing augmentation water rights from MMRC, although expensive, primarily because they can deliver water 365 day per year. Other water companies may have water at lower costs but cannot guarantee delivery year long. Their

insights into the development of P of A's in the South Platte drainage will be very valuable and minimize costs, but also present a potential conflict of interest. The Rocky Mountain Regional contracting officer will have to evaluate this potential conflict prior to engaging Blatchley and Associates in any contract to complete a P of A.

Blatchley and Associates has prepared 21 Plans in the South Platte in recent years. With this experience, Mr. Blatchley does not feel there will be many objectors. Based upon our the needs of FLFO, Mr. Blatchley estimates that the Plan of Augmentation would cost about $8,000 for engineering and legal fees or $3,000 for engineering fees (assuming that the Department of Justice represents the NPS in Water Court). An additional $500-1000 would be required to prepare a TSWP.

Mr. Craig Green is also a consulting engineer familiar with P of A's in the South Platte drainage. Mr. Green also suggested that the NPS purchase water from the MMRC because water could be delivered all year and very seldom, if ever, is called by the State during dry periods. Mr. Green suggested that augmentation water might be available from Twin Lakes through the cities of Colorado Springs or Aurora, but that both cities would probably require the purchase of excess augmentation water to compensate them prior to approval of the P of A.

Based upon our needs, Mr. Green estimated that it would cost about $5,000 to conduct a field trip, complete the engineering estimates, and prepare a P of A. An additional $2,000 would be required to complete a TSWP.

Both engineering firms indicated that a TSWP could be prepared in a matter of months. Preparation of the P of A could take up to one year to resolve objections and to obtain approval from the State Engineer and the Water Court. The initial engineering assessment and report preparation could be completed in a three month time frame.

Summary of Estimated Costs

Water Rights Purchase of 1-1.5 afy for VC (Augmentation Water for 5.6 afy)	$15,500-22,250
Preparation of a Plan of Augmentation	$5,000-8,000
Preparation of a Temporary Substitute Water Plan	$500-2,000
TOTAL ESTIMATED CAPITAL COSTS	$21,000-32,250
ANNUAL ASSESSMENT FEES (For 1-1.5 afy)	$30-45

D2623 (RMR-ME)

JUL 23 1991

Memorandum

To: Chief, Division of Construction and Maintenance, RMR-ME

Through: Chief, Branch of Utility Design and Technical Support, RMR-ME

From: John Criger, Civil Engineer, RMR-ME

Subject: Trip Report to Florissant Fossil Beds National Monument July 16, 1991

PURPOSE: To meet with the park and the A&E Project Manager for the community water system of Florissant.

DISCUSSION: On July 16, 1991 John Criger and Dale Ditmanson, Superintendent of Florissant, met with Paul Gilbert, A&E Manager, professional consultant for the community of Florissant water system to see if a joint venture community water system would be feasible.

The following information was obtained from Paul Gilbert, professional consultant to the town.

Florissant has filed for a grant from Farmers Home Administration (FHA) for a new community water system. The grant has been approved, but funds will not be transferred to the community until August.

Included with the grant is also a long term loan for $152,000 that individual water users will have to pay back. If the NPS were to join the community system, it would not have to be concerned with or share in the debt.

Since the grant has not been transferred to the town and the long term loan has not been approved, the A&E firm have not overextended themselves on project design. Preliminary design efforts have selected water lines and storage reservoir locations, but a well site has not been located. The A&E expects to consult with a geologist and have test wells completed by the end of 1991. Existing town wells do not meet water quality standards and will not be used for the new system.

If the NPS were to join the town system, it would double the community water requirements. Florissant needs 5.5 acre feet of water and the park needs 5.6 acre feet of water for its development. Wells, storage reservoir, main water line, etc. would have to be sized accordingly. Dale Ditmanson had previously informed Paul Gilbert that if the NPS were to join the community system, NPS would prefer that all wells, storage reservoirs, and service roads be located off park property. The exception to this would be the water lines. Water would be delivered to a selected site and the water company responsible for all maintenance, etc. up to the point of delivery.

It was explained to Paul Gilbert that the NPS had just completed a lengthy preliminary design process for the park development. Various building sites had already been selected, utilities laid out to fit those needs, and the design approved. The community water system would have to meet these requirements because redesign of our facilities to meet the community water system was not a possibility.

Based on this information, Paul Gilbert had developed some preliminary costs for us to consider. If the NPS was to join the system, costs to upgrade wells, storage reservoir, water line size, etc. would be: $81,000

Both NPS and the town need to augment additional water from the state and the NPS cost would be: $73,000

Base cost to join the community system: $154,000

Getting water from the community to the park.

Paul had looked at 3 alternatives for getting the water from the town to the park which would meet the fire flows criteria as set up in the approved design.

The cost of these alternatives, including the base cost above plus 20 percent construction contingency and 15 percent design costs, range from $673,000 to $753,00.

The water would be delivered to the visitor center site and the NPS would be responsible for all costs to extend the water lines from the visitor center to the housing and maintenance areas.

Because of topography, the NPS development is higher than the townsite. If a common reservoir site is selected for both, then a pressure reducing valve station is needed for the town. If the reservoir site is lower, then NPS fire requirements can be met only with large diameter water lines or by installing booster pumps.

The other alternative would be to install a NPS reservoir as designed and pump water from town via small diameter water line to reservoir. Since the NPS already has a developed well, this option was immediately dropped and costs were not developed.

Because of water line diameter and length versus expected water use at the park, rechlorination of the water from a community system prior to visitor use would be required. Rechlorination of the water would also be required if a pumping station and storage reservoir was the selected alternative.

Since rechlorination is required, there would not be any savings in personnel services for the NPS. There would still be a need for daily maintenance for the chlorination equipment, booster pumps, etc.

For the community system the NPS would be charged for fixed costs of producing water plus a sinking fund charge (long term maintenance) for their water needs. Paul Gilbert estimated these costs at $0.50 per thousand fixed cost and $0.50 per thousand sinking fund. These are estimated costs and final rates would have to be negotiated with the town board. Realistically, our costs would probably be in the $1.50 to $2.00 per thousand range. Based on the $1.50 to $2.00 cost at full development of 5.6 acre feet per year, our base water costs would be $2,000 - $3,000 per year. This is a fairly competitive rate. Lakewood home owners are paying approximately $1.70 per thousand for water.

The following table outlines the initial construction costs for both the community and NPS owned system. NPS costs are taken from the DSC preliminary design and components are added or subtracted as needed.

Community System		NPS Owned	
Water delivered to visitor center.	$673K - $753K	DSC Prelim. Design Costs	$701K
Cost for rechlorination equipment and extending water line to maintenance and housing area.	$451K	Cost to augment 5.6 acre feet of water not in above estimate.	$72K
TOTAL	$1.1M - $1.2M	TOTAL	$773K

It is cheaper for the NPS to develop its own water system, as presently designed, rather than to join the community system. Significant savings for joining the community system cannot be made unless the entire Florissant design concept is redone.

One alternative that the NPS may want to consider would be utilization of the Florissant sewage lagoon system. Septic tank and leach fields are planned for the park development. It may be worthwhile looking into installing a sewage lift station and force mains and utilizing the community sewage system.

However, it is not recommended that we pursue that option until the construction funds for Phase I are received.

One other item to consider concerning the community sewer system is that costs for water augmentation are partially based on how the water is used and disposed. If water is diverted, i.e. taken from the ground, consumed, then disposed of back into the ground via sewage leach fields into the same underground aquifer, the cost of the water may be less. If water is consumed and then sent to a sewage lagoon system where it evaporates, the water may cost more.

These costs may need to be evaluated before any final decision is made. The Water Resource Division should be consulted for the legal aspects of these considerations.

Traveler: /s/ John W. Criger

Acting

Associate Regional Director, Park Operations: /s/ Ronald E. Everhart

cc:
Supt., FLFO

JCriger:el:7/22/91:969-2604:FLFOTRP.JC

July 2, 1991

Memo

To: Owen

From: Bill H.

Subject: Plan of Augmentation for Florissant Fossil Beds N.M.

The following engineering firms were contacted on July 2, 1991, to request estimates for developing a Plan of Augmentation for Sawmill Trail Well at Florissant Fossil Beds N.M.:

Company	Contact	Phone
ENARTECH	Cary Sundeen	945-2236
Craig Green	Craig Green	688-1124
Spronk Water Engineers	Dale Book	355-9700
Wheeler and Associates	Gary Thompson	761-4130

The consensus of all four firms suggests that a Plan of Augmentation will cost about $5,000-10,000. These fees include engineering costs and participation in meetings with objectors. The Plan of Augmentation will take about 6 months to 1 year to complete as it moves through the water court in Pueblo. Wheeler Engineering informed us that there is a 2 year backup in the water court. If delays occur we may want to investigate pursuing a Temporary Substitute Supply Plan to purchase or lease necessary water rights in the interim. A Temporary Substitute Supply Plan would allow the NPS to use the well until the Plan of Augmentation is complete. The above costs would include such a plan.

All four firms suggested that we would need to augment about 1-2 acre-feet of water. This figure includes some fat to enhance an objector such as Colorado Springs into accepting the plan. The cost of 1-2 acre-feet will be about $15,000.

Each firm suggested that the most difficult problem would be to find water rights available for purchase in the South Platte River Basin. Due to this difficulty the firms suggested that the water rights be purchased first and then the Plan of Augmentation be completed. Based on this information we may want to program funds to complete a Temporary Substitute Supply Plan in the interim, and purchase water rights prior to contracting the completion of the Plan of Augmentation.

Based upon this information should we program funds for a Temporary Substitute Supply Plan and water rights and then for the Plan of Augmentation? If so, how will this change the Regions funding request in the future?

NOTES

Meeting with RMR Regarding
Water Rights at FLFO

June 14, 1991
1:00 PM

Attendees: H. Rouse, RMR
S. Ponce, WRD
O. Williams, WRD
B. Hansen, WRD
S. Chaney, RMR
D. Huff, RMR
D. Ditmanson, FLFO

Rouse and Ditmanson discussed funding for the new Visitor Center (VC) at FLFO. Rouse said the Congressional delegation preparing a request for 4.5 million dollars in FY92 to initiate construction.

Owen discussed the water rights issues re: Sawmill Trail Well. We also discussed concerns about the Plan of Augmentation (P of A), cost of water rights, and continuing assessment fees associated with water rights purchased through the P of A. Owen informed Rouse of the potential costs of developing a P of A and for purchasing water rights in the South Platte drainage.

Ditmanson informed the group that the City of Florissant was preparing a P of A for the development of a permanent water supply in Florissant. According to his information Florissant needs 7 ac-ft. They are purchasing water for $7000/ac-ft. Ditmanson mentioned something about a temporary substitute supply plan -- what ever that is -- maybe we can use something similar to resolve our problems at Sawmill Trail Well. Ditmanson also said he would be concerned about the NPS and Florissant going to the WD1 water court with P of A's at the same time.

Rouse discussed alternative funding solutions to acquire water rights for the new VC. These alternatives included reprogramming construction and development funds and using Land and Water Conservation Funds to purchase water rights.

It was agreed that Rouse would talk to Mintzmeyer to see if $10,000 was available to complete a P of A. Rouse will also discuss the potential for using other funding or reprogramming funds for the purchase of water rights with Dick Young, Lands. Rouse would like to have another meeting to resolve the issues the first week of July.

Action Items (WRD): Investigate the cost and time frames required to complete a P of A for the July meeting.

06-04-1991: report of telephone conversation; al eckerman and mcglothlin regarding well no. 12.

REPORT OF TELEPHONE CONVERSATION

DATE 6/4/91 TIME approx 1:30 AM/PM

PROJECT FLFO - Sawmill/Trail Well

NPS PERSON ON CALL ~~M Eckerman~~ McGlothlin ☐ I CALLED ☒ S/HE CALLED

PERSON Al Eckerman

ORGANIZATION CO Div. of Water Resources

ADDRESS

TELEPHONE NUMBER

DISCUSSION Eckerman called about the NPS replacement well application for FLFO Well No. 12 to Sawmill Trail Well. He said he had spoken with Gary Anderson (DSC) this AM and after gathering additional info, he was concerned about the merits of our change application. In talking to Anderson and the "water commissioner", ~~Here~~ he was of the opinion that 0.33 AFY was suitable for the proposed uses of the well and that a Plan of Augmentation was needed. He said we could still move the commercial-exempt right from Well No. 12 to the Sawmill Well, but once the right was exceeded, the State would move to "shut us down". A meter would be read monthly and usage reported to the State. He said he really just became aware of the "scale" of the FLFO project after talking to Anderson. The main concern any had was the need to do something with the Sawmill Well because ~~of~~ he feared having to plug the well. Eckerman offered 3 suggestions:

① To keep the well "open", NPS should immediately submit an application for a monitoring well permit for MH-15812. The permit would be good for as long as we needed the well or when the Plan of Augmentation and water rights questions were resolved. NPS would have to cap the well and lock it to protect from contamination.

② NPS should CANCEL its 4/5/91 permit application because we would not have a water right at the existing visitor center well (No. 12) once the permit and w.r. transfer was completed. I asked Eckerman if NPS could have the transfer written and decreed such that the water right transfer would become effective upon closure of old visitor center and opening of new visitor center. He said "that may work" but NPS definitely needs to retain a w.r. at the existing center.

③ The last recommendation was to immediately request a continuance from the Court so we have time to sort out how the existing center is protected. If Court decrees the change, we ~~are~~ would lose the right at the present site.

over →

Ackerman said he wanted to avoid issuing a "plug order" and ~~but~~ also wants to avoid shutting the existing center down. We also discussed the timing of a new application for well permit. Finally, he said he would not issue the permit to NPS right now, ~~but~~ that we would wait for NPS to submit a letter to withdraw the application. I told him that we would get back with him as soon as possible, that we were working on some alternatives that seemed to be in line with his concerns.

cc: Owen
Bill

United States Department of the Interior
NATIONAL PARK SERVICE
WATER RESOURCES DIVISION
301 SOUTH HOWES ST., ROOM 353
FT. COLLINS, COLORADO 80521

June 4, 1991

IN REPLY REFER TO:
L54(479)
RMR/Water Rights

Memorandum

To: Associate Regional Director, Park Operations

From: Acting Chief, Water Rights Branch

Subject: Water Rights for Florrisant Fossil Beds NM (FLFO) Visitor Center

Pursuant to your request on Thursday, May 30, regarding water rights for the new visitor center at FLFO, attached is a report that summarizes the issue, analyzes approaches and risks, and offers recommendations for your consideration. I hope you find this report adequate for your purposes.

Please contact me at (303) 493-1441, if you have questions or additional needs.

Chuck Pettis

Attachment

cc: RMR - Chaney
FLFO - Ditmanson
479 - Ponce, McGlothlin, Hansen

NATIONAL PARK SERVICE 1916 - 1991

HYDROLOGIST'S REPORT: WATER RIGHTS FOR THE PROPOSED VISITOR CENTER AT FLORISSANT FOSSIL BEDS NATIONAL MONUMENT

by Daniel J. McGlothlin
Hydrologist
Water Rights Branch

June 4, 1991

PURPOSE

This report summarizes water rights related problems at Florissant Fossil Beds National Monument (FLFO) and analyzes approaches and risks associated with acquiring water rights. Recommendations concerning the water supply for the new Visitor's Center (center) are offered for the Regional Director's consideration.

ISSUE

The NPS has no water rights for the Sawmill Trail Well developed by the DSC to be the sole source of water for the new visitor's center at FLFO. State law limits the transfer of other NPS water rights to the Sawmill Trail Well. To meet the future needs at the visitor's center, it appears a Plan of Augmentation must be developed and water rights acquired from local water companies or other senior water right owners.

STATUS

The Denver Service Center has prepared plans for the construction of a new visitor center at FLFO. The development of water to meet the expected increase in visitor and administrative needs requires additional water rights. A new well that could meet projected needs was developed by Denver Service Center (DSC). However, the well has not become operational because water rights have not been secured to date. Further, it appears existing uses at the park are in excess of the amount decreed to NPS in 1988 for Well No. 12 which serves the existing center and administrative site. The NPS's water rights at FLFO are inadequate both in priority and amount to provide an assured supply of water for present and projected visitor and administrative uses. The park faces the risk of curtailment of water use in times of shortage in the basin.

BACKGROUND

CHRONOLOGY

* On or about January 6, 1989, the WRD began working with FLFO to protect acquired water rights which have been identified for potential abandonment in the adjudication of Water Division No. 1 (WD 1). We reviewed The Findings and Rulings of the Referee and Decree of the Water Court and confirmed for the Department of Justice (DOJ) the acceptance of the court's decree.

* On or about February 1, 1990, working on the Water Division 1 water rights, we were informed by Superintendent Poe that the DSC was drilling a well for the new center. We informed Poe that permission from the State was needed prior to drilling.

* On or about February 12, 1990, DSC received permission from the State and developed one production well (220 feet) (Sawmill Trail Well) and two monitoring wells (90 feet each). NPS is allowed one year to complete the well and begin using the water or it will receive a later priority date or must plug the hole with concrete.

* On or about April 5, 1990, DSC requested permission from the State to install a pump and use ground water from the Sawmill Trail Well. The State denied the DSC application to install a pump and use 5.6 acre-feet of ground water. NPS was informed by Fred Loo, Division of Water Resources, Ground Water Section that Sawmill Trail Well could not be completed and water put to beneficial use without a water right.

* On or about August 30, 1990, WRB staff reviewed decreed water rights in an attempt to transfer existing NPS rights to the Sawmill Trail Well. WRB then pursued the transfer of water rights from the Singer Well to Sawmill Trail Well. DSC conducted a pump test at Singer Well to determine yield and quantify the transferable portion of the Singer right. However, NPS was unable to transfer the Singer right to Sawmill Trail Well because the Singer right was too junior in priority to be of use as a non-exempt right.

* On or about November 20, 1990, to protect Singer Well, the Water Referee for WD 1 suggested the Singer Well be classified as "residential-exempt". Justice agreed and secured a court decree for the Singer Well as "residential-exempt" well for 3 single family homes, one acre of lawn/garden and stockwater.

* On or about February 14, 1991, after consulting with FLFO and DSC, WRB prepared an application to transfer the commercial exempt water right at FLFO Well No. 12 to Sawmill Trail Well and requested Department of Justice to process the application. The commercial exempt right for 0.33 acre-feet per year (afy) is not adequate for the projected water demand (5.6 afy). The intent was to transfer these rights to Sawmill Trail Well as an interim measure to allow construction to go forward while additional water rights are secured.

* On or about March 18, 1991, WRB filed an application to transfer water rights from Well No. 12 to Sawmill Trail Well. WRB was informed by the park that water use was already exceeding the decreed 0.33 afy at Well No. 12 by 0.186 afy. During its review of the NPS's application, the State contacted WRB to inform the NPS it would approve a "commercial-exempt" right for Sawmill Trail Well if the NPS provided documentation of its need for the 0.33 afy. The

State staff also suggested that 0.33 afy would be viewed by the District Engineer as inadequate and that water rights might be available for purchase from the Mountain Meadows Reservoir Co.

* On or about May 24, 1991, WRB staff informed Superintendent Ditmanson that NPS still lacked water rights to transfer to Sawmill Trail Well and suggested that FLFO and region discuss the need to purchase water rights and develop a Plan of Augmentation.

WATER RIGHTS ANALYSIS

Existing Water Rights

The existing center uses water from Well No. 12. The water right for the well is classified as "commercial exempt" and has limited utility. In times of shortage when junior rightholders may be restricted from enjoying their rights, an exempt right is not subjected to a restriction in use. Maximum exempt water use is 0.33 acre-feet per year (or 107,530 gallons per year). Total recorded use of Well No. 12 in 1990 was about 0.516 acre-feet (168,138 gallons per year). The park has initiated conservation measures to bring water use down to the amount permitted by the water court, but additional existing needs necessitate acquisition of additional water rights. Other NPS water rights exist for the park, but they are limited to residential purposes and are not transferrable to the new center. Further, even if they were transferrable, their priorities are too junior to be of value in times of shortage.

New Visitor Center Water Right Needs

The Sawmill Trail Well was designed to serve all water needs for the new facilities at FLFO. The new center will require 5.6 afy of water for visitor, administrative (2.2 afy), maintenance (0.2 afy) and park housing (3.2 afy) purposes. However, the lack of secure water rights to meet these needs has delayed the process of readying the well for operation. The WRB has filed to transfer the existing commercial exempt right for Well No. 12 to Sawmill Trail Well. It was anticipated that this right could be used to meet a part of the total requirement and to cover initial uses when the new center comes on line. The State Engineer, however, has asked the NPS to provide documentation for the need of 0.33 afy. The State Engineer could deny the NPS's request for transfer if it believes the rights are inadequate or invalid.

Basin Water Rights

This portion of WD 1 (South Platte River basin) has some of the most senior water rights in Colorado. Furthermore, it has long been fully appropriated. Thus, to have security during times of shortage a water right priority date in the late 1880's is desirable. If the federal reserved right doctrine were applicable to FLFO, little security would result because of the unit's late date of creation. It, therefore, follows that, if an exempt well which is immune from priority date "calls on the river" is not

adequate for FLFO needs, then a transferrable senior water right is required. Such a water right may be difficult to acquire and costly.

ALTERNATIVES FOR ACQUIRING NEEDED WATER RIGHTS PROTECTION

1. NPS could withdraw the current application for change of water right from Well No. 12 to Sawmill Trail and file a new application for Sawmill Trail that covers the entire amount projected by DSC to be needed (2.4 afy).

Analysis: The decreed "commercial-exempt" right would not be used for the new center. Immediate action would need to be taken to initiate acquisition of water rights with an adequate priority to assure park uses. Acquisition of contract services would probably be needed to prepare a Plan of Augmentation. The Plan of Augmentation trades an acquired senior diversion right for a right to withdraw ground water. When submitted to the court, the plan can be protested. Such protests are generally resolved by assuring no injury to other appropriators by placing more water into surface flow than is actually to be consumptively used. Nevertheless, while protests are generally resolved and plans approved, there remains an element of uncertainty. To protect NPS's investment in the Sawmill Trail Well and avoid action to abandon (plug) the well, a permit would be requested from the State to designate the well a monitoring well.

Risks: There are many uncertainties at the moment about the cost and availability of water rights for the new center and administrative uses. The length of time required to finalize the rights is not known. The acquisition of rights and approval of the Plan of Augmentation could meet legal challenges from water right holders with vested interests in the basin. If challenged, the issue could potentially be litigated. Without any water rights in place for the new center, site development could be delayed.

2. NPS could transfer the existing water right from FLFO Well No. 12 to the new Sawmill Trail Well to serve the minimum needs required at the new center for construction and operation purposes. The NPS would next acquire additional rights for a second new well to meet the balance of projected visitor, administrative and water needs (2.4 - 0.33 = 2.07 afy).

Analysis: It appears that, subject to justification of 0.33 afy a transfer of the existing commercial exempt right from Well No. 12 to Sawmill Trail Well would be approved. Use of Sawmill Trail Well would be limited to 0.33 afy. The NPS would be required to initiate conservation measures to keep its use to 0.33 afy. It may prove difficult to conserve enough water to remain within this limit.

If the implementation of conservation measures affects the park's ability to serve the public or becomes unduly burdensome in the face of increasing visitor use, NPS could explore with legal counsel the possibility of requesting the State to temporarily waive the limit of its commercial exempt right so that visitor center operations may continue unimpaired while NPS pursues other water rights acquisitions and finalizes a Plan of Augmentation for a new well. However, it may be difficult statutorily for the State to take such an action.

A new well could be drilled near the new center. A Plan of Augmentation would cover all uses related to the visitor center, and park administration (including maintenance facilities but not including park residential uses) in excess of the existing right. At a minimum, senior water rights for approximately 10 percent of the 2.4 afy (78,204 gallons per year) would need to be purchased for augmentation of senior water rights. This represents the amount of water the State considers to be consumed (lost to the system) for this type of facility.

Risks: Subject to legal reviews, this approach may allow the NPS to pursue construction and, possibly, the initial start-up of the new center while the additional water rights are acquired. If the park, to be able to continue to provide services to the public, is unable to remain within the 0.33 afy limit, it seems unlikely the State would take action given the NPS's diligence in resolving its water rights problem. However, to be able to show to the State that NPS is diligent in this matter, NPS needs to take prompt action to prepare a Plan of Augmentation and acquire the additional water rights needed for the new well.

3. NPS could transfer its "commercial-exempt" right for Well No. 12 to Sawmill Trail Well and evaluate legal alternatives for stacking other NPS decreed water rights over the commercial exempt right to meet the balance of water use required (2.4 - 0.33 = 2.07 afy).

Analysis: The total amount of water in all other water rights held by NPS at FLFO would be more than enough to fulfill projected needs for the new center, administrative, maintenance and residential needs. However, these rights are small "residential-exempt" rights acquired by the NPS during land acquisitions. It is our understanding that such rights are not available, under State law, for agglomeration into a single "large" right. Pursuing this approach would require a demonstration that federal purposes are being frustrated by state law, and that greater efficiencies are gained through the consolidation and transfer of NPS's rights to the Sawmill Trail Well than by creating new rights and new sources of water for the center. Under this scenario, a Plan of Augmentation may be needed if the dates of priority of the existing NPS rights are inadequate. This approach would require considerable assistance from Department of Justice to develop supporting legal arguments.

Risks: This approach would likely require more legal assistance and time to resolve and/or secure water rights for the center than any of the alternatives. Justice would likely need substantial time to prepare a legal case for this approach and would be concerned because of the constitutional questions involved. A favorable solution under this scenario would be a gamble. Given the burden of the water rights caseload at Justice, there is a strong likelihood that Justice would decline to invest the time required to provide the legal support NPS needs under this scenario.

For all three of the above scenarios, a Plan of Augmentation appears to be a necessity. For Alternatives 1 and 2, a purchase of water rights is required. If augmentation of the stream system is required, it appears doubtful that the Plan of Augmentation, acquisition of water rights, and approval by the State and water court will occur quickly. Additional funding (including funds that may be required to develop additional wells) will be needed to accomplish these tasks. Additional delays may be expected if there is opposition and/or subsequent litigation to resolve objections to the NPS proposals. Although it would not be the NPS's intent to develop more new wells at the park, it would have no other alternative if the proposed water rights transfers in the above scenarios are unsuccessful.

Two other alternatives not considered here, but which Justice has offered as a last resort, include the condemnation of rights and the "do nothing" approach. The ramifications of the first appears obvious and will not be treated here. The "do nothing" alternative does not appear feasible in light of the on-going adjudication of WD 1 and the likely litigation which would result from such a defiance of the State's statutes.

In preparing these alternatives, several basic questions remain to be answered:

* How much do water rights cost and are any senior rights available to NPS?
* How much does a Plan of Augmentation cost and how quickly could it be prepared? Can it be effectively and timely produced in-house?
* How quickly could a plan be reviewed and approved?
* Would protest and litigation be likely? How long would resolution take?
* Could the State legally "shut down the park" until water rights are acquired? Would the State take such an action?
* Do State procedures/laws frustrate the operation of the intent of Congress if the NPS has other water rights which are not being used for their original purposes but can't be transferred due to state regulations/statutes?

RECOMMENDATIONS

As stated above, there is reasonable expectation for a "commercial-exempt" right to be approved by the State in the near future. A Plan of Augmentation appears to be a requirement for securing the necessary rights at the park, regardless of the alternatives considered to date by WRB. Given this set of circumstances, the most logical water rights approach would be to firm up those which can be used in the near future (i.e., the transfer of "commercial-exempt" rights from Well No. 12) and begin planning for the acquisition(s) of the remaining rights. This would lead to a resolution under the scenario described in Alternative 2 and is most consistent with the direction WRB has pursued to date in this matter. This approach should allow NPS to pursue construction of the new center and, possibly, the initial start-up of the new center while the additional water rights are being sought. If the park, to be able to continue to provide services to the public, is unable to remain within the 0.33 afy limit, it seems unlikely the State would take action given the NPS's diligence in resolving its water rights problem.

It should be noted that if the State rejects the NPS's application to transfer the "commercial-exempt" right for Well No. 12, the NPS would need to immediately proceed with the development of a Plan of Augmentation for the purpose of applying for a new water right at Sawmill Trail Well. To avoid having to plug the well, NPS would need to acquire a monitoring well permit.

With respect to securing rights for residential needs, NPS should review options for transferring water rights (i.e. the Singer Well rights) for residential purposes to the Sawmill Trail Well or other new wells as housing construction plans are finalized.

If the region desires to pursue the acquisition of rights and the preparation of a Plan of Augmentation, these costs should be programmed as soon as possible. To be able to show to the State that NPS is diligent in this matter, NPS needs to take prompt action to prepare a Plan of Augmentation and acquire the additional water rights needed for the new well. We anticipate that the process, without any major conflicts (i.e., litigation or protests) would take from 6 months to a year to complete. Assistance from DOJ, SOL, Rocky Mountain Regional Office, FLFO, and WRB would be required for any solution chosen. WRB would be available to assist with technical and water rights coordination upon request.

CHRONOLOGY - WATER RIGHTS ISSUES AT FLORISSANT FOSSIL BEDS N.M.

* On or about January 6, 1989, the WRD began working with FLFO to protect acquired water rights which have been identified for potential abandonment in the adjudication of Water Division No. 1 (WD21). We reviewed The Findings and Rulings of the Referee and Decree of the Water Court and confirmed for the Department of Justice (DOJ) the acceptance of the court's decree.

* On or about February 8, 1989, WRD was contacted by Bill Rust, Engineer, RMR Division of Operations and Maintenance, informing the WRD that the RMR was going to develop the water source at Main Valley Springs with a gravel infiltration gallery. At that time the RMR had verbal authorization from the State to drill test holes to determine the location and reliability of the spring source. The WRD informed Rust that the NPS should begin to prepare and file necessary water rights applications.

* On or about February 8, 1989, WRD was asked by Superintendent, FLFO, to investigate the status of water rights at FLFO for transfer to Main Valley Spring for the purpose of acquiring water rights for the new visitor center.

* On or about February 22, 1989, Williams and Hansen of WRB visited FLFO to review and evaluate, in consultation with Superintendent Poe, acquired water rights suitable for transfer to Main Valley Spring.

* Sometime between March and August 1989, RMR determined that Main Valley Spring was unsuitable as a permanent water source for the new visitor center.

* On or about February 1, 1990, we were informed by Superintendent Poe that the DSC was drilling a well for the new center. We informed Poe that permission from the State was needed prior to drilling.

* On or about February 12, 1990, DSC received permission from the State and developed one production well (Sawmill Trail Well - 220 feet deep) and two monitoring wells (90 feet deep) in June 1990. The NPS is allowed one year to complete the well and begin using the water or it will receive a later priority date or must plug the hole with concrete.

* On or about April 5, 1990, DSC requested permission from the State to install a pump and use ground water from the Sawmill Trail Well. The State denied the DSC application to install a pump and use 5.6 acre-feet of ground water. NPS was informed by Fred Loo, Division of Water Resources, Ground Water Section that Sawmill Trail Well could not be completed and water put to beneficial use without water rights.

* On or about August 30, 1990, WRB staff reviewed decreed water rights in an attempt to transfer existing NPS rights to the Sawmill Trail Well. WRB then pursued the transfer of water rights from the Singer Well to Sawmill Trail Well. The Water Referee, Water Division 1 recommended a pump test be conducted on Singer Well to certify well production to support historical irrigation use. DSC conducted a pump test at Singer Well to determine yield and quantify the transferable portion of the Singer right. However, the NPS was unable verify the irrigation acreage and it was determined that the priority date for a non-exempt right for Singer Well was inadequate to protect NPS uses. NPS suspended its attempt to establish a irrigation right for Singer Well.

* On or about November 20, 1990, to protect Singer Well, the Water Referee for WD 1 suggested the Singer Well be classified as "residential-exempt". Justice agreed and secured a court decree for the Singer Well as "residential-exempt" for 3 single family homes, one acre of lawn/garden and stockwater. The "residential-exempt" right, however, could not be transferred to the new Sawmill Well site for sanitary and drinking facilities (commercial non-exempt uses).

* On or about February 14, 1991, after consulting with FLFO and DSC, WRB prepared an application to transfer the commercial-exempt water right at FLFO Well No. 12 to Sawmill Trail Well and requested Department of Justice to submit the change application to the WD1 Water Court. The commercial exempt right for 0.33 acre-feet per year (afy) is not adequate for the projected water demand (5.6 afy). The intent was to transfer these rights to Sawmill Trail Well as an interim measure to allow construction to go forward while additional water rights are secured.

* On or about March 18, 1991, WRB filed an application to transfer water rights from Well No. 12 to Sawmill Trail Well. WRB was informed by the park that water use was already exceeding the decreed 0.33 afy at Well No. 12 by 0.186 afy. During its review of the NPS's application, the State contacted WRB to inform the NPS it would approve a "commercial-exempt" right for Sawmill Trail Well if the NPS provided documentation of its need for the 0.33 afy. The State staff also suggested that 0.33 afy would be viewed by the District Engineer as inadequate and that water rights might be available for purchase from the Mountain Meadows Reservoir Co.

* On or about May 24, 1991, WRB staff informed Superintendent Ditmanson that NPS still lacked water rights to transfer to Sawmill Trail Well and suggested that FLFO and RMR discuss the need to purchase water rights and develop a Plan of Augmentation.

REPORT OF TELEPHONE CONVERSATION

DATE 5/9/91 TIME 1335 AM/PM

PROJECT FLFO Water Rts

NPS PERSON ON CALL Bill Hansen ☐ I CALLED ☒ S/HE CALLED

PERSON Al Eckerman

ORGANIZATION Colorado Div. of Water Resources - GW Group

ADDRESS

TELEPHONE NUMBER 866-3740

DISCUSSION Al called because he was confused regarding our chg application to get a replacement well at FLFO for the visitor center. (transfer decreed water rights from Well #12 to Sawmill Trail Well). First, by state law a replacement well can be obtained for a caved in well, etc w/in 200' of the original well. Therefore, our application will be treated as a new well which will be conditioned upon the water courts approval of the chg of decreed rights to Sawmill Trail Well.

There was also confusion about which of the 3 ~~new~~ wells drilled was the production well (#1 or #2 - 101' & 97' deep) & the 220' deep well - I said the 220. Asked if we were in compliance w/ construction requirements - I said yes.

Al was also confused about the reference to the purchase order for payment. I explained it was sent by the DSC when Fred Coo denied the permit due to lack of water rts. Al will check on it & try to make it work.

Water Rights - Florissant Fossil Beds N.M.

Current Status

NPS filed an application on March 12, 1991, to transfer water rights from FLFO Well No. 12 to the new Visitor Center well (Sawmill Trail Well).

Water Court has responded to our application with a letter requiring the following prior to approving the change:

1) Prove that the amount of water claimed for exempt commercial use is sufficient for the annual drinking and sanitary operations of the visitors center.

2) Provide historical records of water use from Well No. 12.

3) Equip the well with a totalizing flow meter and provide records to the Division Engineer upon request.

4) Limit the well use to that which is decreed in Case No 90 CW 149 (15 gpm and 0.33 acre-feet per annum for drinking and sanitary facilities).

5) Provide evidence that there will be no expanded use of the well.

Recommendations

1) Sit on the application for Sawmill Trail Well. If we provide the State with the requested information it may reveal that we are currently consuming 0.18 acre-feet more than our decreed right. The Park cannot reduce use to the decreed level of 0.33 acre-feet.

2) Determine what, if any, water is available in the South Platte Basin for augmentation. Dick Young should begin negotiations to determine availability and cost of water.

3) Prepare a scope of work and an RFP for engineering services to complete a Plan of Augmentation. The contract should include the preparation of a Temporary Substitute Supply Plan to temporarily purchase or lease water for use at the Sawmill Trail Well while the Plan of Augmentation is completed.

4) The projected cost of acquiring water rights is expected to be about $15,000. A Plan of Augmentation should cost the NPS about $5-10,000.

5) RMR Management needs to determine if, and how, the NPS can fund the acquisition and Plan of Augmentation using reprogrammed funds and/or 1992 capital investment funds, etc.

U.S. Department of Justice

Land and Natural Resources Division

WMC:LAJ
90-1-2-892

Denver Field Office
Federal Bldg., 1961 Stout Street
Drawer 3607
Denver, Colorado 80294

Commercial Number
(303) 844-3627
FTS/564-3627



March 12, 1991

Mr. Owen Williams
Assistant Chief, Water Resources Division
National Park Service
301 South Howes Street
Fort Collins, Colorado 80521

Re: Water Division No. 1 - Case No. 90 CW 149 and 84 CW 419 (W-8795-77)

Dear Owen:

Enclosed please find a copy of the last page of FINDINGS AND RULING OF THE REFEREE . . . , in the above-captioned case indicating the Decree was entered March 6, 1991.

I can now proceed to file the Application for Change of Water Right for this right. Enclosed is the permit application for you to file with the State Engineer. The permit right must be perfected within one year. This requires completion of the well, application of the water to beneficial use and filing of a statement of beneficial use within the year.

Thank you for your cooperation in this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

ENVIRONMENT AND NATURAL RESOURCES DIVISION

Lynn A. Johnson
Attorney
General Litigation Section

cc: John Kunz, Esq.
Regional Solicitor's Office
Department of the Interior
Post Office Box 25007
Denver Federal Center
Denver, Colorado 80225

Sent to atty Eng on 4/3/91

HANSEN

February 14, 1991

L54(479)
FLFO/Water Rights

Lynn Johnson, Attorney
U.S. Department of Justice
Federal Building, 1961 Stout Street
Drawer 3607
Denver, Colorado 90924

Re: Application for Change of Water Right at Sawmill Trail Well at Florissant Fossil Beds National Monument

Dear Lynn:

We have enclosed the Application for Change of Water Right and Permit Application Form for Sawmill Trail Well at Florissant Fossil Beds National Monument (FLFO) as requested in your phone conversation with Bill Hansen, of my staff, on February 12, 1991.

The Sawmill Trail Well was drilled under well Permit No. MH-15812. The Monument would like to transfer decreed water rights from FLFO Well No. 12 (Case No. 90CW149) to the Sawmill Trail Well for drinking and sanitary facilities at a new Visitor's Center to be constructed in FY92. The National Park Service (NPS) is also requesting a Permit, from the State Engineer, to complete the well and use ground water at Sawmill Trail Well.

Please note that in Sections number 3.A. and 4. of the Application for Change of Water Right the date which Case No. 90CW149 was decreed has been left blank because the Decree of the Water Court has not yet been signed by Judge Behrman.

If you find that these applications are in order, we have already signed and notarized the applications so they may be submitted to the appropriate agency. The NPS Denver Service Center prepared the attached purchase order (PX-2175-0-1213) on April 5, 1990, for payment of the $60.00 filing fee with the State Engineer. Please reference this purchase order when the application is submitted to the State Engineer's Office.

If you have any questions concerning these applications please contact Bill Hansen at (303) 493-1441.

Sincerely yours,

Owen R. Williams
Chief, Water Rights Branch

Enclosures

cc: FLFO - Superintendent
RMR - Hermance

FNP:BHANSEN:jt:(303)493-1441:02/14/91:c:wp51:jan:sawmill.wd1

Submit original plus 3 copies

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. _____

APPLICATION FOR CHANGE OF WATER RIGHT

CONCERNING THE APPLICATION FOR WATER RIGHTS OF:
United States of America
Florissant Fossil Beds National Monument, in Teller County.

1. Name, address, telephone number(s) (residence and business) of applicant(s)

United States of America, Department of Justice, Land and Natural Resources Div.
1961 Stout Street, P.O. Drawer 3607
Denver, CO 80294

2. Decreed name of structure for which change is sought: (indicate whether ditch, well, springs, reservoir, etc.)

USA Florissant Fossil Beds National Monument Visitor's Center Well No. 12

3. From previous Decree:

A. Date Entered: _____ Case No. 90CW149* Court: District Court Water Division 1

B. Decreed point of diversion (include map): NW¼, NW¼, S24, T13S, R71W, 6th P.M., 400 feet from the N line and 500 feet from the W line.

C. Source: _____

D. Appropriation Date: October 31, 1951 Amount: 0.04 cfs (18 gpm) 0.3 acre-ft/yr.

E. Historic use: (Include a description of all water rights to be changed, a map showing the approximate location of historic use of the rights and records or summaries of records of actual diversions of each right the applicant intends to rely on to the extent such records exist.)

Drinking and sanitary facilities at the Visitor's Center.

*See Case No. W-8795-77 entered on 12/29/88.

4. Proposed change: (a) describe change requested: alternate point of diversion/replacement/change of use; (if well, please list pertinent information from well permit) (b) location; (c) use; (d) amount; (e) give proposed plan for operation (if (b) thru (e) applicable, please give full descriptions.)

Proposed change is a replacement well. USA Florissant Fossil Beds National Monument Well No. 12 decreed in 90CW149, Water Division No. 1. Decreed point of diversion NW¼NW¼, S24, T13S, R71W, 6th P.M., at a point approximately 400' from the N line and 500'from the W. line. Source: Groundwater Appropriation: 10/31/1951. Amount: 0.04 cfs(18gpm) -0.3 acre-ft/yr. Historic use: Drinking and sanitary facilities at the Visitor's Center. Well No. 12 will be replaced by Sawmill Trail Well and used at a new Visitor's Center at Florissant Bed National Monument. (Permit Application Form Filed). Sawmill Trail Well is located in the NE¼ SW¼, S23, T13S, R71W,6th P.M., 2500' from the S line and 2000' from the W line. Use is for drinking and sanitary facilities at the new Visitor's Center. Amount is 0.04 cfs(18gpm) not to exceed 0.3 acre-ft/yr. Water will be used by park visitors and employees. Well No. 12 will be abandoned and filled w/concrete when the new Visitor's Center is complete.

5. Name(s) and address(es) of owner(s) of land on which structure(s) is (are) located:

United States of America, National Park Service,
Florissant Fossil Beds National Monument

Signature of Applicant (or Attorney)

Address of Applicant (or Attorney)

Telephone No.

Attorney Registration No.

STATE OF COLORADO
COUNTY OF Larimer } ss.

I, Owen R. Williams, state under oath that I have read this application and verify its content.

Applicant

Subscribed under oath before me on 19 Feb 91 (date).

My commission expires: My Commission Expires October 9, 1994 (date).

Notary Public

00-00-0000: permit application form for a permit to install a pump

WRJ-5-Rev. 76

COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203

PERMIT APPLICATION FORM

Application must be complete where applicable. Type or print in BLACK INK. No overstrikes or erasures unless initialed.

FOR: (X) A PERMIT TO USE GROUND WATER
(X) A PERMIT TO CONSTRUCT A WELL
(X) A PERMIT TO INSTALL A PUMP

(X) REPLACEMENT FOR NO. Well No. 12 as decreed in 90CW149 by Sawmill Trail Well
( )
WATER COURT CASE NO. _____

(1) APPLICANT - mailing address

NAME United States of America, National Park Service, Florissant Fossil Beds NM
STREET 301 S. Howes Street
CITY Fort Collins, Colorado (State) 80521 (Zip)
TELEPHONE NO. (303) 493-1441

(2) LOCATION OF PROPOSED WELL

County Teller
NE ¼ of the SW ¼, Section 23
Twp. 13 S (N,S), Rng. 71 W (E,W), 6th P.M.

(3) WATER USE AND WELL DATA

Proposed maximum pumping rate (gpm) 18
Average annual amount of ground water to be appropriated (acre-feet): 0.3
Number of acres to be irrigated: None
Proposed total depth (feet): 180
Aquifer ground water is to be obtained from: Fractured Granite
Owner's well designation Sawmill Trail Well

GROUND WATER TO BE USED FOR:

( ) HOUSEHOLD USE ONLY - no irrigation (0)
( ) DOMESTIC (1)
( ) LIVESTOCK (2)
( ) COMMERCIAL (4)
( ) INDUSTRIAL (5)
( ) IRRIGATION (6)
( ) MUNICIPAL (8)
(X) OTHER (9) Drinking & Sanitary Facilities as decreed in 90CW149
DETAIL THE USE ON BACK IN (11)

(4) DRILLER

Name William Dietrich
Street P.O. Box 287
City Florissant, Colorado (State) 80816 (Zip)
Telephone No. (719)687-6379 Lic. No. 1155

FOR OFFICE USE ONLY: DO NOT WRITE IN THIS COLUMN

Receipt No. _____ / _____
Basin _____ Dist. _____

CONDITIONS OF APPROVAL

This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.

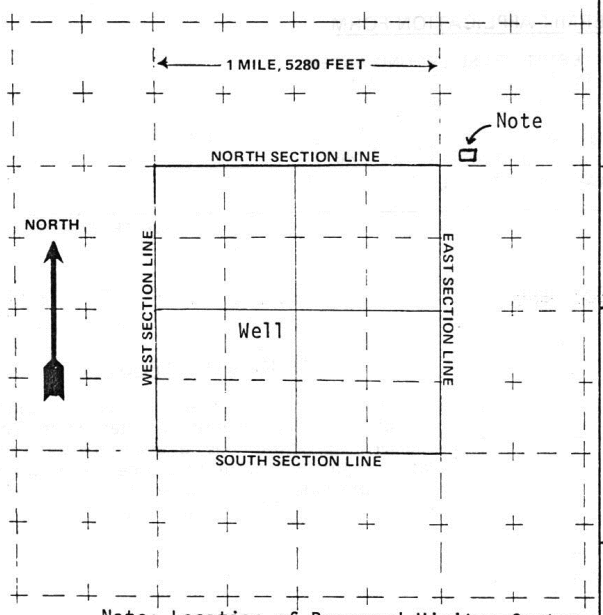
APPLICATION APPROVED

PERMIT NUMBER _____
DATE ISSUED _____
EXPIRATION DATE _____

_____
(STATE ENGINEER)

BY _____
I.D. _____ COUNTY _____

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



Note: Location of Proposed Visitor Center
The scale of the diagram is 2 inches = 1 mile
Each small square represents 40 acres.

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

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

2500 ft. from south (north or south) sec. line

2000 ft. from west (east or west) sec. line

LOT N/A BLOCK N/A FILING # N/A

SUBDIVISION N/A

(7) TRACT ON WHICH WELL WILL BE LOCATED Owner: National Park Service

No. of acres 5992 . Will this be the only well on this tract? No

(8) PROPOSED CASING PROGRAM

Plain Casing See attached drawing of propose well construction.

____ in. from ____ ft. to ____ ft.

____ in. from ____ ft. to ____ ft.

Perforated casing

____ in. from ____ ft. to ____ ft.

____ in. from ____ ft. to ____ ft.

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

Sawmill Trail Well is 5150 ft. S 60° W from Well No. 12. Well No. 12 will b plugged w/concrete when new Visitor Center facilities are complete.

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

Owner(s): USDI National Park Service, Florissant Fossil Beds NM No. of acres: 5992

Legal description: Florissant Fossil Beds National Monument Visitor Center/Headquarters

(11) DETAILED DESCRIPTION of the use of ground water: **Household use and domestic wells must indicate type of disposal system to be used.** Water to be used by park visitors and employees at a newly constructed Visitor Center/Headquarters. Sewage disposal will be by septic tank and absorption field system.

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

Type or right	Used for (purpose)	Description of land on which used

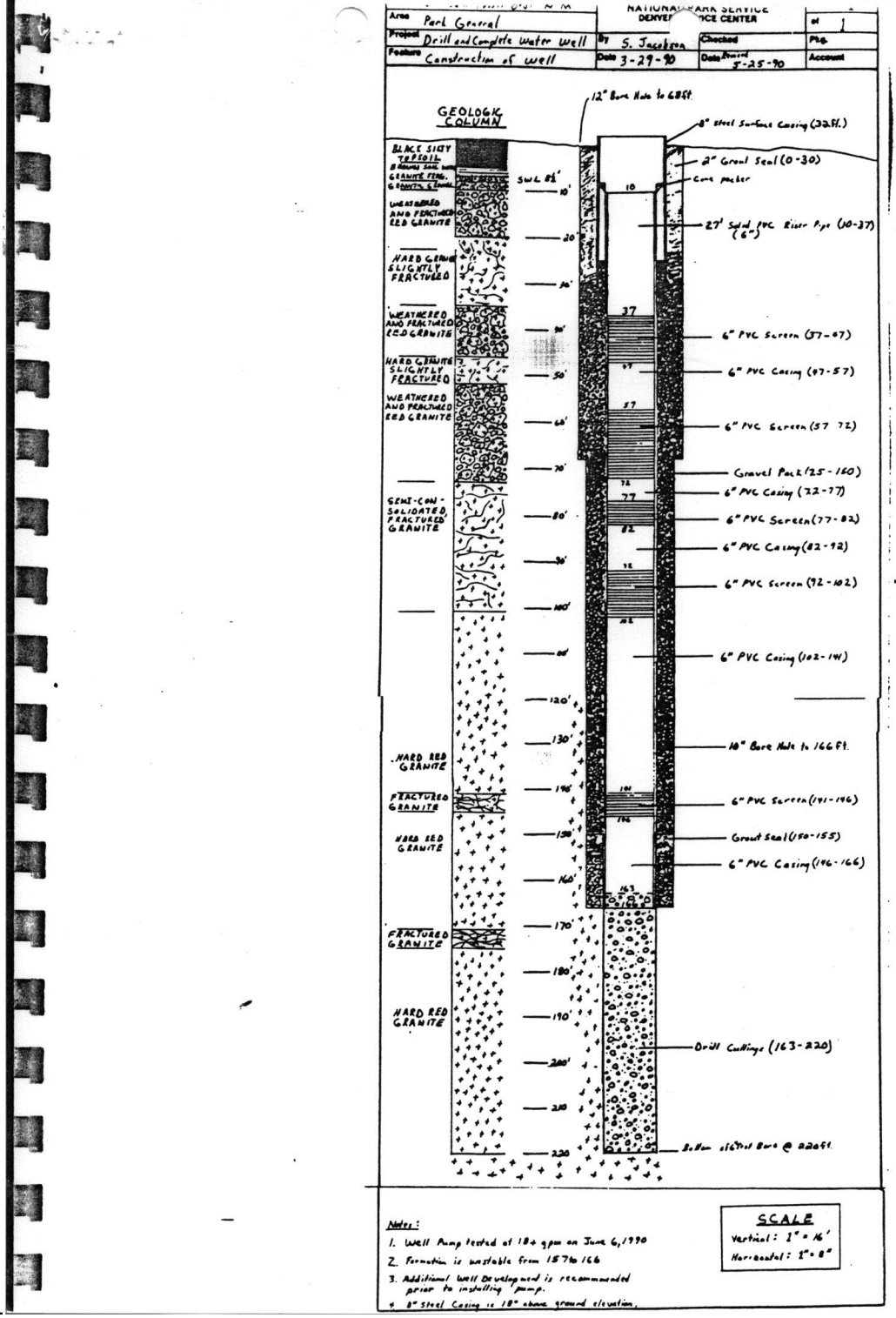
(13) THE APPLICANT(S) STATE(S) THAT THE INFORMATION SET FORTH HEREON IS TRUE TO THE BEST OF HIS KNOWLEDGE.

O. R. Williams

SIGNATURE OF APPLICANT(S)

Use additional sheets of paper if more space is required.

03-29-1990: well log and diagram



04-05-1990: order for supplies or services - well permit application fee

ORDER FOR SUPPLIES OR SERVICES

PAGE 1 OF PAGES 1

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

1. DATE OF ORDER	2. CONTRACT NO. (If any)	3. ORDER NO.	4. REQUISITION/REFERENCE NO.
04/05/90	STATE AGENCY	PX-2175-0-1213	2175-0-247

5. ISSUING OFFICE (Address correspondence to)
NATIONAL PARK SERVICE RMR-AC
P.O. BOX 25287
DENVER, COLORADO 80225-0287

6. SHIP TO: (Consignee and address, ZIP Code)
NATIONAL PARK SERVICE ATTN: J. WENDELTON OR
12795 WEST ALAMEDA PARKWAY G. ANDERSON
LAKEWOOD, COLORADO 80228
SHIP VIA: BEST WAY

7. TO: CONTRACTOR (Name, address and ZIP Code)
COLORADO DIVISION OF WATER RESOURCES
CENTENNIAL BLDG. #818
1313 SHERMAN STREET
DENVER, CO 80203

8. TYPE OF ORDER
[X] A. PURCHASE – Reference your VERBAL QUOTE
Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheets, if any, including delivery as indicated. This purchase is negotiated under authority of: FAR 13
[ ] B. DELIVERY – Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.

9. ACCOUNTING AND APPROPRIATION DATA
2001-4178-402 N-2500 F3*

10. REQUISITIONING OFFICE
RR DSC-TCE-WENDLETON OR ANDERSON

11. BUSINESS CLASSIFICATION (Check appropriate box(es))
[ ] SMALL [X] OTHER THAN SMALL [ ] DISADVANTAGED [ ] WOMEN-OWNED

12. F.O.B. POINT	14. GOVERNMENT B/L NO.	15. DELIVER TO F.O.B. POINT ON OR BEFORE (Date)	16. DISCOUNT TERMS
DESTINATION	N/A	6/5/90	NET 30
13. PLACE OF INSPECTION AND ACCEPTANCE			

17. SCHEDULE (See reverse for Rejections)

ITEM NO. (A)	SUPPLIES OR SERVICES (B)	QUANTITY ORDERED (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)	QUANTITY ACCEPTED (G)
1.	WELL PERMIT APPLICATION FEE FOR A WELL AT FLORISSANT FOLLIL BEDS NATIONAL MONUMENT IN TELLER COUNTY, NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 23, TOWNSHIP 13S, RANGE 71 W.	1	EA	60.00	60.00	

SEE BILLING INSTRUCTIONS ON REVERSE	18. SHIPPING POINT	19. GROSS SHIPPING WEIGHT	20. INVOICE NO.		17(H). TOT. (Cont. pages)
	21. MAIL INVOICE TO: (Include ZIP Code) NATIONAL PARK SERVICE ATTN: RMR-AFP P.O. BOX 25287, DENVER, CO. 80225-0287			60.00	17(I). GRAND TOTAL

22. UNITED STATES OF AMERICA BY (Signature) Frank R Morrissey

23. NAME (Typed) FRANK R. MORRISSEY (303) 969-2792 (RM-116)
TITLE: CONTRACTING/ORDERING OFFICER

NPS Form 10-3470 (3-86) NATIONAL PARK SERVICE

HANSEN

January 7, 1991

L54(479)
FLFO/Water Rights

Memorandum

To: Regional Director, Rocky Mountain Region

From: Chief, Water Resources Division

Subject: Trip Report for Travel to Florissant Fissil Beds National Monument on December 19, 1990

The attached trip report concerns travel by Bill Hansen and Dan McGlothlin to Florissant Fossil Beds National Monument (FLFO). The purpose of their trip was to discuss, with representatives of the Denver Service Center, the Rocky Mountain Region, and Florissant Fossil Beds National Monument, alternatives for transferring decreed water rights to the proposed water supply system for the new Visitor's Center.

If you have any questions, please contact Bill Hansen at (303) 493-1441.

Stanley L. Ponce

cc: FLFO - Superintendent
RMR - Criger, Hermance
DSC - Anderson, Stutzman

January 7, 1991

L54(479)
FLFO/Water Rights

Memorandum

To: Chief, Water Resources Division

Through: Chief, Water Rights Branch

From: Bill Hansen, Hydrologist, Water Rights Branch

Subject: Trip Report for Travel to Florissant Fossil Beds National Monument on December 19, 1990

Purpose: This trip was made to discuss, with representatives of the Denver Service Center (DSC), the Rocky Mountain Region, and Florissant Fossil Beds National Monument (FLFO), alternatives for transferring decreed water rights to proposed water supply systems for the new Visitor's Center.

Itinerary: Departed Ft. Collins at 0715 and travelled to FLFO. Returned to Ft. Collins at 1715.

Contacts: Sue McGill, Acting Superintendent, FLFO
John Criger, Engineer, Rocky Mountain Region
Suzy Stutzman, Landscape Architect, DSC
Gary Anderson, Engineer, DSC

Discussion: Travelling in the company of Dan McGlothlin, Water Rights Branch, I met Anderson, Criger, and Stutzman on route and discussed Colorado water rights law and potential alternatives on the way to FLFO. Discussions focused primarily on the differences between "exempt" and "non-exempt" wells in Colorado and the benefits and requirements of transferring decreed water rights to the proposed water supply well/s for the new Visitor Center (VC).

Once we arrived at FLFO we met with McGill to brief her about water rights issues at FLFO and to obtain the Park's preferences concerning the transfer of decreed water rights to the water supply well/s at the new VC. Water rights transfers at FLFO are limited by the fact that all decreed water rights are "exempt" and are restricted to the amounts and beneficial uses decreed in Water Division No. 1 Court rulings. Due to these limitations, a single well cannot supply both drinking/sanitary water at the proposed VC and domestic water at the residential quarters.

Construction of the new Visitor's Center and park residences is proposed to occur in two phases. During phase I, funding will be appropriated for construction of the Visitor's Center and possibly the maintenance facilities. It was agreed that Visitor's Center Well No. 12 should be transferred to the new water supply well drilled by the DSC. This will allow construction of the VC and maintenance facilities to commence in FY92.

During phase II, water rights from the Singer Well (FLFO No. 3) should be transferred to a second water supply well, yet to be drilled, for use at the residential quarters. Water use from this well is limited to three single family homes and irrigation of a lawns and gardens. If more than three residential quarters are to be developed during phase II or additional phases, additional water supply wells will be drilled so decreed "exempt" water rights can be transferred to the new wells. It was agreed that the Ghist Well (FLFO Well No.10) should be transferred to a third water supply well if additional residences were constructed.

Action Items:

1. Assist the Department of Justice (DOJ) in the filing of an application of change of water right transferring water rights from the VC Well No. 12 to the new water supply well drilled by DSC.

   Responsible party: Hansen. To be completed by June 1, 1991.

2. Assist the DOJ in the filing of an application of change of water right transferring water rights from the Singer Well (FLFO Well No. 3) and the Ghist Well (FLFO Well No. 10) to additional water supply wells yet to be drilled by DSC.

   Responsible party: Hansen. To be determined at a later date.

3. Determine if decreed "exempt" domestic water rights for single family homes can be transferred to multi-family duplexes.

   Responsible party: Hansen. To be completed by June 1, 1991.

4. Complete a hydrologists report summarizing water rights issues associated with the development of new water supply wells at the new VC.

   Responsible party: Hansen. To be completed by June 1, 1991.

W.R. Hansen

FNP:WHANSEN:jt:(303)493-1441:01/07/91

REPORT OF TELEPHONE CONVERSATION

DATE 4-19-1990 TIME 9:00 (AM)/PM

PROJECT FLPO

NPS PERSON ON CALL Alice Johns [X] I CALLED [ ] S/HE CALLED

PERSON Rick Nielsen

ORGANIZATION Groundwater, State Engrs Office

ADDRESS

TELEPHONE NUMBER 866-3587

DISCUSSION (re) test well for V.C. that DSC wants to complete.

Nielsen said -- Permanent casing can be installed
-- Will have to be plugged within a year if permit not obtained
-- Well contractor will send well completion report to State Engr's office

Exempt wells (domestic) < 15 gpm 1-3 a f · domestic (livestock, household
" " (commercial " " " < 1/3 af · drinking/sanitation only

If utilizing existing rights for exempt well, which comes first, the permit or the Δ application?

-- submit both at same time
-- is a catch 22 -- State Engr wont approve permit without water rights
-- Court wont approve water rights without an approved permit.

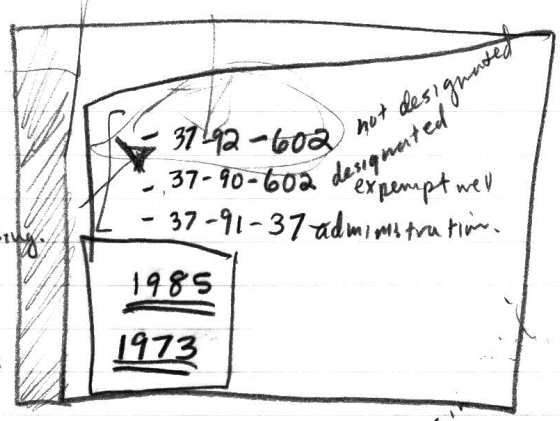
Statutes re ground water -- exempt wells in designated & non designated

-- 1973 & 1985 37-92-602
37-90-602
37-91-37

→ State Engineer
→ Rick Nielsen

9:00 am.

- statutes (re) exempt wells
- permit required (now)?
- ∞ prob get permit before installing casing.
  - → will have to plug in a year.
  - → they can install the casing.
  - → no guarantee the permit be
  - → plug in year, unless they get a permit.
  - → base it -- otherwise



well contractor → well completion report.

- required cost
- one notice
- 50¢ per page.

- ascertained drilling
- acre-ft. limitation

→ Depends on proximity of wells
water right → alt. point of diversion
→ takes some survey po
alternate.

Supplemental well → prob would

Exempt well < 15 gpm 1 to 3 acre-feet → domestic, livestock, household
commercial exempt < 15 gpm 1/3 acre-foot limitation → drinking only

→ would there be an

commercial -- non-exempt would be need.
-- other water rights
-- permit only issued

→ well permit application must be acted on → → ultra-low-flow toilets
→ submit both at same time.
→

Well Tested
- blank wall it
- pump-tested
- have projected use

REPORT OF TELEPHONE CONVERSATION

DATE 4-18-1990 TIME 10:30 (AM)/PM

PROJECT FLFO

NPS PERSON ON CALL Alice Johns ☒ I CALLED ☐ S/HE CALLED

PERSON Fred Lee

ORGANIZATION State Engrs Office

ADDRESS

TELEPHONE NUMBER 866-3587

DISCUSSION I asked if any prob completing the well/eg prob w/ well contractor.

He said no -- so long as its not put to Ben. use. The letter of 2-12-1990 from State Engr's Office (signed by him) gives authorization for well completion, so long as it's done in next 3 months as of date of letter.

Then we talked about exempt v. non-exempt

domestic exempt → normally, 1 single family dwelling
commercial exempt → strictly sanitary purposes.

State Engineer
~~Rick~~ Nielsen

10:30

FRED LOO - must have

→ notify office of test hole? yes.
acknowledgement of test hole would indicate:

→ testing

→ could complete well in accordance with that acknowledgement.
→ contractor is licenced →
water well driller. → go ahead & complete the well
→ acknowledgement is valid up to a year.

Completed by May 12
testing can't exceed 7 day.

→ Get application for a permit.

If pumping rate 15 gpm.
→ pumping not exceed 15 gpm.
→ in detail proposed use of well.
→ not sure whether use coh
→ normally exempt. → domestic → 1 single family dwelling
commercial → strictly sanitary purpose,

very difficult to classify as exempt.
→ under right within same drainage. put water back into system.
→ Could apply as alt. point of diversion → not sure allow until court acts on it.

REPORT OF TELEPHONE CONVERSATION

DATE 4-18-1990 TIME 9:30 & 10:40 (AM)/PM

PROJECT FLPO

NPS PERSON ON CALL Alice Johns [x] I CALLED [ ] S/HE CALLED

PERSON Jack Wendleton OSC

ORGANIZATION

ADDRESS

TELEPHONE NUMBER

DISCUSSION Told him situation with well

1) He can complete well, but must be plugged within a year if permit not obtained
2) opportunities to utilize existing rights limited because amounts and uses he proposes are not exempt
3) Of our existing rights, it appears only the Singer well would suffice for water rights transfer.
4) water rights for this well need to be firmed up by pump test and acreage calculation

He asked what his office could do to facilitate:
1) I said -- do a pump test
He said OK

He asked addn'l questions:
1) Will there be any problem getting the well contractor to complete well?
2) Any chance at all it could be exempt?

I answered a tentative no to both, but said I would check back with State Engrs office to verify.

Called Fred Lee, at State Engrs Office, back up & called Jack back up to inform him that:
1) 2/12/1990 letter from State Engr. is authorization for pump contractor to install permanent casing
2) well would not be exempt, with uses and quantities proposed.

04-17-1990: memorandum to the chief, water resources division from the superintendent regarding the priority for transfer of water

United States Department of the Interior

NATIONAL PARK SERVICE

Florissant Fossil Beds National Monument
P.O. Box 185
Florissant, Colorado 80816

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:

L54 (FLFO-M)

April 17, 1990

Memorandum

To: Chief, Water Resources Division
Attention: Bill Hansen

From: Superintendent, Florissant Fossil Beds Nat'l Monument

Subject: Priority for Transfer of Water Rights.

After our phone conversation on April 11, I have given some thought to the existing water wells that we could abandon and transfer their water rights to the new visitor center well (referred to as DSC Well in this memo.) The DSC Well pumps approximately 14 gpm. I understand that 0.01 cfs equals approximately 4.5 gpm. I am listing several wells that we may want to consider for transfer.

The following wells are in priority order:

1. Old Visitor Center Well #1. 0.04 cfs, priority date 10/51. (We discussed Well #1 and its relationship to Current Visitor Center Well #12 but I do not think that we discussed transferring the water rights from Well #1 to Well #12. If this is correct, Well #1 could be transferred to the new DSC Well. Well #1 is essentially abandoned.

2. FLFO Well #3. 0.111 cfs, priority date 5/55. Also known as the Singer Well. NPS purchased this property in 8/73. I understand this well is on the docket for next term day in the District Court, Water Division No. 1.

3. FLFO Well #10. 0.04 cfs, priority date 11/55. Also known as Ghist Well.

4. FLFO Well #6. 0.01 cfs, priority date 4/60.

5. Nelson Well #9. 0.01 cfs, priority date 6/50. This well is a part of a term estate that terminates and transfers to the NPS in 9/95. If there are no delays with construction, the housing and maintenance area will be occupied in 1994.

Is it possible and/or wise to transfer rights from a couple springs to the DSC Well? April 24, 1987, Stan Ponce sent a memo to Tom Wylie indicating that Colorado State Engineer established water

rights for 5 "Kirk" springs with adjudication in 1918 and 1953. Your office was going to investigate to see if we could apply to place these rights in the Monument's name.

Otherwise, remaining wells are:

6. FLFO Well No. 8. 0.01 cfs, priority date 4/60.
7. FLFO Well No. 11. 0.09 cfs, priority date 7/61.

As you look down my suggested priority, you may realize something I am not familiar with or have concerns about transferring rights from certain wells. Please offer any thoughts or suggestions.

Noel

Noel R. Poe

Gary Anderson – DSC 4/2/90 1400
969-2683

Pump Tests – 14 gpm (24 hr period)
South Platte Drainage Over Appropriated

Wants to send Permit to Construct a Well
- Max daily use x 365 = 11.2 ac-ft
- More realistic ± (1/2 to 3/3)

Construct Well
Install Pump
Use Water

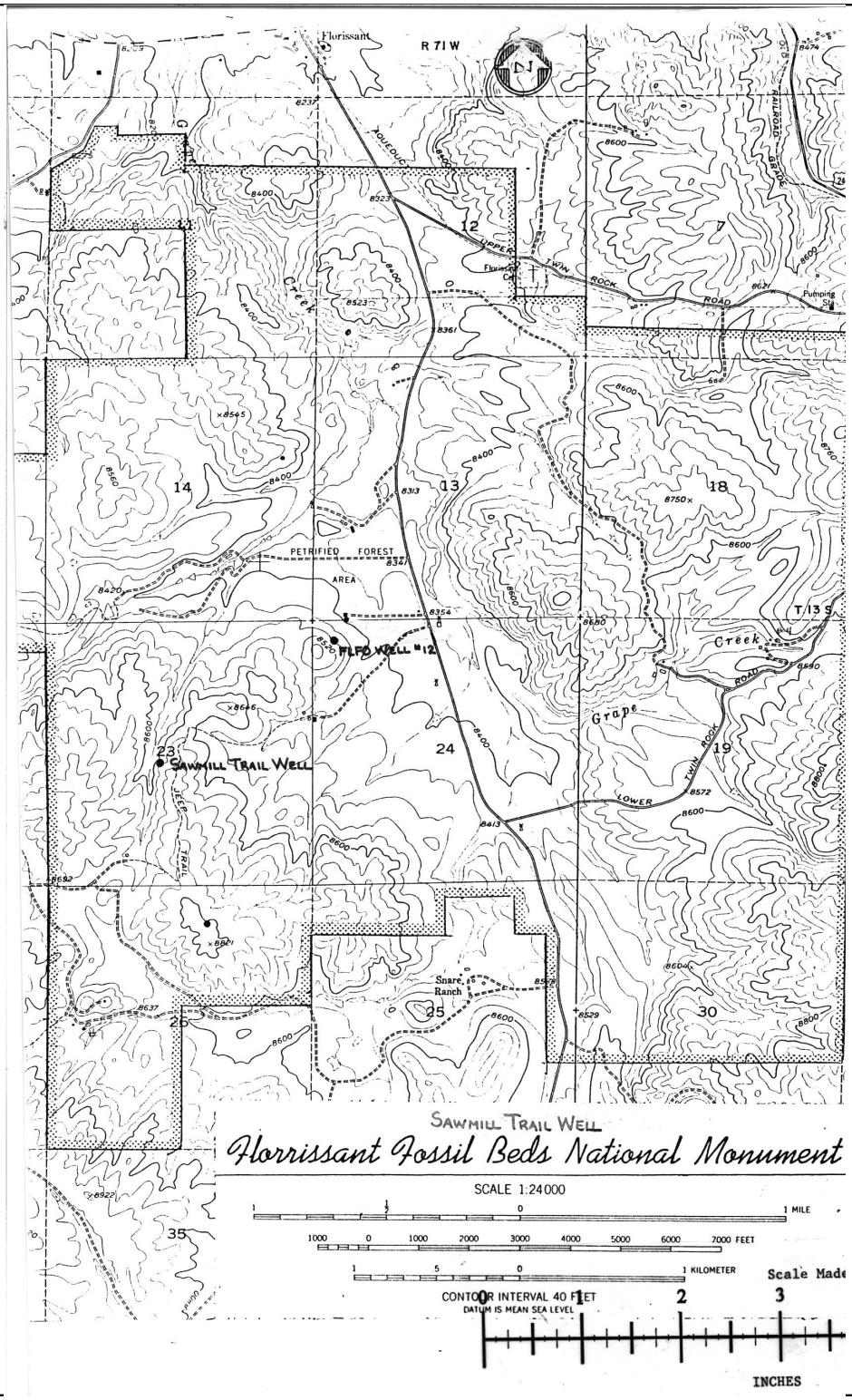
Fred Loo – Geologist – 866-3581 Adm & Eng
– 866-3587 Grdwater & wells

Would like to get contractor going to construct well

New Visitor's Center built in 1991 – Maint & Housing Area later

Intent – Permit only to construct, not use & pump

00-00-0000: topographic location map of the sawmill trail well



Docket Information

Number of Documents in Docket 289

Documents Dated from 2/12/1990 to 7/10/2012

Docket Compiled: 5/31/2016