WATER-RIGHT DOCKET

Fort Bowie National Historic Site

Docket No: 2

MINE TUNNEL SPRINGS

Preliminary Docket Information

03-16-1983: water resources/water rights information

TER RESOURCES/WATER RIGHTS [illegible] (FILE)INFORMATION DATE: March 16, 1983

OCKET (FILE) TITLE FOBO/AWR docket #1, Apache Springs

EGION Western AREA Fort Bowie National Historic Site

ITE Apache Springs

TATE Arizona COUNTY Cochise DOCKET NO AWR #1

OCATION W½ SW¼ SW¼ NE¼, Sec. 12, T15S, R28E

EGIONAL BASIN Colorado LOCAL BASIN Gila

CQUIRED BY Private Acquisition, Pursuant to the Act of August 30, 1964 (78 Stat 681)

PPLICATION PERMIT CERTIFICATE

CTION DUE PRIORITY RESERVATION

UANTITY USED: 10 gpm USE Stockwatering

TATUS Active SOURCE Surface Water

EMARKS Hydrologic Unit #1504006, court action settled thru Stipulated Agreement

ARRATIVE:

On February 20, 1981, the basics for the proposed settlement were jointly derived at Fort Bowie by Mr. J. Hill, Justice Attorney stationed at Denver, Superintendent Scott, Acting Supt W. Hoy, and W. Werrell, WRO's Division of Water Resources. The NPS felt that the best approach to the water rights suit would be to reach an out of court agreement. For example, if the NPS was successful in the suit Maya would still retain Apache Spring for stockwatering and a right-of-way through the ruins. Therefore, since Maya had no property in the vicinity of Apache Spring, BLM was obligated to provide water to grazing permittees (i.e. Maya), then it was necessary to offer Maya an alternative source of water, here, from the Mine Tunnel Source.

Dr. Mac Collum, Maya Apartments, was contacted to ascertain if he was willing to stipulate to a settlement. He was generally agreeable and participated in the settlement input process. Finally, both sides agreed that it would be in their best interest to settle out of court and avoid the already prolix litigation. This action was also prompted by the Court Order of June 10, 1982, mandating the parties to settle by July 16, 1982, or file a proposed pretrial order with the Court no later than August 5, 1982.

In conclusion, the Settlement Agreement was signed by Dr. M.. MacCollum, representing Maya Apartments, on July 12, 1982, and by Mr. Donald M. Spalding, Acting Regional Director, on October 8, 1982. Subsequently, the US executed a quitclaim deed to Maya for ½ of the water rights from each Mine Tunnel source, and ; Maya executed two quitclaim deeds to the U.S., one for ½ of the water rights from each Mine Tunnel source, the other quitclaim deed conveyed its pipeline right-of-way. The United States District Court, for the District of Arizona, on October 12, 1982, filed a Stipulation for Dismissal & Order with prejudice and without costs to each party.

Note : On March 21, 1983 a final Distribution of all the essential material which helped culminate the settlement was forwarded, for inclusion into FOBO Alien Water Rigths docket #1, to the Superintendent of CHIR, and copies with enclosures were submitted, by c.c.'s, to the General Superintendent of SOAR and to WASO, Divisfon of Air and Water.

Note : All the quitclaim deeds were duly recorded. The original quitclaim-deed from the US to Maya was recorded and sent to Dr. MacCollum, and the two quitclaim deeds from Maya to the US were recorded with the originals filed w/ Division of Lands WRO.

Compiled by R. Tapia (1983)

Approved by William O. Reed, Hydrologist Page 1 of 1

Outstanding Protest by
HYL Ranches (previously
M.S. MacCollum)
↳ dated 4/7/86

WATER RESOURCES/WATER RIGHT, DOCKET (FILE) INFORMATION DATE: March 25, 1979

DOCKET (FILE) TITLE FOBO/AWR docket #1, Apache Springs

REGION Western AREA Fort Bowie National Historic Site

SITE Apache Springs

STATE Arizona COUNTY Cochise DOCKET NO AWR #1

LOCATION W½ SW¼ SW¼ NE¼, Sec. 12, T15S, R28E

REGIONAL BASIN LOCAL BASIN

ACQUIRED BY

APPLICATION PERMIT CERTIFICATE

ACTION DUE PRIORITY RESERVATION

QUANTITY USED 10 gpm USE Stockwatering

STATUS Active SOURCE Surface Water

REMARKS Hydrologic Unit #15040006, court action pending.

NARRATIVE:

As a part of the private land acquisition within Fort Bowie NHS, pursuant to the Act of August 30, 1964, (78 Stat. 681), Earl J. Neel conveyed 240 acres to the US, reserving the right to use the water from Apache Springs along with a ten foot wide right-of-way for a pipeling to a point east of the Park. In 1969, Neel and the US executed an agreement for the purpose of restoring Apache Spring to its natural state. The agreement specified the Neel relinquish his right to use the spring as well as his easement, and in return the US would provide Neel with 10 gpm. At the time of the agreement the flow from the spring had dropped to about 1½-2 gpm. Neel then transferred his property east of the Park (the Shaffer place) to Apache Springs Cattle Company, including the Apache Springs Water and the pipeline easement. Eventually Elijah Cardon and his brothers became the principals involved with the property.

At the time the Cardons took over the Shaffer ranch, water was delivered to the property from the Mine Tunnel sources east of Apache Spring. The Cardons desired to expand their operation in the area and to do so would have required more water than they were recieving under the Neel Agreement. After several futile attempts to get the U.S. to increase the flow of water to their property the Cardons attempted to use the road running over their property to the Fort (and used by Park Service personnel) as leverage. Again the US refused to capitulate, so in 1976 the Cardons filed an action for a declaration of rights to the Apache Springs area. The Cardons asserted that the US had breached the Neel agreement by its failure to rehabilitate Apache Spring for stckwatering and domestic purposes against the terms of the agreement. The suit also asserted that the agreement with Neel included the Mine Tunnel sources as well as Apache Springs, and that the Cardons had a valid easement and exclusive right to take water form all sources on the tract. The Cardons also asked the court to enjoin further use of the road by the US. The government waived its sovereign immunity in this case and is asserting that there was no breach of the agreement and that the Cardons are entitled only to that flow of water that would be availabe from Apache Spring. The US also disputed the trespass claim on the grounds the access was actually a public road. The action is currently pending.

(SEE UPDATE ATTACHED) for details of settlement

Compiled by T. Kern (1979)

Approved by

Page 1 of 1

DRAFT

July 3, 1996

Mr. Joe B. Stuart
Surface Water Rights Unit
Arizona Department of Water Resources
500 North 3rd Street
Phoenix, Arizona 85004-3903

Re: National Park Service Applications to Appropriate Water 33-90513 (Mine tunnel Spring) and 33-95369 (Apache Spring); Fort Bowie National Monument

Dear Mr. Stuart:

The National Park Service (NPS) and HYL Ranch (HYL) have resolved protests for the above-referenced applications. HYL agrees to withdraw their protests of applications 33-90513 and 33-95369 if the Arizona Department of Water Resources incorporates the terms of the 1982 agreement between the NPS and Maya Apartments (predecessor in interest to HYL) in the permits as set forth below.

Mine Tunnel Springs (33-90513)

This permit is issued to the NPS for the purposes identified in the application and, pursuant to the provisions of the "Agreement Concerning Water Rights to the Mine Tunnel Water Sources and Related Matters" between the NPS and Maya Apartments dated October 8, 1982, the NPS and HYL agree to share the water from Mine Tunnel Springs equally, but in no instance shall the NPS withdrawal of water exceed 1,313,180 gallons per annum.

Apache Spring (33-95369)

This permit is issued to the NPS for the purposes identified in the application and on behalf of the grazing permit allottees and, pursuant to the provision of the "Agreement Concerning Water Rights to the Mine Tunnel Water Sources and Related Matters" between the NPS and Maya Apartments dated October 8, 1982, HYL Ranch Properties or any subsequent grazing allotment permittee shall be entitled to that amount of Apache Spring water needed to sustain the number of livestock as permitted under the terms of the Bureau of Land Management (BLM) grazing allotment with the carrying capacity as determined by the BLM.

If you have any questions regarding these provisions please call me at 382-6000, or Mr. Bill Hansen, NPS, at (970) 225-3532.

Sincerely yours,

SNELL & WILMER

Carlos D. Ronstadt

cc: James E. Warne, Jr.
Owen R. Williams

TRANSMISSION REPORT

****

:NPS WATER RESOURCES (JUL 03 '96 02:28PM)

DATE	START TIME	REMOTE TERMINAL IDENTIFICATION	MODE	TIME	RESULTS	TOTAL PAGES	DEPT. CODE	FILE NO.
JUL 03	02:26PM	602 379 4127	G3EST	01'36"	OK	03		

CONFIDENTIAL

NATIONAL PARK SERVICE
WATER RIGHTS BRANCH
WATER RESOURCES DIVISION
FORT COLLINS, COLORADO

FAX #: (970) 225-9965
VERIFICATION #: (970) 225-3506

DATE July 3, 1996

TO:

NAME Bill Swan GROUP SOL

CITY, STATE _____ _____

OFFICE PHONE _____

FAX NUMBER (602) 379-4127

FROM:

NAME Bill Hansen GROUP NPS

NUMBER OF PAGES (INCLUDING COVER SHEET) 3

SPECIAL INSTRUCTIONS

Bill- Please review the draft letter (written for Ronstadt) to resolve the Ft Bowie protests. I have incorporated our concerns and made the language short and sweet. If it meets your approval forward to Carlos for action and ~~[illegible]~~ keep me informed of status. Thxs Bill

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Receipt Verified By _____ **Date** _____ **Time** _____

United States Department of the Interior

OFFICE OF THE SOLICITOR
Phoenix Field Office
One Renaissance Square
Two North Central
Suite 1130
Phoenix, Arizona 85004-2383

September 11, 1995

Mr. Joe B. Stuart
Surface Water Rights Unit
Arizona Department of Water Resources
500 North 3rd Street
Phoenix, Arizona 85004-3903

Re: Applications to Appropriate Water 33-90513 (Mine Tunnel Spring) and 33-95369 (Apache Spring); Fort Bowie National Monument

Dear Mr. Stuart:

This is in response to your letter to the National Park Service dated July 26, 1995 concerning the above-referenced applications. We are working with the Park Service and the protestant in an effort to resolve this matter without a hearing. However, our attention has been diverted on a number of other issues, such as the CAP litigation, and therefore it has been difficult to give this matter the attention it deserves.

I am in contact with the protestant's attorney, Carlos Ronstadt, to see if the protests may be withdrawn. I hope that within the next several weeks we will know whether a hearing will be necessary. I appreciate very much your patience.

Sincerely,

William H. Swan
Field Solicitor

WHS:dmg

cc: Bill Hansen, NPS, Ft. Collins, CO

ARIZONA DEPARTMENT OF WATER RESOURCES
500 North Third Street, Phoenix, Arizona 85004-3903
Telephone (602) 417-2470
Fax (602) 417-2401

FIFE SYMINGTON
Governor

RITA P. PEARSON
Director

July 26, 1995

Mr. Bill Hansen
National Park Service
1201 Oakridge Drive
Fort Collins, CO 80525

Re: Applications for Permit to Appropriate Public Water Nos.
33-90513 (Mine Tunnel Spring) and 33-95369 (Apache Spring); Fort Bowie

Dear Mr. Hansen:

Enclosed is a copy of a letter I have sent to the counsel representing HYL Ranch, the protestant against the two referenced applications. As stated in the letter, I am reviewing protested applications for forwarding to the Department of Water Resources' Hearing Officer for disposition.

I would like, and I am certain both parties would agree, to avoid the unnecessary burden and expense of holding a hearing to resolve this matter. An agreement had already been drafted, in which both parties held to an equitable resolution of the matter regarding access and use of the water out of the springs.

As I have asked the protestant in my letter, I am now asking the National Park Service to resolve this matter.

Yours truly,

Joe B. Stuart
Surface Water Rights Unit

JBS:pr

enclosure

ARIZONA DEPARTMENT OF WATER RESOURCES
Surface Water Rights Unit
500 N. 3rd. Street, Phoenix, Arizona 85004-3903
Telephone (602) 417-2470
Fax (602) 417-2422

June 21, 1995

COPY

FIFE SYMINGTON
Governor

RITA P. PEARSON
Director

Mr. Jeffrey W. Crockett
SNELL & WILMER
One Arizona Center
Phoenix, Arizona 85004-0001

Re: Applications for Permit to Appropriate Public Water,
Nos. 33-90513 (Mine Tunnel Spring) and 33-95369 (Apache Spring);
National Park Service, Fort Bowie Monument

Dear Mr. Crockett:

I am reviewing the two referenced files, which are protested by your client HYL Ranch, for forwarding to the Department's Hearing Officer for disposition and resolution. I note your letter of June 8, 1994, directed to me, in which you state HYL Ranch has suggested a possible settlement of the protest. Over a year has passed now since your letter.

The question at hand is the access to the water and its use by your client. A settlement was drafted, a copy of which is in file, but was never signed. The Department is concerned that this matter prevailed far too long, given the relatively simple solution to this problem.

As you may be aware, recent legislation enacted into law on March 17th provides that the beneficial user of water located on Federal lands shall hold the water right. This may prove beneficial to your client in that the concern for access and use of the water would be addressed directly by law.

I will be forwarding a copy of this letter to the National Park Service. The Department of Water Resources is urging that both parties resolve this matter at the earliest opportunity. The unnecessary burden and expense of a hearing could be prevented if both parties will address this matter now.

Yours truly,

Joe B. Stuart, Manager
Surface Water Rights Unit

JBS:hs

Bill,

As requested I have tried to summarize below the issue regarding the protests of Application for Permit to Appropriate Public Water, Nos. 33-90513, Mine Tunnel Spring, and 33-95369, Apache Spring for Fort Bowie National Monument.

As you probably recall, Crockett faxed you and I a draft letter to Joe Stuart dated 1/13/92 which proposed language to settle the protests for both Apache and Mine Tunnel Springs. We both reviewed the language and made the following changes on page 2: Second sentence of paragraph three - we do not acknowledge that the NPS is obligated to satisfy HYL's water needs before we are entitled to water from Apache Springs - the 1982 Maya agreement does not state this. Third sentence of paragraph three - Insert "for the purposes identified in the NPS application and" in item (1) after ...issued to the NPS for. The remainder of the document appeared satisfactory.

At that time you had some concerns about their mention of pre-1919 water rights and felt it might be beneficial to both parties if we addressed HYL's concerns in a supplemental agreement to the 1982 Maya Agreement. In response, you prepared a draft Agreement which was sent to Crockett on 2/3/92. No response was ever received from Crockett.

It appears to me that Carlos is concerned about assigning HYL's pre-1919 water rights to the NPS. I do not understand this. On page 2 of his 5/19/94 letter to Owen (attached) he states that "it is an invalid attempt to assign a portion of a pre-1919 water right to the Park Service for use on lands on which such waters historically were not used before 1919". It is my interpretation that the NPS was assigned a share of both Apache and Mine Tunnel Springs in the 1982 Maya Agreement by the predecessor-in-interest to HYL, despite the date of first use. HYL does not receive any proprietary use of the waters by filing a pre-1919 water right in my opinion. In fact, by signing the supplemental agreement, HYL receives assurances that the NPS will not protest their pre-1919 right which may or may not have been abandoned over the years. Do you understand his concern?

I also do not understand Carlos's concerns about HYL forfeiting or abandoning its water rights by "it willingness to relinquish to the Park Service a portion of the waters that its predecessors-in-interest appropriated from Mine Tunnel Spring and Apache Spring". I do not believe HYL forfeits or abandons its water rights by assigning its pre-1919 water rights to the NPS. In fact, the 1982 Maya Agreement does not differentiate between pre- and post-1919 water rights - it only distributes water to the two parties. Do you understand his concern?

I have tried to call Carlos and we keep missing each other. I believe it would be best if you talked to him and tried to resolve the issue. Please call me if you have any questions or need any information. Thanks for your help.

Bill Hansen

8/9/95
Post 5/19/94

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL # of pages ► 1

To Bill Swan	From Bill Hansen
Dept./Agency SOL - Phoenix	Phone # (303) 225-3532
Fax # 602 379-4127	Fax #

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

Snell & Wilmer
LAW OFFICES

One Arizona Center
Phoenix, Arizona 85004-0001
(602) 382-6000
Fax: (602) 382-6070

PHOENIX, ARIZONA
TUCSON, ARIZONA
IRVINE, CALIFORNIA
SALT LAKE CITY, UTAH

June 8, 1994

Mr. Joe B. Stuart, Manager
Surface Water Rights Systems
Arizona Department of Water Resources
15 South Fifteenth Avenue
Phoenix, Arizona 85007

Re: National Park Service Application for Permit to Appropriate Public Water Nos. 33-90513 (Mine Tunnel Spring) and 33-95369 (Apache Spring)

Dear Joe:

On May 19, 1994, Carlos Ronstadt responded by letter to your letter dated April 21, 1994, inquiring as to the status of efforts by the HYL Ranch and the National Park Service to resolve HYL's protests over the above-referenced applications. As set forth in Mr. Ronstadt's letter, we have responded to the April 7, 1994, letter you received from Owen Williams of the National Park Service, and we are presently attempting to negotiate a resolution of the protests short of a hearing.

By letter to the National Park Service, we have suggested a possible settlement of the HYL protests. Once we have received a response from the National Park Service, we will be better able to assess the necessity of a hearing.

If you have additional questions, please contact me at 382-6234.

Sincerely yours,

SNELL & WILMER

Jeffrey W. Crockett

JZC:gdb
cc: James E. Warne, Jr., HYL Ranch
Carlos Ronstadt, Esq.
Owen R. Williams, NPS
Bill Hanson, NPS

PHX4:CROCKEJ / 4045043.

Member: LEX MUNDI, an international association of independent law firms with members in the United States and 60 countries throughout the world.

00-00-0000: fax cover letter to sol from nps

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

WRD

DATE 5/24/94

TO
NAME Bill Swan **GROUP** SOL

CITY, STATE _____ **MAIL CODE** _____

OFFICE PHONE _____

FAX NUMBER 602 379-4127 **VERIFICATION** _____

FROM
NAME Bill Hansen **GROUP** NPS

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET) 3

SPECIAL INSTRUCTIONS Bill -- Letter from Ronstar as discussed on the phone. Please review & call me. What is Carlos's concern about pre-1919 rights - do you understand them? Can we settle the protest using the 11/3/92 language? Bill

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Receipt Verified By _____ Date _____ Time _____

00-00-0000: letter to arizona department of water resources from snell & wilmer regarding applications for permit to appropriate w

Snell & Wilmer
LAW OFFICES

One Arizona Center
Phoenix, Arizona 85004-0001
(602) 382-6000
Fax: (602) 382-6070

PHOENIX, ARIZONA
TUCSON, ARIZONA
IRVINE, CALIFORNIA
SALT LAKE CITY, UTAH

Carlos D. Ronstadt (602) 382-6355

May 19,

Mr. Joe B. Stuart, Manager
Surface Water Rights Systems
Arizona Department of Water Resources
15 South Fifteenth Avenue
Phoenix, Arizona 85007

Re: Applications for Permit to [illegible] Water: Nos. 33-90513, Mine Tunnel [illegible], Apache Spring

Dear Joe:

I am sending you this short letter to tell you that I have sent a response to the April 7, 1994, letter addressed to you from Owen R. Williams, Chief, Water Rights Branch, National Park Service in Ft. Collins, Colorado.

As you know, I do not routinely copy your department with documents that evidence the course of negotiations between an applicant for a permit to appropriate water, and those who file protests to the granting of the same. Thus, at this time, I do not intend to copy you with any of the correspondence pertinent to the resolution of the protests to the above-referenced applications that were filed by my client, HYL Ranch Properties and Jim Warne, Jr. Like you, however, I hope that this matter can be resolved short of a hearing.

As always, I will keep you advised as to the status of this matter.

Sincerely yours,

SNELL & WILMER

Carlos D. Ronstadt

CDR:gdb
cc: James E. Warne, Jr.
Owen R. Williams

PHX4:RONSTAC / 4043446.

Snell & Wilmer
LAW OFFICES

One Arizona Center
Phoenix, Arizona 85004-0001
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PHOENIX, ARIZONA
TUCSON, ARIZONA
IRVINE, CALIFORNIA
SALT LAKE CITY, UTAH

Carlos D. Ronstadt (602) 382-6355

May 19, 1994

Mr. Owen R. Williams
Chief, Water Rights Branch
United States Department of Interior
National Park Service
1201 Oak Ridge Drive, Suite 250
Fort Collins, Colorado 80525

Re: Applications for Permit to Appropriate Public Water: Nos. 33-90513, Mine Tunnel Spring, and 33-95369, Apache Spring

Dear Mr. Williams:

This will acknowledge the receipt of a copy of your letter dated April 7, 1994, to Joe B. Stuart, Manager, Surface Water Rights Systems, Arizona Department of Water Resources ("DWR"), about the above-referenced application. As you may remember, in that letter, you asked DWR to resolve the protests filed by my client, HYL Ranch Properties ("HYL Ranch"), to the granting of the above-referenced applications by DWR. With your letter to Stuart, you also enclosed draft correspondence and a draft agreement ("Supplemental Agreement") to supplement the terms of an earlier agreement dated October 8, 1982, between the Park Service and Maya Apartments, the predecessor-in-interest to HYL Ranch Properties. Neither the draft correspondence or the draft Supplemental Agreement had been approved by my client.

Over the past few days, I have reviewed these drafts and copies of the applications, protests and related water rights filed by both the Park Service and HYL Ranch. I would be willing to recommend to my client that it agree to the resolution of its protests in the manner outlined in the unsigned letter to Joe Stuart, dated January 13, 1992, as drafted by Jeffrey W. Crockett, also of this law firm.

At this point in time, however, I am not certain that HYL Ranch and the U.S. Park Service should enter into any Supplemental

Snell & Wilmer

Agreement to clarify, amend or otherwise supplement the terms of the October 8, 1982, agreement between Maya Apartments and the Park Service. I have reviewed the Supplemental Agreement and, in my judgment, it is an invalid attempt to assign a portion of a pre-1919 water right to the Park Service for use on lands on which such waters historically were not used before 1919. This legal technicality should not interfere with the relative rights of HYL Ranch and the Park Service, as set forth in the October 8, 1982, agreement. It would, however, create a substantial risk that the pre-1919 water right claim asserted by HYL Ranch will be lost through forfeiture or abandonment in light of its willingness to relinquish to the Park Service a portion of the waters that its predecessors-in-interest appropriated from Mine Tunnel Spring and Apache Spring. I do not believe that either HYL Ranch or the Park Service should have any desire to address this type of argument.

In any event, please review the supplemental agreement that was attached to your letter to Joe Stuart, and then call me with your thoughts about the need for such a document. I look forward to hearing from you soon.

Sincerely yours,

SNELL & WILMER

Carlos D. Ronstadt

CAR:gdb
cc: Jim Warne

PHX4:RONSTAC / 4043462.

ARIZONA DEPARTMENT OF WATER RESOURCES
15 South 15th Avenue, Phoenix, Arizona 85007
Telephone (602) 542-1581
Fax (602) 542-3383

COPY

April 21, 1994

FIFE SYMINGTON
Governor

RITA P. PEARSON
Director

Mr. Jeffrey W. Crockett
Snell and Wilmer
3100 Valley Bank Center
Phoenix, Arizona 85073-3100

Re: Applications for Permit to Appropriate Public Water;
No. 33-90513, Mine Tunnel Spring, and No. 33-95369, Apache Spring;
National Park Service, Bowie Monument

Dear Mr. Crockett:

Enclosed for your reference is a copy of a letter I have received from the National Park Service regarding the two referenced appropriations applications protested by your client, Hyl Ranches. In their letter to me the National Park Service is requesting that the Department resolve these outstanding protests.

Before beginning any hearing process, which would be costly and time consuming for all parties concerned, I would like to give you and your client the opportunity to conclude this matter on terms apparently agreed to by both parties, as evidenced by draft documents, copies of which are also included.

I am encouraged that at least both parties have been attempting resolution. The Department would appreciate any effort you could devote to resolving this matter as soon as possible. In order to proceed with due diligence in this matter, I am requesting that you provide to me in writing within 30 days from the date of receipt of this letter yours and your client's thoughts or other considerations as to resolving this matter.

Your immediate attention to this matter would be appreciated.

Yours truly,

Joe B. Stuart, Manager
Surface Water Rights Section
Operations Division
Tel. (602) 542-1581

JBS:hs
enclosures
c: National Park Service

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:

April 7, 1994

L54(479)
FOBO/Water Rights

Mr. Joe B. Stuart
Manager, Surface Water Right Systems
Arizona Department of Water Resources
15 South 15th Avenue
Phoenix, Arizona 85007

Re: Applications for Permit to Appropriate Public Water, Nos. 33-90513, Mine Tunnel Spring, and 33-95369, Apache Spring

Dear Mr. Stuart:

As you know, the above referenced applications are still under protest. Since your letter dated August 14, 1991, the National Park Service (NPS) has tried to resolve the protests with Jeff Crockett, attorney with the firm of Snell and Wilmer, representing the HYL Ranch Properties (HYL), the protestant.

As suggested in your letter, Bill Hansen, of my staff, in consultation with Bill Swan, Office of the Solicitor, contacted Crockett and verbally agreed (in a phone conversation on January 2, 1991) to prepare language which would include the terms agreed to in a October 8, 1982 "Agreement Concerning Water Rights to the Mine Tunnel Water Sources and Related Matters" between Maya Apartment (predecessor in interest to HYL) and the NPS.

This resulted in the proposed language found in the enclosed draft letter to Joe B. Stuart from Jeffrey W. Crockett. Bill Swan reviewed the language and prepared a Draft Agreement Between the National Park Service and HYL (enclosed Draft dated February 2, 1992). Based upon subsequent conversations between Crockett and Hansen on February 21, 1992, August 6, 1993, and March 28, 1994, it is our understanding that Crockett has recommended that HYL sign the agreement prepared by Swan.

To date, the NPS has not received a written response from Crockett or HYL regarding the Draft Agreement. As indicated above, we have diligently contacted HYL in an attempt to resolve these protests. It is our preference that this matter be resolved through the proposed Agreement. However, given the amount of time the NPS has invested in resolving

this matter and the lack of progress, the NPS is requesting that the Arizona Department of Water Resources (ADWR) settle these protests as proposed in your letter dated August 14, 1991.

If you have any questions regarding documentation of our efforts or our request that ADWR resolve the protest please contact Bill Hansen at (303) 225-3532.

Owen R. Williams
Chief, Water Rights Branch

Enclosures

cc: FOBO - Anderson
SOAR - Davis
WR - Kolipinski
SOL - Swan
Jeff Crockett

ARIZONA DEPARTMENT OF WATER RESOURCES
15 South 15th Avenue, Phoenix, Arizona 85007
Telephone (602) 542-1553
Fax (602 256-0506

August 14, 1991

FIFE SYMINGTON
Governor

ELIZABETH ANN RIEKE
Director

Mr. Bill Hansen
National Park Service
301 S. Howes Street
Fort Collins, Colorado 80521

Re: Applications for Permit to Appropriate Public Water,
Nos. 33-90513, Mine Tunnel Spr., and 33-95369, Apache Spr.

Dear Bill:

The two referenced applications are still under protest status. I just received correspondence from the firm of Snell and Wilmer, representing the HYL Ranch, reaffirming their protest against your application for Mine Tunnel Spring.

In reviewing these two files, I see that a 1982 agreement between the National Park Service and the predecessors-in-interest of HYL Ranch, namely Maya Apartments, stipulated to the use of the waters of both springs. I am enclosing a copy of the agreement for your reference.

I would like to see both parties proceed with due diligence in resolving this matter. To this extent, I am offering to include in the issued permits for these applications the terms agreed to by both parties in 1982. Specifically for Mine Tunnel Spring the permit could state that the limit of National Park Service's appropriation out of the spring would never exceed one-half the available flow, but in no instance would the appropriation exceed 1,313,180 gallons per annum, even if more water were available. For Apache Spring, the permit could state the agreement's provisions of allowing sufficient water to flow to the two referenced stockponds or watering troughs to meet the needs of the cattle allowed to graze on the allotment under terms of the carrying capacity of the specific range, as determined by the Bureau of Land Management.

I realize that you must forward this letter on to the Field Solicitor for consideration, but I would like to see a conclusion of this matter as soon as possible. The existence of a prior agreement on the use of the waters from the two springs does provide grounds for resolving this conflict.

I urge your utmost cooperation in responding to my suggestion.

Yours truly,

Joe B. Stuart
Manager, Surface Water Rights Systems
Operations Division
Telephone (602) 542-1581

JBS:asm

Enclosure

Arizona Department of Water Resources
15 South 15th Avenue
Phoenix, Arizona 85007

RECEIVED
AUG 13 1991
OPERATIONS DIV.

Date filed: August 13, 1991

STATEMENT OF PROTESTANT

In the matter of the application of)
U.S. National Park Service)
(Applicant name) Western Regional Office (Fort ~~Bowie NPS~~))
(Source) Mine Tunnel Spring, a tributary of the San Simon River, a tributary of the Gila River)

APPLICATION 33-90513
or
CLAIM _____

• • • • • • • • • • • • • • • • • •

This statement must be completed and filed with the Arizona Department of Water Resources, Operations Division, within 60 days from the date of issuance of the official notice.

• • • • • • • • • • • • • • • • • •

1. State quantity of water now used by you for each and every purpose: *SEE THE ATTACHED LETTERS.

Domestic	1.0	acre feet/year ~~gallons per annum.~~ *
Irrigation	_____	acre-feet per annum.
Stockwatering	5.5	acre feet/year ~~gallons per annum.~~ *
_____ (other uses)	_____	per annum.

* includes incidental watering of landscape at dwellings

2. Do you own the lands for which water is claimed by you? Yes

If not, explain the nature of your occupancy Not applicable

3. Give the legal description of lands upon which or where the water is used SE 1/4 of the NE 1/4 of Section 6, T15S, R29E; NE 1/4 of the SW 1/4 of Section 28, T14S, R29E; 36-24153 and 36-24154

State the name and type of your water source Mine Tunnel (aka Graphite) Springs 4 and 5

State the date the water right or claim herein referred to was initiated and the registry number of the water right or claim Pre-1919 Rights No. 36-24153 & 36-24154; prior to Oct. 23, 1908

If water is produced by means of wells, state the number of wells, the registry number of each well, and the location of each well by describing the ten-acre legal subdivision or lot within which each well is located Not relevant to a surface water claim

If water is obtained by means of surface diversion, state the location and nature of the diversion works See attached letters--Pipeline from these two springs delivers water to the Schafer Ranch Headwuarters, at the legal locations referred to in item 3, above

R 33-59 10/90

8. If the water is used for irrigation, state the number of acres you irrigated See Item No. 1

9. State the quantity of water you actually used each year for the past five years. If for irrigation, in acre-feet, and if for any other purpose, in gallons Not relevant to protest--water from Mine Tunnel Springs is complete appropriated and completely used

10. If the water is used for stockwatering, state the kind of stock served and the average number served per day Cattle--varies according to season--not relevant to basis of protest

11. If water is used for any other purpose, state the use made and describe the manner of using the water See attached letters

.....

GROUNDS FOR PROTEST

*SEE THE ATTACHED LETTERS. The HYL Ranch ("HYL") diverts water from the two Mine Tunnel Springs which are the subject of the National Park Service ("NPS") Application to Appropriate Public Water No. 33-90513. HYL does not protest the amount of water requested by the NPS for use at Fort Bowie Park except to the extent that such appropriation might interfere with an agreement dated October 8, 1982 between the Maya Apartments, predecessor-in-interest to HYL, and the United States of America in which half of the water from the Mine Tunnel Springs is allocated to the Maya Apartments. Therefore, HYL requests that the NPS amend its Application to state that the NPS is bound by the terms of the Maya Agreement and to request that any water right subsequently issued by the Arizona Department of Water Resources reference that agreement. In addition, HYL requests that the NPS amend its Application to acknowledge that HYL has a pre-1919 right to 6.5 acre feet of water from the Mine Tunnel Springs subject to the Maya Agreement.

Date signed Aug 12, 1991

Signature of Protestant, or representative

Carlos D. Ronstadt, Esq. c/o Snell & Wilmer, (602) 257-7355

FRAN & BIFF
MacCOLLUM

HYL RANCH

P. O. BOX 16
BOWIE, ARIZONA 85605
602-847-2404

ESTABLISHED
1897



April 7, 1986

Arizona Department of Water Resources
99 East Virginia Avenue
Phoenix, Arizona 85004

RE: Application for Permit to Appropriate Public Water of the State of Arizona No. 33-90513

Protesting Party: M. S. MacCollum, 126 E. Desert Park Lane
Phoenix, Arizona 85020

Location of the protesting party's point of diversion of water--SW¼ SE¼ and SE¼ NE¼, Section 12, Township 15 South, Range 28 East, Gila and Salt River Base and Meridian, Cochise County, Arizona.

The undersigned does not protest the amount of water proposed for use at Fort Bowie except to the extent that it would interfere with the agreement of October 8, 1982 between Maya Apartments and the United States of America in which half of the water from Mine Tunnel Spring is allocated to Maya Apartments. If the amount of water from the Springs should become insufficient to supply both parties with 1,313,180 gallons a year I would appreciate the Park Service acknowledging that we both would receive a reduced amount.

I have enclosed a copy of the agreement reached with the government. A copy of this protest has been mailed to the National Park Service.

Sincerely,

M. S. MacCollum

MSM:ch

cc: United States of America
National Park Service
Western Regional Office (Fort Bowie NPS)
by John D. Cherry Assoc.
Reg. Dir. Res. Mgmt. & Planning
450 Golden Gate Avenue
San Francisco, California 94102

11-09-1987: letter to surface water/adjudication operations division department of water resources from ellis, baker, clark & porter

ELLIS, BAKER, CLARK & PORTER, P.C.

ATTORNEYS AT LAW

'. ELLIS
COUNSEL

WILLIAM D. BAKER
RICHARD W. CLARK
ROBERT S. PORTER
PAUL R. ORME
GARY A. DRUMMOND
CARLOS D. RONSTADT
JOHN R. POLITAN
ROBERT D. BARLOW
RONALD J. LAUTER

SUITE 200
4444 NORTH 32ND STREET
PHOENIX, ARIZONA 85018
(602) 956-8878
TELECOPIER (602) 224-9663

MAILING ADDRESS
P.O. BOX 16450
PHOENIX, ARIZONA 85011

November 9, 1987

Mr. Al Ramsey, Branch Chief
Surface Water/Adjudication
Operations Division
Department of Water Resources
99 East Virginia
Phoenix, AZ 85004

RE: Protest to Application for Permit to Appropriate No. 33-90513, as Filed by the National Park Service on Mine Tunnel Spring

Dear Mr. Ramsey:

On January 14, 1986, the United States of America, National Park Service, filed Application to Appropriate No. 33-90513. This Application was filed on Mine Tunnel Spring, which is one of the water sources utilized by the HYL Ranch, in Cochise County, Arizona. At that time, the HYL Ranch was owned by M. S. MacCollum. On April 7, 1987, M. S. MacCollum timely filed a protest to Application No. 33-90513. In late 1986, M. S. MacCollum conveyed the HYL Ranch to my client, HYL Ranch Properties, an Arizona partnership.

Please be advised that HYL Ranch Properties is the current owner of the HYL Ranch and, as such, is the successor-in-interest to all rights formally held by M.S. MacCollum. HYL Ranch Properties is therefore the real party in interest in this matter and should be substituted as the protestant of the above-referenced Application. The address for HYL Ranch Properties is as follows:

4455 East Camelback Road
Suite 290 E
Phoenix, Arizona 85018

As always, please call me if you have any questions about this matter or about the water rights on the HYL Ranch. I would appreciate receiving copies of any pleadings, notices, or similar documents filed in this matter.

Sincerely,

Carlos D. Ronstadt
For the Firm

CDR/rkh

pc: HYL Ranch Properties

10C29/24

Arizona Department of Water Resources

99 East Virginia Avenue
Phoenix, Arizona 85004
(602) 255-1553

Evan Mecham, Governor
Alan P. Kleinman, Director

November 19, 1987

RECEIVED
NOV 20 1987

Carlos D. Ronstadt, Attorney
Ellis, Baker, Clark & Porter, P.C.
4444 No. 32nd Street, #200
Phoenix, Arizona 85018

Re: Hyl Ranch Properties, an Arizona partnership, protest against Application for a Permit to Appropriate No. 33-90513

Dear Carlos:

This is in response to your letter dated November 9, 1987, wherein you reminded this Department that while the former owner of Hyl Ranch protested the referenced application, Hyl Ranch Properties, an Arizona partnership is now the protestant in this matter. Your letter and a note in the above file will serve to remind us, thank you.

We have also input the new address for Hyl Ranch Properties into our computer system on all of their 46 filings.

Very truly yours,

Lawrence A. Ramsey

Lawrence A. (Al) Ramsey
Section Manager
Surface Water and Adjudications

LAR:ec

AGREEMENT CONCERNING WATER RIGHTS TO THE
MINE TUNNEL WATER SOURCES AND RELATED MATTERS

THIS AGREEMENT, made this 8 day of October, 1982, between the UNITED STATES OF AMERICA acting by and through the National Park Service ("United States") and MAYA APARTMENTS, an Arizona limited partnership ("Maya"),

W I T N E S S E T H:

WHEREAS:

A. There exist two developed water sources within the boundaries of Fort Bowie National Historic Site, on land owned by the United States, located in the SE 1/4, NE 1/4 Section 12 of T. 15 S., R. 28 E., Gila and Salt River P. M. Said land was acquired by the United States from a predecessor-in-interest of Maya. These two water sources are referred to herein as the "Mine Tunnel" water sources. The United States and Maya assert conflicting claims of ownership to said water sources, which conflicting claims have never been legally determined.

B. United States and Maya have concluded that it would be in their best interests to enter into this agreement to fix and determine their respective rights to the Mine Tunnel water sources and to reach agreements as to other matters.

NOW THEREFORE, the parties hereto agree as follows:

MINE TUNNEL WATER SOURCES

1. Equal Rights to Water. United States and Maya hereby agree to share equally in the use and right to use each of the two Mine Tunnel water sources. Failure of either party to use all or part of its rights herein shall not be construed as a loss of all or part of the rights of said party to the other party. To effectuate this Agreement to share the Mine Tunnel water sources equally, the parties will each quitclaim to the other any-all of its water rights to each Mine Tunnel source

See Agreement under "Legal Opinions"



07-17-1991: letter to arizona department of water resources from nps regarding requested affidavit of posting notice

United States Department of the Interior

NATIONAL PARK SERVICE
Chiricahua National Monument
Dos Cabezas Route Box 6500
Willcox, Arizona 85643



IN REPLY REFER TO:

L54

July 17, 1991

Joe B. Stuart
Manager, Surface Water Rights Systems
Operations Division
Arizona Department of Water Resources
15 South 15th Avenue
Phoenix, Arizona 85007

(602) 542-1581
FAX 256-0506

Dear Mr. Stuart:

In reply to your letter of May 16, 1991 to Bill Hansen, National Park Service, Fort Collins, I have enclosed the requested Affidavit of Posting Notice. It is for Mine Tunnel Spring in Fort Bowie National Historic Site, regarding Application for Permit to Appropriate Public Water No. 33-90513.

If you have any questions please contact Resource Management Specialist Dick Anderson at (602) 824-3560.

Wm. Tweed
Acting Superintendent

Enclosure

cc:
Owen Williams,
Branch Chief, Water Rights Branch, Water Resources Division
Kathy Davis,
Resource Management Specialist, Southern Arizona Group
Mietek Kolipinski,
Water Resources Coordinator, Western Regional Office

ARIZONA DEPARTMENT OF WATER RESOURCES
15 South 15th Avenue
Phoenix, Arizona 85007

AFFIDAVIT OF POSTING NOTICE

STATE OF ARIZONA)
) ss.
County of Cochise)

APPLICATION TO APPROPRIATE NO. 33-90513

William J. Litzinger, being first duly sworn, states that two copies of the Notice of Application for a Permit to Appropriate Public Water of the State of Arizona No. 33-90513, a copy of which is hereto attached, were posted on the 6th day of June, 19 91, at:

1. Bowie Post Office,
Bowie Arizona

2. Chiricahua National Monument, Visitor Center
Dos Cabezas Rt, Box 6500
Willcox, AZ 85643

Each of the notices was posted in a conspicuous place in the locality to be affected by the proposed appropriation of water and remained posted for thirty consecutive days ending on the 16 day of July, 19 91.

Affiant

Subscribed and sworn to before me this 16 day of July, 19 91.

Notary Public

My commission expires:
Feb 14 1992

DWR 33-08-8/88

6-12-9
Post'd

ARIZONA DEPARTMENT OF WATER RESOURCES
99 East Virginia Avenue
Phoenix, Arizona 85004

NOTICE OF APPLICATION TO APPROPRIATE WATER

On the 14th day of January, 19 86, United States of America, National Park Service, Western Regional Office (Fort Bowie NPS), by John D. Cherry Asst. Reg. Dir. Res. Mgmt. & Planning, 450 Golden Gate Ave., San Francisco, CA 94102

filed Application for a Permit to Appropriate Public Water of the State of Arizona No. 33-90513.
The application states:

1. Source of water Mine Tunnel Spring, a tributary of the San Simon River, a tributary of the Gila River

2. Proposed use and amount 1,313,180 gallons per annum for park operations, wildlife and habitat maintenance

3. Point of diversion SW¼ SE¼ and SE¼ NE¼, Section 12, Township 15 South, Range 28 East, Gila and Salt River Base and Meridian, Cochise County, Arizona

4. Place of use same as the point of diversion

5. Description of dam and reservoir n/a

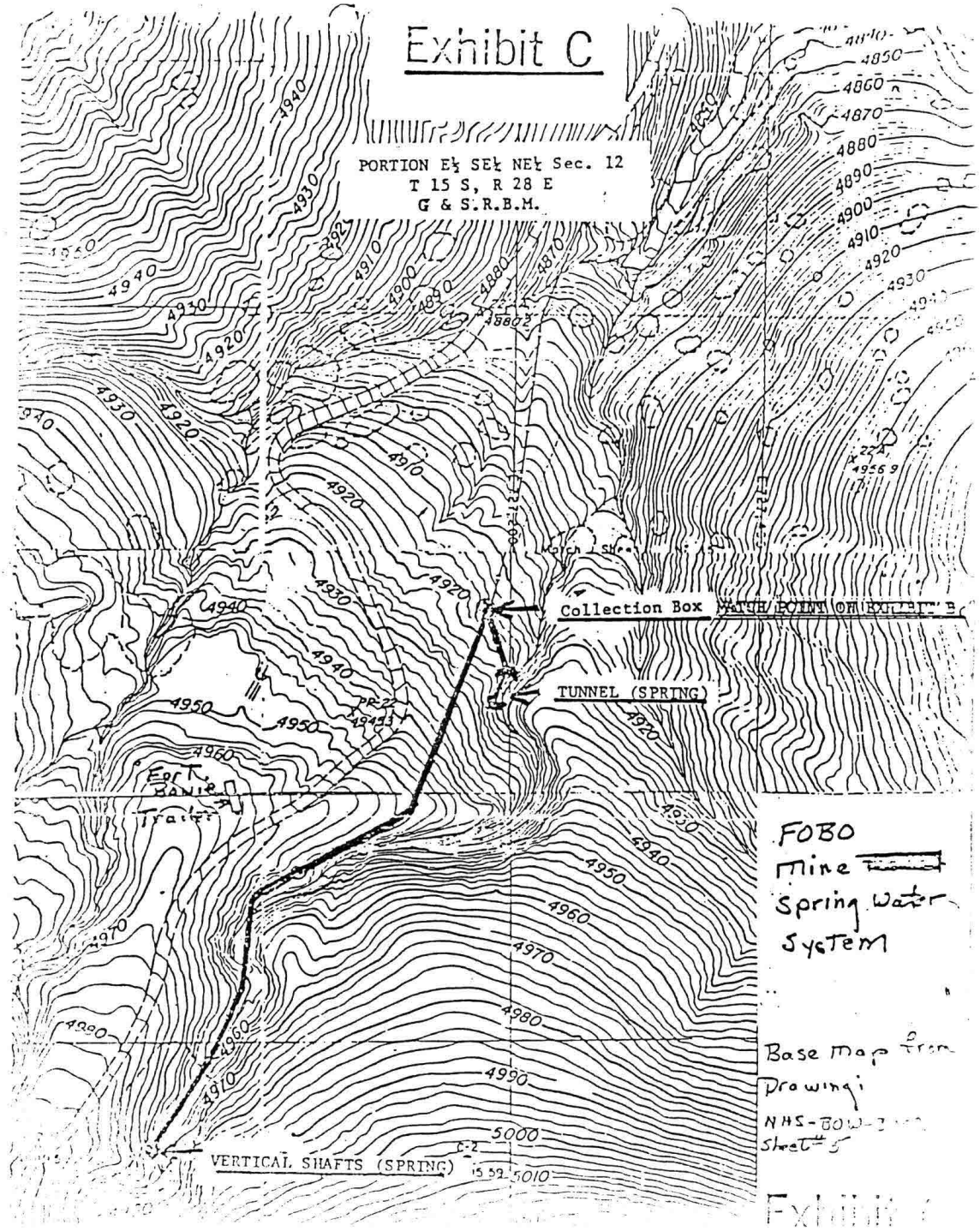
Other: **SEE MAP ON REVERSE SIDE**

Any person whose water rights may be affected may, within sixty days of the issuance of this Notice, file a written protest to the application with the Arizona Department of Water Resources, 99 East Virginia, Phoenix, Arizona 85004. The protesting party shall send a copy of the protest to the applicant. The protest shall state:

1. The name and address of the protesting party.
2. The location of the protesting party's point of diversion of water.
3. The grounds for protest.
4. That a copy of the protest has been mailed or delivered to the applicant.

Issued this 2nd day of April, 19 86.

00-00-0000: topographic map of mine spring water system



HANSEN

June 21, 1991

L54(479)
FOBO/Water Rights

Memorandum

To: Superintendent, Chiricahua National Monument,
Fort Bowie National Historic Site

From: Chief, Water Rights Branch

Subject: Reissued Notice of Posting of Water Rights - Mine Tunnel Springs

We have attached a copy of a letter from the Arizona Department of Water Resources (ADWR) requesting that the National Park Service post the attached reissued Notice of Application to Appropriate Water for Mine Tunnel Spring (Application No. 33-90513) as discussed by Bill Hansen, of my staff, and Dick Anderson on June 17, 1991.

It is of paramount importance that the Notice be posted immediately and the affidavit filed with ADWR as described in the attached letter. As you may know, this is the third time ADWR has issued this Notice and has kindly agreed not to reject our application due to a failure to proceed with due diligence. If ADWR were to cancel our application we would we be required to refile with a 1991 priority date.

If you have any questions concerning this Notice, please contact Bill at (303) 493-441.

Owen Williams

Attachment

cc: FOBO - Anderson
WR - Kolipinski
SOL - Mihan

ARIZONA DEPARTMENT OF WATER RESOURCES
15 South 15th Avenue, Phoenix, Arizona 85007
Telephone (602) 542-1553
Fax (602 256-0506

FIFE SYMINGTON
Governor

ELIZABETH ANN RIEKE
Director

June 14, 1991

National Park Service
Western Regional Office (Fort Bowie NPS)
John D. Cherry, Associate
Reg. Dir. Res. Mgmt. & Planning
450 Golden Gate Avenue
San Francisco, California 94102

Re: Application for Permit to Appropriate Water No. 33-90513
Reissued Notice of Application for Permit to Appropriate Water

Dear Mr. Cherry:

Enclosed are two copies of the Notice of Application to Appropriate Public Water and an Affidavit of Posting Notice for the referenced application.

The Notices must be posted within twenty (20) days from the date of issuance appearing at the bottom thereof. The Notices must be posted in two conspicuous public places, and must remain posted continuously for thirty (30) days. The Department suggests one Notice be posted at the Post Office nearest the locality of the proposed appropriation and the other Notice be posted at the site of the proposed appropriation.

At the conclusion of the thirty-day posting period, the Affidavit of Posting of Notice, with one copy of the Notice attached, must be completed, notarized and filed with the Department.

Yours truly,

Joe B. Stuart
Manager, Surface Water Rights Systems
Operations Division
Telephone (602) 542-1581

JBS:mg

Enclosures

Arizona Department of Water Resources
15 South 15th Avenue
Phoenix, Arizona 85007

REISSUED

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATER

On the 14th day of January, 19 86, United States of America, National Park Service, Western Regional Office (Fort Bowie NPS), John D. Cherry Associates, Reg. Dir. Res. Mgmt. & Planning, 450 Golden Gate Avenue, San Francisco, California 94102, filed an Application for a Permit to Appropriate Public Water, No. 33-90513.

The application states:

1. Source of water: Mine Tunnel Spring, a tributary of the San Simon River, a tributary of the Gila River.
2. Purposed use and amount: 1,313,180 gallons per annum for park operations, wildlife and maintenance.
3. Point of diversion: Southwest quarter of the Southeast quarter (SW¼SE¼) and the Southeast quarter of the Northeast quarter (SE¼NE¼), both within Section 12, Township 15 South, Range 28 East, Gila and Salt River Base and Meridian, Cochise County, Arizona.
4. Place(s) of use: Same as the point of diversion.
5. Description of dam and reservoir: N/A.

Other: ***(See map on reverse side)***

Any person whose prior vested appropriable water rights may be affected by this proposed appropriation, may, within sixty (60) days of the issuance of the Notice, file a Statement of Protestant against this application. The protest form may be obtained from the Arizona Department of Water Resources, Operations Division, 15 South 15th Avenue, Phoenix, Arizona 85007.

The Statement of Protestant must be completed according to instructions found on the form and filed with the Department. The protestant must also send a copy of the completed Statement to the applicant.

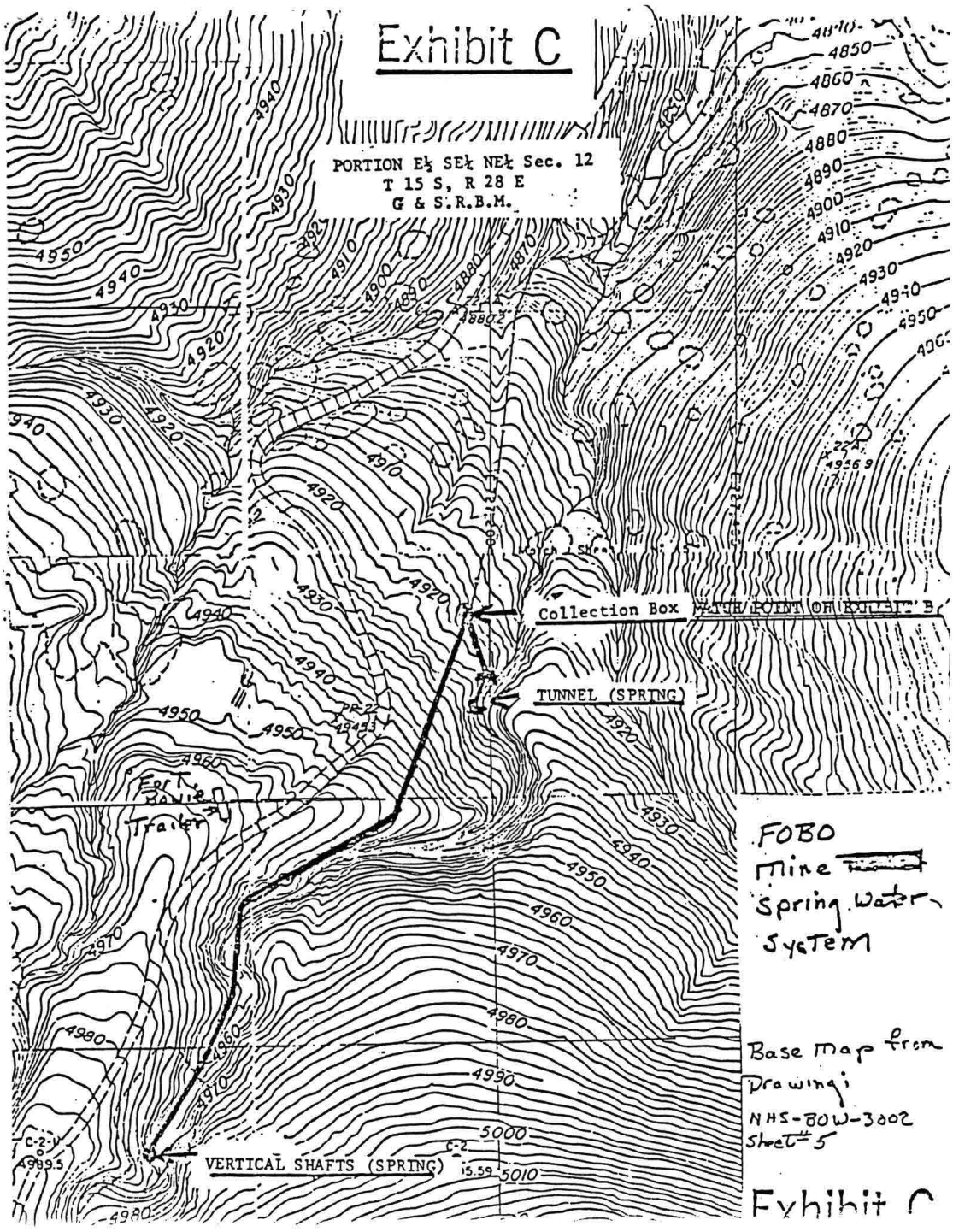
Inquiries concerning the proposed appropriation may be directed to the Operations Division at (602) 542-1581.

Issued this 14th day of June, 19 91

Arizona Department of Water Resources

DWR 33-05 (Rev 9-1-90)

00-00-0000: topographic map of mine spring water system



ARIZONA DEPARTMENT OF WATER RESOURCES
15 South 15th Avenue, Phoenix, Arizona 85007
Telephone (602) 542-1553
Fax (602 256-0506

FIFE SYMINGTON
Governor

ELIZABETH ANN RIEKE
Director

June 14, 1991

National Park Service
Western Regional Office (Fort Bowie NPS)
John D. Cherry, Associate
Reg. Dir. Res. Mgmt. & Planning
450 Golden Gate Avenue
San Francisco, California 94102

Re: Application for Permit to Appropriate Water No. 33-90513
Reissued Notice of Application for Permit to Appropriate Water

Dear Mr. Cherry:

Enclosed are two copies of the Notice of Application to Appropriate Public Water and an Affidavit of Posting Notice for the referenced application.

The Notices must be posted within twenty (20) days from the date of issuance appearing at the bottom thereof. The Notices must be posted in two conspicuous public places, and must remain posted continuously for thirty (30) days. The Department suggests one Notice be posted at the Post Office nearest the locality of the proposed appropriation and the other Notice be posted at the site of the proposed appropriation.

At the conclusion of the thirty-day posting period, the Affidavit of Posting of Notice, with one copy of the Notice attached, must be completed, notarized and filed with the Department.

Yours truly,

Joe B. Stuart
Manager, Surface Water Rights Systems
Operations Division
Telephone (602) 542-1581

JBS:mg

Enclosures

Arizona Department of Water Resources
15 South 15th Avenue
Phoenix, Arizona 85007

R E I S S U E D

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATER

On the 14th day of January, 19 86, United States of America, National Park Service, Western Regional Office (Fort Bowie NPS), John D. Cherry Associates, Reg. Dir. Res. Mgmt. & Planning, 450 Golden Gate Avenue, San Francisco, California 94102, filed an Application for a Permit to Appropriate Public Water, No. 33-90513.

The application states:

1. Source of water: Mine Tunnel Spring, a tributary of the San Simon River, a tributary of the Gila River.

2. Purposed use and amount: 1,313,180 gallons per annum for park operations, wildlife and maintenance.

3. Point of diversion: Southwest quarter of the Southeast quarter (SW¼SE¼) and the Southeast quarter of the Northeast quarter (SE¼NE¼), both within Section 12, Township 15 South, Range 28 East, Gila and Salt River Base and Meridian, Cochise County, Arizona.

4. Place(s) of use: Same as the point of diversion.

5. Description of dam and reservoir: N/A.

Other: ***(See map on reverse side)***

Any person whose prior vested appropriable water rights may be affected by this proposed appropriation, may, within sixty (60) days of the issuance of the Notice, file a Statement of Protestant against this application. The protest form may be obtained from the Arizona Department of Water Resources, Operations Division, 15 South 15th Avenue, Phoenix, Arizona 85007.

The Statement of Protestant must be completed according to instructions found on the form and filed with the Department. The protestant must also send a copy of the completed Statement to the applicant.

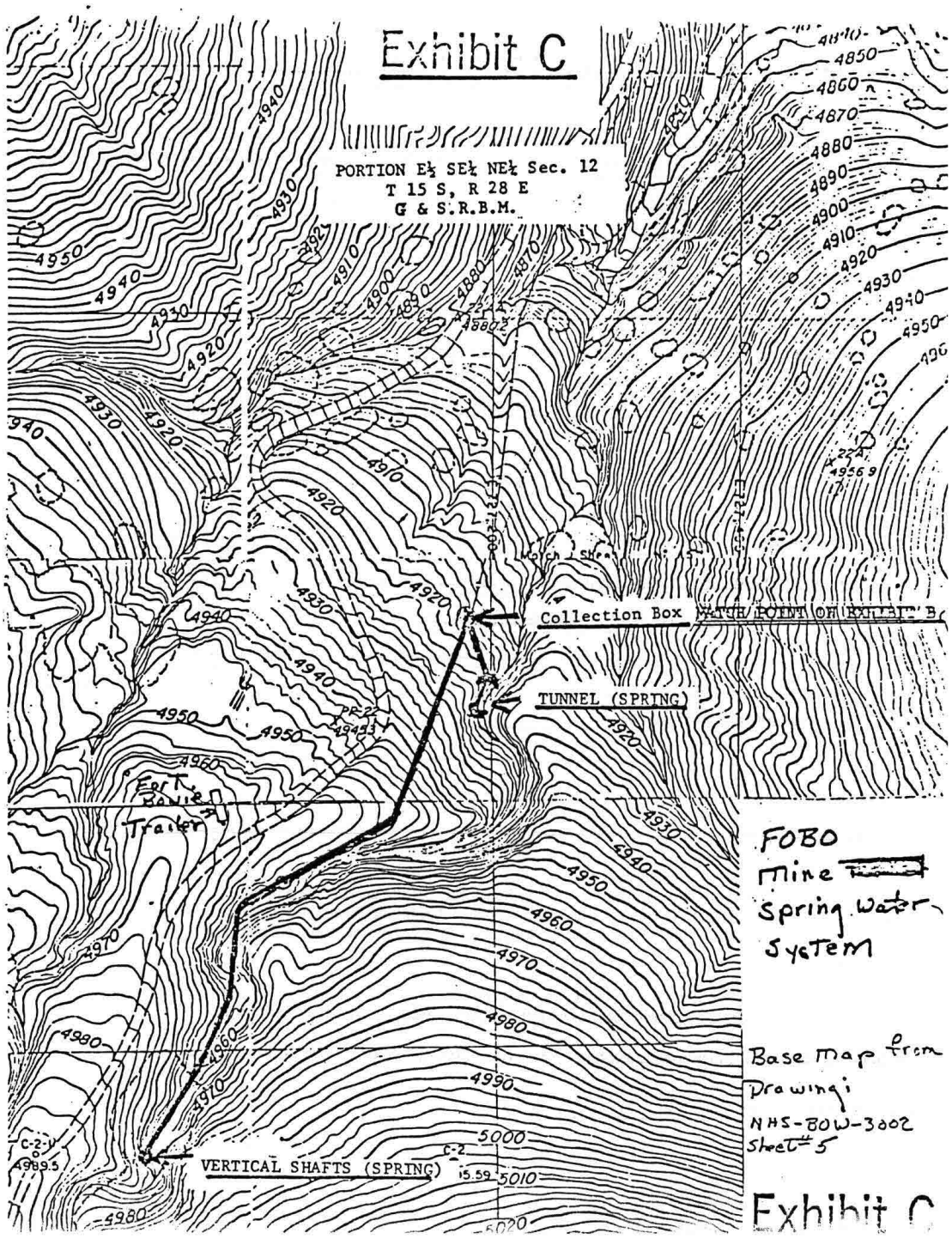
Inquiries concerning the proposed appropriation may be directed to the Operations Division at (602) 542-1581.

Issued this 14th day of June, 19 91

Arizona Department of Water Resources

DWR-33-05 (Rev 9-1-90)

06-14-1986: base map from drawing: nhs-bow-3002 sheet #5 mine spring water system



ARIZONA DEPARTMENT OF WATER RESOURCES
15 South 15th Avenue
Phoenix, Arizona 85007

AFFIDAVIT OF POSTING NOTICE

STATE OF ARIZONA)
) **ss.**
County of _____)

APPLICATION TO APPROPRIATE

NO. _____

_____ , being first duly sworn, states that two copies of the Notice of Application for a Permit to Appropriate Public Water of the State of Arizona No. _____ , a copy of which is hereto attached, were posted on the _____ day of _____ , 19 _____ , at:

1. _____

_____

_____

2. _____

_____

_____

Each of the notices was posted in a conspicuous place in the locality to be affected by the proposed appropriation of water and remained posted for thirty consecutive days ending on the _____ day of _____ , 19 _____ .

_____
Affiant

Subscribed and sworn to before me this _____ day of _____ , 19 _____ .

_____
Notary Public

My commission expires:

_____

DWR 33-08-8/88

May 30, 1991

L54(479)
FOBO/Water Rights

Memorandum

To: Dick Anderson, Resource Management Specialist, Fort Bowie National Historic Site

From: Dan McGlothlin, Hydrologist, Water Rights Branch

Subject: Affidavit for Posting Notice

Per our telephone conversation of May 29, 1991, enclosed are the letters from the Arizona Department of Water Resources and affidavits.

If you have any questions, please call me at (303) 493-1441.

Dan McGlothlin

Attachments

cc: 479 - Hansen

FNP:DMCGLOTHLIN:jt:(303)493-1441:05/30/91:WP51:A:JANICE:ARIZMEMO

NOTE: In a phone conversation w/ Dick Anderson (FOBO) on 6/12/91, Dick confirmed that he had not posted the Notice of Posting as per our instructions in the Memo dated 1/29/91. Therefore, we did not meet the deadline for ~~it~~ returning the Affidavit of Posting Notice. To resolve the problem, I contacted Joe Stewart (AWDR)(on 6/13/91) to discuss if we could <u>now</u> post the Notice. Joe said the Notice was old (1986) and needed to be reissued. ADWR will reissue and Anderson will immediately post.

W.R. Hansen
6/17/91

ARIZONA DEPARTMENT OF WATER RESOURCES
15 South 15th Avenue, Phoenix, Arizona 85007
Telephone (602) 542-1553
Fax (602) 256-0506

FIFE SYMINGTON
Governor

ELIZABETH ANN RIEKE
Director

May 10, 1991

National Park Service
Western Regional Office (Fort Bowie NPS)
John D. Cherry, Associate
Reg. Dir. Res. Mgmt. & Planning
450 Golden Gate Avenue
San Francisco, California 94102

RE: Application for Permit to Appropriate Public Water
No. 33-90513 (Mine Tunnel Springs)

Dear Mr. Cherry:

The Public Water Code requires that the two Notices of Application for Permit to Appropriate Public Water be posted in conspicuous public places for thirty (30) consecutive days. At the end of the posting period, the Affidavit of Posting Notice must be completed and filed with the Department of Water Resources. The Affidavit must be properly executed, notarized and filed before an application may be considered for final review and issuance of a permit.

Our records show that as of this date the Affidavit has not been filed. If the completed Affidavit of Posting Notice is not received by the Department within thirty (30) days from the date of this letter, I will recommend that the referenced application be rejected for failure to proceed with due diligence.

Yours truly,

Joe B. Stuart
Manager, Surface Water Rights Systems
Operations Division
Telephone (602) 542-1581

JBS:im

Certified Mail No. P-153 269 958

ARIZONA DEPARTMENT OF WATER RESOURCES
15 South 15th Avenue
Phoenix, Arizona 85007

AFFIDAVIT OF POSTING NOTICE

STATE OF ARIZONA)
) **ss.**
County of _____)

APPLICATION TO APPROPRIATE

NO. _____

_____ , being first duly sworn, states that two copies of the Notice of Application for a Permit to Appropriate Public Water of the State of Arizona No. _____, a copy of which is hereto attached, were posted on the _____ day of _____, 19 _____, at:

1. _____

_____

_____

2. _____

_____

_____

Each of the notices was posted in a conspicuous place in the locality to be affected by the proposed appropriation of water and remained posted for thirty consecutive days ending on the _____ day of _____, 19 _____.

_____
Affiant

Subscribed and sworn to before me this _____ day of _____, 19 _____.

_____
Notary Public

My commission expires:

_____

DWR 33-08-8/88

January 29, 1991

L54(479)
FOBO/Water Rights

Memorandum

To: Superintendent, Fort Bowie National Historic Site

From: Chief, Water Rights Branch

Subject: Notice of Posting of Water Rights - Mine Tunnel Springs

We have attached a copy of a letter from the Arizona Department of Water Resources (ADWR) requesting that the National Park Service post the attached Notice of Application to Appropriate Water for Mine Tunnel Spring (Application No. 33-90513) as discussed by Bill Hansen, of my staff, and Dick Anderson on January 25, 1991.

As you may note, ADWR requested that this Notice be posted in 1986. Apparently, the Notice was never posted and needs to be posted at this time. Post the Notice in two conspicuous places for thirty days and file the attached Affidavit of Posting Notice (notarized) with ADWR. Please send us copies of all correspondence submitted to ADWR.

If you have any questions concerning this Notice please contact Bill at (303) 493-1441.

Owen Williams

cc: FOBO - Anderson
WR - Kolipinski

Attachments

FNP:BHANSEN:jt:(303)493-1441:01/29/91:wpFOBOPOST.GIL

ARIZONA DEPARTMENT OF WATER RESOURCES
99 East Virginia Avenue
Phoenix, Arizona 85004

NOTICE OF APPLICATION TO APPROPRIATE WATER

On the 14th day of January, 19 86, United States of America, National Park Service, Western Regional Office (Fort Bowie NPS), by John D. Cherry Asso Reg. Dir. Res. Mgmt. & Planning, 450 Golden Gate Ave., San Francisco, CA 94102

filed Application for a Permit to Appropriate Public Water of the State of Arizona No. 33-90513.
The application states:

1. Source of water Mine Tunnel Spring, a tributary of the San Simon River, a tributary of the Gila River

2. Proposed use and amount 1,313,180 gallons per annum for park operations, wildlife and habitat maintenance

3. Point of diversion SW¼ SE¼ and SE¼ NE¼, Section 12, Township 15 South, Range 28 East, Gila and Salt River Base and Meridian, Cochise County, Arizona

4. Place of use same as the point of diversion

5. Description of dam and reservoir n/a

Other: **SEE MAP ON REVERSE SIDE**

Any person whose water rights may be affected may, within sixty days of the issuance of this Notice, file a written protest to the application with the Arizona Department of Water Resources, 99 East Virginia, Phoenix, Arizona 85004. The protesting party shall send a copy of the protest to the applicant. The protest shall state:

1. The name and address of the protesting party.
2. The location of the protesting party's point of diversion of water.
3. The grounds for protest.
4. That a copy of the protest has been mailed or delivered to the applicant.

Issued this 2nd day of April, 19 86.

ARIZONA DEPARTMENT OF WATER RESOURCES

State of Arizona

DEPARTMENT OF WATER RESOURCES
99 E. Virginia Avenue, Phoenix, Arizona 85004

BRUCE BABBITT, Governor
KATHLEEN FERRIS, Director

Date: April 2, 1986

National Park Service
Western Regional Office (Fort Bowie NPS)
John D. Cherry, Associate
Reg. Dir. Res. Mgmt. & Planning
450 Golden Gate Ave.
San Francisco, California 94102

RE: Application(s) to Appropriate No. 33-90513

Dear Mr. Cherry:

Enclosed are two copies of the Notice of Posting and an Affidavit of Posting Notice.

The Notices must be posted within twenty days from the date of issuance appearing at the bottom thereof in two conspicuous places and must remain posted continuously for thirty days. We suggest that one Notice be posted in the post office where those who reside in the locality of the proposed appropriation receive mail.

At the conclusion of the thirty day posting period, the Affidavit of Posting Notice, with one copy of the Notice attached, must be completed, notarized and filed with the Department of Water Resources.

Very truly yours,

Lawrence A. (Al) Ramsey
Branch Chief
Surface Water/Adjudication

LAR:kw

Enclosures

AR. ONA DEPARTMENT OF WATER R. OURCES
15 South 15th Avenue
Phoenix, Arizona 85007

AFFIDAVIT OF POSTING NOTICE

STATE OF ARIZONA)
) **ss.**
County of _____)

APPLICATION TO APPROPRIATE

NO. _____

_____, being first duly sworn, states that two copies of the Notice of Application for a Permit to Appropriate Public Water of the State of Arizona No. _____, a copy of which is hereto attached, were posted on the _____ day of _____, 19 _____, at:

1. _____

_____

_____

2. _____

_____

_____

Each of the notices was posted in a conspicuous place in the locality to be affected by the proposed appropriation of water and remained posted for thirty consecutive days ending on the _____ day of _____, 19 _____.

_____
Affiant

Subscribed and sworn to before me this _____ day of _____, 19 _____.

_____
Notary Public

My commission expires:

_____

DWR 33-08-8/88

State of Arizona
DEPARTMENT OF WATER RESOURCES
99 E. Virginia Avenue, Phoenix, Arizona 85004

BRUCE BABBITT, Governor
KATHLEEN FERRIS, Director

Date: April 2, 1986

National Park Service
Western Regional Office (Fort Bowie NPS)
John D. Cherry, Associate
Reg. Dir. Res. Mgmt. & Planning
450 Golden Gate Ave.
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Very truly yours,

Lawrence A. Ramsey

Lawrence A. (Al) Ramsey
Branch Chief
Surface Water/Adjudication

LAR:kw

Enclosures

Rec'd from ADWR on 1/28/91 after requesting info. concerning Posting Notice. The Notice was never posted or affidavit filed. Sent to FOBO on 1/29/91 for Posting.
WRHansen

AR NA DEPARTMENT OF WATER RESO CES
99 East Virginia Avenue
Phoenix, Arizona 85004

NOTICE OF APPLICATION TO APPROPRIATE WATER

On the 14th day of January, 19 86, United States of America, National Park Service, Western Regional Office (Fort Bowie NPS), by John D. Cherry Assoc. Reg. Dir. Res. Mgmt. & Planning, 450 Golden Gate Ave., San Francisco, CA 94102

filed Application for a Permit to Appropriate Public Water of the State of Arizona No. 33-90513.
The application states:

1. Source of water Mine Tunnel Spring, a tributary of the San Simon River, a tributary of the Gila River

2. Proposed use and amount 1,313,180 gallons per annum for park operations, wildlife and habitat maintenance

3. Point of diversion SW¼ SE¼ and SE¼ NE¼, Section 12, Township 15 South, Range 28 East, Gila and Salt River Base and Meridian, Cochise County, Arizona

4. Place of use same as the point of diversion

5. Description of dam and reservoir n/a

Other: **SEE MAP ON REVERSE SIDE**

Any person whose water rights may be affected may, within sixty days of the issuance of this Notice, file a written protest to the application with the Arizona Department of Water Resources, 99 East Virginia, Phoenix, Arizona 85004. The protesting party shall send a copy of the protest to the applicant. The protest shall state:

1. The name and address of the protesting party.
2. The location of the protesting party's point of diversion of water.
3. The grounds for protest.
4. That a copy of the protest has been mailed or delivered to the applicant.

Issued this 2nd day of April, 19 86.

WR-33-05-10/85

ARIZONA DEPARTMENT OF WATER RESOURCES

ARIZONA DEPARTMENT OF WATER RESOURCES
99 East Virginia Avenue
Phoenix, Arizona 85004

NOTICE OF APPLICATION TO APPROPRIATE WATER

On the 14th day of January, 19 86, United States of America, National Park Service, Western Regional Office (Fort Bowie NPS), by John D. Cherry Assoc Reg. Dir. Res. Mgmt. & Planning, 450 Golden Gate Ave., San Francisco, CA 94102

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5. Description of dam and reservoir n/a

Other: **SEE MAP ON REVERSE SIDE**

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2. The location of the protesting party's point of diversion of water.
3. The grounds for protest.
4. That a copy of the protest has been mailed or delivered to the applicant.

Issued this 2nd day of April, 19 86.

WR-33-05-10/85

ARIZONA DEPARTMENT OF WATER RESOURCES

COUNTY OF SAN FRANCISCO)
) ss.
STATE OF CALIFORNIA)

On this 31st day of December, 1985, before me, the subscriber, personally appeared John D. Cherry, to be known and personally known to me to be the Associate Regional Director, Western Region, National Park Service, of the United States of America, acting by and through the Secretary of the Interior, a governmental agency of the United States of America, and known to me to be same person described in and who executed the foregoing instrument as such Associate Regional Director aforesaid, as the act and deed of the United States, for and on behalf of the Secretary of the Interior, and he acknowledged that he executed the foregoing instrument for and on behalf of the United States of America, for the purposes and uses therein described.



Mary E. Meredith
NOTARY PUBLIC

My Commission expires:

March 26, 1989

May 2, 1989

L54(479)
FOBO/Water Rights

Mr. George Schade
Section Manager, Litigation Support
Arizona Department of Water Resources
15 South 15th Avenue
Phoenix, Arizona 85007

Re: Correction - Statement of Claimant Form 39-11-13635

Dear Mr. Schade:

We would like to correct a clerical error recently discovered concerning Statement of Claimant Form 39-11-13635 for Mine Tunnel Springs filed on April 3, 1989. The original claim was incorrectly filed on a San Pedro River watershed Statement of Claimant Form. The claim should have been submitted for the Upper Gila River watershed. Please make the appropriate corrections in your files or provide us with the necessary forms if refiling is required. I apologize for any inconvenience this may have caused.

Thank you,

Owen Williams

Owen R. Williams
Chief, Water Rights Branch
Water Resources Division

FNP:BHANSEN:scp:5/2/89:221-8302:WANG#434
Revised:5/3/89:jr

United States Department of the Interior
NATIONAL PARK SERVICE
WATER RESOURCES DIVISION
301 SOUTH HOWES ST., ROOM 335
FT. COLLINS, COLORADO 80521

IN REPLY REFER TO:

March 24, 1989

L54(479)
CORO/FOBO Water Rights

Memorandum

To: Associate Regional Director, Resource Management Planning, Western Regional Office

From: Chief, Water Resources Division

Subject: New Use Statement of Claimant Forms for the Gila River General Adjudication (Arizona)

Please find attached the materials which constitute additional claims to water rights for Coronado National Memorial and Fort Bowie National Historic Site. These claims are to be filed in the San Pedro River and Upper Gila River Adjudications as part of the Gila River General Adjudication in Arizona. The Field Solicitor has reviewed and approved the claims.

Notarized signatures are required for each Statement of Claimant Form (3) and for the Statements of Change of Well Ownership Forms for the Sparks Wells (2). If the attached does not meet with your approval, please inform us as soon as possible due to the filing deadline of March 29, 1989. Please forward a filing fee of $60.00 (payable to Arizona Department of Water Resources) with the Claims to F. Patrick Barry, Attorney, Department of Justice. We have attached a draft cover letter for your consideration.

Stanley L. Pence

Attachments

DRAFT

L54(479)
CORO/FOBO Water Rights

F. Patrick Barry
Attorney, Department of Justice
Land and Natural Resources Div.
230 N. First Ave., Suite 4000
Phoenix, AZ 85025

Re: New Use Statement of Claimant Forms--Gila River General Adjudication (Arizona)

Dear Mr. Barry:

Please find enclosed the Statement of Claimant forms for new uses for Coronado National Memorial and Fort Bowie National Historic Site. These claims have been filed in accordance with discussions between Bill Hansen, Water Rights Branch, Water Resources Division; Bill Swan, Field Solicitor; and yourself. These claims, in total and part, have been approved verbally by the Field Solicitor, and are affirmed correct to the best of my knowledge as authorized designated representative.

Sincerely,

John C. Cherry
Associate Regional Director
Resource Management Planning

Enclosure

cc: Field Solicitor, Phoenix, w/enclosure
Superintendent, Coronado, w/enclosure
Superintendent, Ft. Bowie, w/enclosure

STATEMENT OF CLAIMANT FORM
FOR
OTHER USES[1]
UPPER GILA
~~SAN PEDRO~~ RIVER WATERSHED
SUPERIOR COURT OF MARICOPA COUNTY

For Departmental Use Only
File No. 39-
Date Filed:
WFN

1. **Claimant Name:** U.S. of America, c/oNational Park Service--Fort Bowie Nat'l Hist. Site
Claimant Address: Box 36063 City San Francisco
State: California Zip Code 94012 Telephone (415) 556-8660

2. **Basis of Claim:**
A. ☐ Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. _____
B. ☒ Appropriation Right acquired after June 12, 1919. Application No. 33-90513 (Exhibit FOBO-A), Permit No. _____, or Certificate of Water Right No. _____
C. ☐ Decreed water right. Principal litigants, court, date and case no. _____
D. ☐ Right to withdraw groundwater. Grandfathered Right No. _____
E. ☐ Other, describe: _____

3. **Claimed Priority Date:** 1 / 14 / 86 (month/day/year)

4. **Use:**
A. ☒ Municipal
B. ☒ Commerical or Industrial
C. ☐ Mining
D. ☐ Stockwatering other than from a stockpond
E. ☒ Recreation, Fish & Wildlife
F. ☐ Other, describe: _____

5. **Source of Water:**
A. ☐ Stream: name _____, tributary to _____
B. ☒ Spring: name Mine Tunnel Springs, tributary to San Simon River
C. ☐ Lake or Reservoir: name _____, tributary to _____
D. ☐ Groundwater.

6. **Legal description of the Point of Diversion:** (attach additional sheet if required)
SE 1/4, SE 1/4, NE 1/4, Section 12, Township 15 ~~N~~S, Range 28 E/~~W~~
(See Exhibit FOBO-B)

7. **If there are Irrigation, Domestic or Stockpond Uses also supplied from the Point of Diversion, describe:** _____

8. **Means of Diversion:**
A. ☐ Instream pump.
B. ☒ Gravity flow into a ditch, canal or pipeline. (See Exhibit FOBO-A)
C. ☐ Well: Arizona Department of Water Resources Well Registration No. 55-_____
D. ☐ Other, describe: _____

[1] *See Instructions for explanation of uses in this category*

9. Means of Conveyance:

A. ☒ Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: _____

B. ☐ Other, describe: _____

10. Place of Use, if other than point of diversion: (attach additional sheet if required)

County _____

Legal Subdivision	**Section**	**Township**	**Range**
_____	_____	_____ N/S	_____ E/W
_____	_____	_____ N/S	_____ E/W

11. Claimed Right:

A. Maximum Flow Rate: *See Exh. CORO-C ☐ cubic-feet per second ☐ gallons per minute ☐ Arizona miner's inches

B. Annual Volume of Water Use: 4.03 acre-feet

C. Storage Right: _____ acre-feet

12. Attach photographs, maps or sketches necessary to show the point of diversion, storage resevoir(s) place(s) of use and means of conveyance.

13. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant John C. Cherry, Assoc. Reg. Dir. of Res. Mgmt. Plng., Western Reg. Office, National Park Service

14. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? Regular work days - (415)556-6732

15. Additional comments: * See agreement between National Park Service and Maya Apartments dated October 8, 1982. (Exhibit FOBO-C)

(attach additional sheet if required)

16. Attach Filing Fee to Form. Mail form(s) and filing fee(s) to: Department of Water Resources, Adjudications Division, 15 South 15th Avenue, Phoenix, Arizona 85007.

17. Notarized Statement:

I (We), John D. Cherry, on behalf of the National Park Service the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my (our) knowledge and belief true, correct and complete.

_____

(seal) _____

_____ _____

My Commission Expires Notary Public

or, _____

Authorized Personnel of the Department of Water Resources

DEPARTMENT OF WATER RESOURCES
99 East Virginia Avenue
Phoenix, Arizona 85004

RECEIVED JAN 14 1986 DEPT. OF WATER RESOURCES

APPLICATION FOR PERMIT TO APPROPRIATE WATER
STATE OF ARIZONA

Application No. 33-90513
Permit No.
Filed: 1-14-86 (date) at 9:00A. M (time)

To be filled in by Department of Water Resources

Examination Fee $25.00
Map (see Instructions)
APPLICATION MUST BE SUBMITTED IN DUPLICATE

1. Name of Applicant: United States of America
C/O National Park Service, Western Regional Office (Fort Rowie NHS
450 Golden Gate Ave.
San Francisco, CA 94102 by John D. Cherry Assoc. Reg. Dir. Res. Mgmt & Planning (415)556-6732
(Address, City, State, Zip) (Phone No.)

2. Indicate by an (x) on the proper line(s) the use(s) for which this application is being submitted:
Irrigation ___ Domestic ___ Stockwatering ___ Municipal ___ Power ___ Mining ___ Other Uses x .

3. If for irrigation purposes, fill in the following:

Township (N/S)	Range (E/W)	Section	Legal Subdivision	No. of Acres

If for domestic purposes, number of persons_____, or families_____.
If for stockwatering purposes, number and kind of stock watered_____.
If for municipal purposes, name of municipality_____.
If for power purposes, type of plant, size and rated capacity_____.
If for mining, the water will be used in_____mine.
If for other uses, describe Park Operations, Wildlife Watering and Habitat Maintenance .

4. For each use applied for (use symbols) state amount of water required for each use:
Irrigation - (I), Domestic - (D), Stockwatering - (S), Municipal - (M), Power - (P), Mining - (Mi), Other uses - (O).

Symbol				Month/Day			
O-1- 0.41	~~cfs~~/gpm or	0.66	ac. ft. from	1 Jan	to	31 Dec
O-2 - 0.21	~~cfs~~/gpm or	0.08	ac. ft. from	1 Mar	to	31 May
O-3 - 1.88	~~cfs~~/gpm or	0.75	ac. ft. from	1 Mar	to	31 May
O-4- 2.09	gpm or	2.54	ac. ft. from	31 May	to	1 Mar

5. The direct source of supply is Mine Tunnel Spr.
tributary to San Simon River on the Upper Gila watershed.
(leave blank)

6. The point of diversion (locate on map) is within the SW¼ & SE¼ of SE ¼ NE ¼, Section 12, of Township 15 (N/S), Range 28 (E/W), G&SRB&M., in the County of Cochise.

7. The place of use (locate on map) is in the SW¼ & SE¼ of SE ¼ NE ¼, Section 12, of Township 15 (N/S), Range 28 (E/W), G&SRB&M., in the County of Cochise.

8. Description of the proposed works by which the water is to be put to beneficial use See attachment

9. If water is to be stored, give capacity of reservoir in acre feet N/A, height of dam _____ft., area inundated in acres_____. Use explanatory sheet for capacity for each foot of depth.

10. Construction Schedule. It is proposed to begin construction within See attachment (not over 2 years) after approval of this application, to complete construction within_____ (not more than 4 years) thereafter, and to completely apply the water to the proposed use within_____ (not more than 5 years) after the beginning of construction.

11. Is the land owned by the applicant? Yes X No____. If "No" explain on page 2.

12. Is the water to be used supplementally with other water(s)? Yes___ No X . If "Yes" identify other waters or water rights on page 2.

10-80-33

Exhibit FORO-A

INSTRUCTIONS:

A map of the standard equal to the maps printed by the United States Geological Survey (Quad Sheets) or State Orthophoto base maps shall be submitted with the application.

EXPLANATORY

* O-1= Year round Park support for consumption by visitors and residents, and for other administrative purposes.

O-2= Seasonal employee residential use.

O-3= Wildlife watering and habitat maintenance during Park high use season.

O-4 Wildlife watering and habitat maintenance during remainder of year.

The undersigned hereby acknowledges that, even though he may have been assisted in the preparation of the above numbered application through the courtesy of employees of the Department of Water Resources all responsibility and risk of loss for the accuracy of the information contained herein, at the time of filing, rests with the applicant.

Signature of Applicant

PERMIT

Permit No._____ Application No._____

STATE OF ARIZONA,)
) ss.
County of Maricopa)

This is to certify that I have examined the foregoing application and do hereby approve the same, and grant to the applicant a permit to appropriate the water and/or to construct the reservoir described therein subject to all prior existing rights as provided by law and to the following limitations and conditions:

The total capacity of the reservoir shall not exceed_____

The amount of water appropriated shall be limited to the amount which can be applied to beneficial use and shall not exceed_____

The priority date under this permit is_____

Actual construction work shall begin on or before_____ and shall be prosecuted with reasonable diligence and be completed on or before_____. Complete application of the water to the proposed use shall be made on or before_____.

WITNESS my hand and seal of office this_____ day of_____, 19_____.

SEAL

for the Director

ATTACHMENT

Reference # 8

Description of Physical Diversion and Delivery Works: The diversion of the upper source of Mine Tunnel Spring is made at the mouth of the tunnel by a concrete dam, with a 2" galvanized steel pipe delivering the flow to two catchments, (galvanized steel culvert pipes buried vertically, the first 6-1/2'X 7', and at a distance of 24', the second 3'X 10') thence by 2" galvanized steel pipe (128') ending in PVC pipe (75') to a splitting weir which diverts 50% of the flow into a 450 gal tank in the pump house, where it is delivered to the N.P.S. utility/residential area by a pressure system. The remaining 50% flows through a 1-1/2' PVC pipe 240' to a concrete collection box thence to the old Schaffer Ranch.

The Lower Mine Tunnel Spring (located below the pump house) flows from a concrete dam at its mouth 200' via a combination (100' of each) 1-1/4" galvanized steel and PVC pipe to a splitting weir where 50% of the flow is diverted to a 500 gal fiberglass underground tank. The remaining 50% joins the flow to Schaffer Ranch (Maya Apts. Inc. owner). The overflow from the pump house is delivered to the 500 gal. fiberglass tank via 228' of 1-1/2" PVC pipe. Water from the tank is pumped to the upper 450 gal tank (in the pump house) on demand, while the overflow from the lower (500 gal) tank is discharged into an unnamed drainage, a tributary of the San Simon River, to provide for wildlife habitat.

Reference # 10.

At the time that the N.P.S. took possession of Fort Bowie, a 1-1/2" PVC pipe was diverting water from the lower Mine Tunnel source and carrying it down canyon (East) to a stock watering trough. It is unknown which of the previous land owners constructed this line. With the establishment of Fort Bowie N.H.S. (8/30/64), but prior to the completion of the land acquisition, the NPS utilized this source of water to supply the Administrative site and a residential trailer. This use began in August, 1965 through an agreement with the land owner Earl J. Neel. With the completion of the land acquisition, the upper mine tunnel source was developed (approximately 1972) and combined with the lower source in the system described in item #8 above.

A dispute as to ownership of the Mine Tunnel Springs (Maya Apartments vs. the United States of America, No. Civ. 76-202-TUC-RMB) was resolved by stipulation with an agreement dated 8 Oct. 1982 (copy attached). The parties to the agreement recognized mutual and equal ownership to the production of mine tunnel springs.

FILED

JUN 11 1982

W. J. FURSTENAU, CLERK
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

JUN 1982
UNITED STATES
DEPT OF THE INTERIOR
OFFICE OF THE SOLICITOR
SAN FRANCISCO
FIELD OFFICE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

MAYA APARTMENTS, an Arizona limited partnership,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, et al.,

Defendants.

No. CIV 76-202-TUC-R[illegible]

ORDER

The Court having reviewed the first, second, third and fourth Reports on Settlement Progress,

IT IS ORDERED that unless this matter is settled and the documents furnished to the Court by July 16, 1982, the parties shall comply with Local Rule 42(A)(C) and file a proposed pretrial order with the Court no later than August 5, 1982.

DATED: June 10, 1982.

Richard M. Bilby
United States District Judge

Exhibit FOBO-C

FOR THE DISTRICT OF ARIZONA

OCT 12 1982

CLERK, U. S. DISTRICT COURT
DISTRICT OF ARIZONA
BY: _____ DEP.

MAYA APARTMENTS, an Arizona limited partnership,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, et al.,

Defendants

No. CIV 76-202-TUC-RMB



STIPULATION FOR DISMISSAL

It is hereby stipulated that the above-entitled action be discontinued and dismissed with prejudice and without cost to either party.

Dated this 5 day of October, 1982.

MAYA APARTMENTS

By _____
M. S. MACCOLLUM, M.D.

_____
DARYL M. WILLIAMS
Murphy & Posner

ATTORNEY FOR PLAINTIFF

A. MELVIN MCDONALD
United States Attorney
District of Arizona

BRUCE R. HEURLIN
Assistant United States Attorney

_____
JOHN R. HILL, JR.
Attorney, Department of Justice
Land and Natural Resources Division
1961 Stout Street, Drawer 3607
Denver, Colorado 80294-3607
303/837-2892

ATTORNEYS FOR FEDERAL DEFENDANTS

Williams
Heurlin
Hill
Stanley
RMO

COPY FOR YOUR INFORMATION

MAYA APARTMENTS
vs.
U.S.A.

ORDER

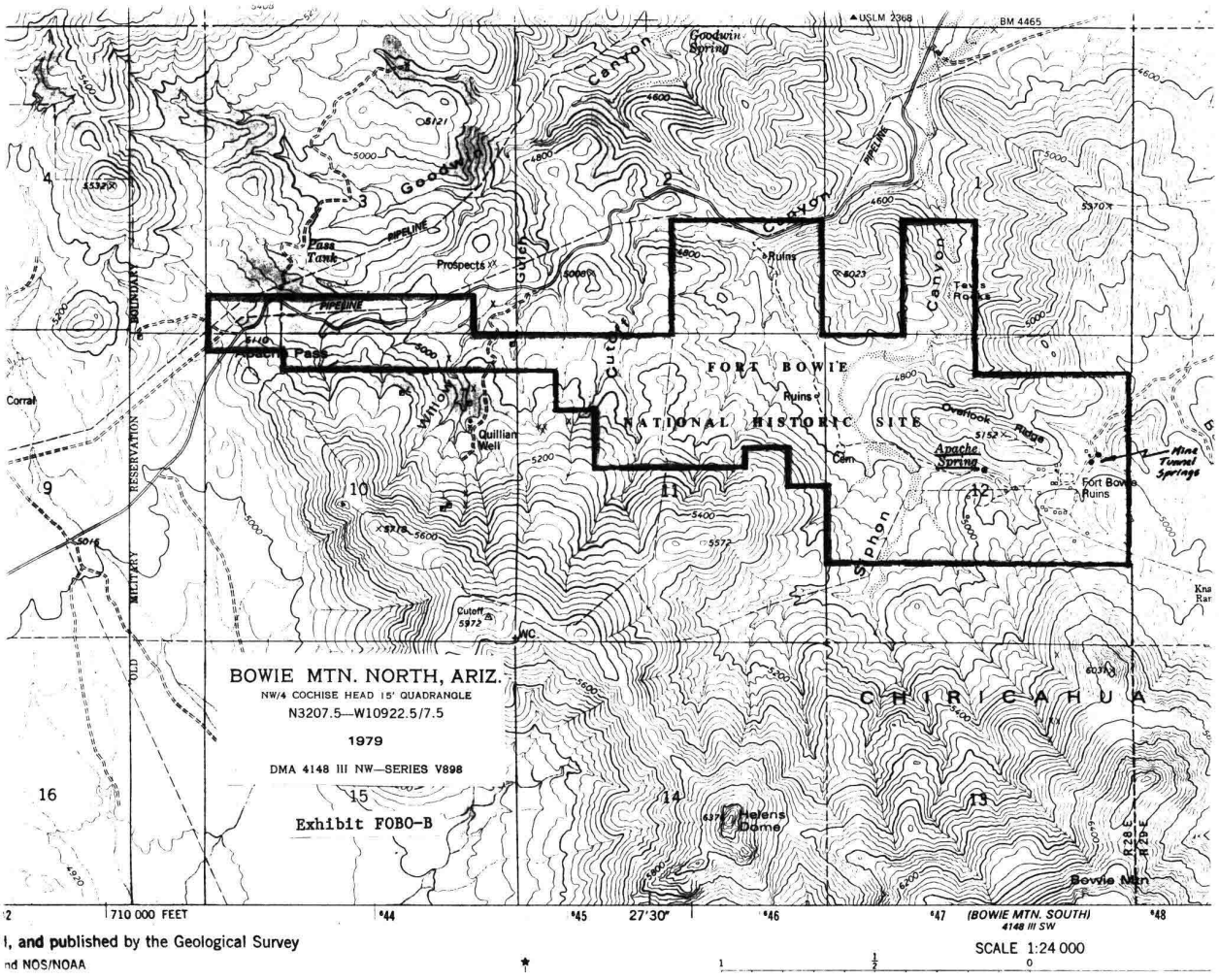
PURSUANT to the foregoing Stipulation,

IT IS ORDERED that the above entitled action is DISMISSED with prejudice, each party to bear its own costs.

DATED: October 11, 1982.

Richard M. Bilby
United States District Judge

00-00-0000: map of bowie mtn. north, arizona



AGREEMENT CONCERNING WATER RIGHTS TO THE
MINE TUNNEL WATER SOURCES AND RELATED MATTERS

THIS AGREEMENT, made this 8 day of October, 1982, between the UNITED STATES OF AMERICA acting by and through the National Park Service ("United States") and MAYA APARTMENTS, an Arizona limited partnership ("Maya"),

W I T N E S S E T H:

WHEREAS:

A. There exist two developed water sources within the boundaries of Fort Bowie National Historic Site, on land owned by the United States, located in the SE 1/4, NE 1/4 Section 12 of T. 15 S., R. 28 E., Gila and Salt River P. M. Said land was acquired by the United States from a predecessor-in-interest of Maya. These two water sources are referred to herein as the "Mine Tunnel" water sources. The United States and Maya assert conflicting claims of ownership to said water sources, which conflicting claims have never been legally determined.

B. United States and Maya have concluded that it would be in their best interests to enter into this agreement to fix and determine their respective rights to the Mine Tunnel water sources and to reach agreements as to other matters.

NOW THEREFORE, the parties hereto agree as follows:

MINE TUNNEL WATER SOURCES

1. Equal Rights to Water. United States and Maya hereby agree to share equally in the use and right to use each of the two Mine Tunnel water sources. Failure of either party to use all or part of its rights herein shall not be construed as a loss of all or part of the rights of said party to the other party. To effectuate this Agreement to share the Mine Tunnel water sources equally, the parties will each quitclaim to the other any-all of its water rights to each Mine Tunnel source

that is or may be in excess of one-half of the quantity of water that now flows from, or may in the future flow, from each Mine Tunnel source. A copy of the quitclaim is attached hereto as Exhibit A.

2. Operation and Maintenance. The parties agree that the operation and maintenance of the Mine Tunnel water sources water delivery system within Fort Bowie National Historic Site shall be handled in the following manner:

a. No work shall be done to increase flows from the two Mine Tunnel water sources without the written permission of the United States.

b. Any maintenance, repair, or new construction within the Historic Site shall be performed in such a manner as to minimize harm to the Historic Site and its resources. The United States shall have the right to limit the type of equipment used.

c. The responsibility for repair and maintenance of the system within the Historic Site shall be as follows:

(1) Both parties shall share equally the costs of repair and maintenance of the system from the springs to, and including, the collection box.

(2) The National Park Service shall be solely responsible for repair and maintenance of the pressure pump and the pipe from the pump to the National Park Service facilities.

(3) MAYA shall be solely responsible for repair and maintenance of the system from where it leaves the collection box throughout the remainder of the system.

(4) Both parties shall share the costs of repair of either Mine Tunnel Spring when repairs are necessary to maintain that equal share of the combined sources available to either party at 2.5 gpm. However, the parties shall first agree to the need and extent of repair before the resulting cost is shared. Provided, however, that in the event of inability to agree on the need or extent of repair, the reduction in flow attributable to the need for repair shall be borne by the dissenting party.

d. Any change in the present course or alignment of the system within the Historic Site is subject to the written approval of the United States. Furthermore, the United States shall have the right, at its sole expense, to further improve the system to transport water from either Mine Tunnel source up to the National Park Service facilities.

e. The United States shall have the right to further modify, at its own expense, the present system to ensure that no more than one-half of the water from the Mine Tunnel sources is transported to Maya, provided, however, that this shall not apply to that amount of water attributable to repairs made unilaterally by Maya pursuant to 2.c.(4), above.

3. Use of Water Off the Monument. Maya's Mine Tunnel water right, as established herein, is limited to the reasonable domestic needs for a ranch headquarters at the "Old Shaffer Place" and stock watering. Maya's water use is also limited to use on that land owned by Maya, or permitted to Maya from the Bureau of Land

Management and the State of Arizona for grazing purposes, as of September 1, 1981, adjacent to the Fort Bowie National Historic Site.

APACHE SPRING

4. Water Rights. The parties recognize that the right to water at Apache Spring which is located in the SW 1/4, SW 1/4, NE 1/4, Section 12, T. 15 S., R. 28 E., Gila and Salt River P.M., is governed by applicable law. However, the parties agree between themselves that Maya shall be entitled to that amount of Apache Spring water needed to sustain the number of livestock as permitted under the terms of the Bureau of Land Management/ National Park Service grazing allotment with the carrying capacity as determined by Bureau of Land Management. Said livestock shall not be allowed to drink directly from the spring or its water course, but shall be limited to drinking from two stock tanks as further discussed below. The United States shall have the right to use the remainder of said water.

5. Operation and Maintenance. The United States shall have the responsibility and control over the operation and maintenance of Apache Spring and the water delivery system from Apache Spring to Maya's two stock tanks. However, the cost of maintaining the system from where the system leaves the spring up to, but not including, the two stock tanks, shall be borne by the United States. Maya shall be solely responsible for the maintenance of the stock tanks and any associated costs.

6. Location of Stock Tanks. The two stock tanks shall remain where presently located unless the parties agree otherwise.

PIPELINE RIGHT-OF-WAY

7. Maya agrees to quitclaim to the United States any interest in that pipeline right-of-way reserved by Earl J. Neel in that

certain deed recorded in Book 1485, Pages 46 and 47 , Cochise County, Arizona. A copy of said quitclaim deed is attached hereto as Exhibit B.

MISCELLANEOUS

8. Maya agrees to dismiss, with prejudice, its action entitled: Maya Apartments v. United States, Civil No. 76-202-TUC-RMB (D. Arizona), with each party bearing its own costs.

9. The headings herein are for convenience only and said headings shall not be deemed to affect the agreements made herein.

10. This agreement shall be binding in all respects upon the successors and assignees of each of the parties hereto.

11. No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

12. Any obligation in this Agreement on the part of the United States to expend funds shall be subject to the availability of funds.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective officers thereunto duly authorized, all as of the day and year first above written.

UNITED STATES OF AMERICA

DATED: 10-8-82 By: Donald M Spalding

Donald M. Spalding
Acting Regional Director, Western Region

MAYA APARTMENTS

DATED: 13 July 82 By: Mrs Rae Cole

After recording return

National Park Service, Western Region
Division of Water Resources
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

QUITCLAIM DEED

By this instrument dated July 8, 1982, for a valuable consideration, I, the National Park Service, Department of the Interior, U.S. Government, do hearby remise, release and forever quitclaim to Maya Apartments the following described water rights in the State of Arizona, County of Cochise:

Any and all rights to water from each Mine Tunnel source that is or may be in excess of ½ (one-half) the quantity of water that now flows from, or may in the future flow from, each Mine Tunnel source.

Levi E. Lopez

ACTING Regional Director, [illegible]

County of San Francisco)
State of California)

On this 8th day of July, in the year 1982, before me Mary E. Meredith, personally appeared Levi E. Lopez, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as Acting Regional Director of Western Region, National Park Service, Dept. of the Interior and acknowledged to me that the National Park Service, Department of the Interior executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Official Seal the day and year in this certificate first above written.

OFFICIAL SEAL
MARY E. MEREDITH
NOTARY PUBLIC-CALIFORNIA
PRINCIPAL OFFICE IN
SAN FRANCISCO COUNTY
My Commission Expires Mar. 26, 1985

Mary E. Meredith
Notary Public in and for said County of San Francisco, State of California. My commission expires March 26, 1985.

National Park Service, Western Region
Division of Water Resources
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

QUITCLAIM DEED

By this instrument dated July 15, 1982, for a valuable consideration, I N. S. MacCollum for Maya Apartments, do hearby remise, release and forever quitclaim to the United States of America the following described water rights in the State of Arizona, County of Cochise:

Any and all rights to water from each Mine Tunnel source that is or may be in excess of ½ (one-half) the quantity of water that now flows from, or may in the future flow from, each Mine Tunnel source.

TRANSAMERICA TITLE INSURANCE CO.
SIERRA VISTA, ARIZONA 85635

STATE OF ARIZONA] SS.
COUNTY OF COCHISE]

I HEREBY CERTIFY THAT THE ANNEXED INSTRUMENT WAS FILED AND RECORDED AT REQUEST OF:
WITNESS MY HAND AND OFFICIAL SEAL
CHRISTINE RHODES, COUNTY RECORDER
FEE $ 3.00
DEPUTY
DRAFT
DATE JAN 24 '83 -2 20 PM
INDEXED
DOCKET 1646 PAGE 264 NO 1383

COCHISE COUNTY * RECORDER * 1881

FOR THE NATIONAL PARK SERVICE

N S MacCollum

for: Maya Apartments

County of Maricopa)
State of Arizona)

On this 15th day of July, 19 82, before me Malina L. Smith, A Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared _____ known to me to be the person whose name _____ subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Official Seal the day and year in this certificate first above written.

Malina L. Smith
Notary Public in and for said County of Maricopa, State of Arizona. My commission expires My Commission Expires Apr 12 1985.

MALINA L. SMITH NOTARY PUBLIC MARICOPA CO.

DKT 1646 PAGE 264

National Park Service, Western Region
Division of Water Resources
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

QUITCLAIM DEED

By this instrument dated July 15, 1982, for a valuable consideration, I M. S. MacCollum for Maya Apartments, do hearby remise, release and forever quitclaim to the United States of America the following described pipeline right-of-way in the State of Arizona, County of Cochise:

That pipeline right-of-way reserved by Earl J. Neel in that certain deed dated November 28, 1966, and recorded at pages 46 and 47 of Book 1485, Cochise County, Arizona; said pipeline right-of-way being 10 (ten) feet in width; beginning at Apache Spring, located in the W½, SW¼, SW¼, NE¼ of Section 12, T. 15 S., R. 28 E., Gila and Salt River Meridian, thence N 80° 10' E, 1320 (one thousand three hundred twenty) feet and N 58° 10' E, 1500 (one thousand five hundred) feet to a point 1340 (one thousand three hundred forty) feet south of the NE corner of Section 12, T. 15 S., R. 28 E., Gila and Salt River Meridian.

STATE OF ARIZONA] SS.
COUNTY OF COCHISE]
WITNESS MY HAND AND OFFICIAL SEAL
CHRISTINE RHODES, COUNTY RECORDER
DEPUTY

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED AND RECORDED AT REQUEST OF: TRANSAMERICA TITLE INSURANCE CO.
P. O. BOX 1900
SIERRA VISTA, ARIZONA 85635
FEE $ $3.00
DRAFT
DATE JAN 24 '83 -2 20 PM
INDEXED
FEE
DOCKET 1646 PAGE 263 NO 1382

COCHISE COUNTY RECORDER

FOR THE NATIONAL PARK SERVICE

for: Maya Apartments

County of Maricopa)
State of Arizona)

On this 15th day of July, 19 82, before me Malvine L. Smith, A Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared _____ known to me to be the person whose name _____ subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Official Seal the day and year in this certificate first above written.

PUBLIC MARICOPA CO.

Malvine L. Smith
Notary Public in and for said County of Maricopa, State of Arizona. My commission expires My Commission Expires Apr. 12, 1985.

DKT 1646 PAGE 263

REPORT

TELEPHONE CONVERSATION

DATE 3/20/89 TIME 1000 AM/PM

PROJECT: New Use Statement of Claimant Forms
Gila River General Adjudication

NPS PERSON ON CALL: Bill Hansen ☐ I CALLED ☒ S/HE CALLED

PERSON Bill Swan (Solicitor - Phoenix); Pat Barry (DOJ - Phoenix) - Conference Call

ORGANIZATION

ADDRESS

TELEPHONE NO. EXT.

SUBJECTS DISCUSSED Conference call was scheduled to discuss New Use Statement of Claimant Forms for the Sparks Wells at CORO and for Mine Tunnel Spr and Apache Springs at FOBO. The discussion centered around whether NPS should or could file these developments as "new uses". Initially, history of each use was discussed. Swan and Barry agreed that several options existed for Sparks Wells: (1) claim reserved rights based upon date of acquisition; (2) request intervention and request admendment to previous claim stating reason as "Mr Sparks didn't file claim" and we would like to. They said Judge Goodfarb granting regularly. Options for Mine Tunnel Spring: (1) file as reserved claim with priority date date of acquisition, or (2) file as "New Use" with ~~the~~ priority date date of application to appropriate in 1986. This alternative requires adjusting present data on claim form (check box B not C). Options for Apache Springs: (1) file as reserved ~~claim~~ claim with priority date date of acquisition or (2) file a application to appropriate -- This results in priority date of 1989 and does not allow filing as "new use". File SofC at same time as applic. to approp. Swan said that neither Mine Tunnel or Apache Spgs could be filed as though decreed. Agreement btw USA & Maya was only a agreement & not a decree -- nothing said about nature of water right.

ACTION TO BE TAKEN Discuss options w/ Williams & file appropriate claims.

DECISION MADE TO FILE SPARKS WELLS AS NEW USES AND MINE TUNNEL SPR AS NEW USE. DID NOT FEEL CLAIM AS RESERVED RT. APPROPRIATE. WILL FILE APACHE SPR ~~AS~~ W/ STATE AS A NEW APPROPRIABLE RIGHT (APPL. TO APPROP.)

COPIES TO:

Arizona Department of Water Resources

99 East Virginia Avenue
Phoenix, Arizona 85004
(602) 255-1553

Evan Mecham, Governor
Alan P. Kleinman, Director

November 19, 1987

Carlos D. Ronstadt, Attorney
Ellis, Baker, Clark & Porter, P.C.
4444 No. 32nd Street, #200
Phoenix, Arizona 85018

Re: Hyl Ranch Properties, an Arizona partnership, protest against Application for a Permit to Appropriate No. 33-90513

Dear Carlos:

This is in response to your letter dated November 9, 1987, wherein you reminded this Department that while the former owner of Hyl Ranch protested the referenced application, Hyl Ranch Properties, an Arizona partnership is now the protestant in this matter. Your letter and a note in the above file will serve to remind us, thank you.

We have also input the new address for Hyl Ranch Properties into our computer system on all of their 46 filings.

Very truly yours,

Lawrence A. Ramsey

Lawrence A. (Al) Ramsey
Section Manager
Surface Water and Adjudications

LAR:ec

11-09-1987: letter to department of water resources form ellis, baker, clark & porter regarding protest to application for permit to a

ELLIS, BAKER, CLARK & PORTER, P.C.

ATTORNEYS AT LAW

R. J. ELLIS
OF COUNSEL

WILLIAM D. BAKER
RICHARD W. CLARK
ROBERT S. PORTER
PAUL R. ORME
GARY A. DRUMMOND
CARLOS D. RONSTADT
JOHN R. POLITAN
ROBERT D. BARLOW
RONALD J. LAUTER

SUITE 200
4444 NORTH 32ND STREET
PHOENIX, ARIZONA 85018
(602) 956-8878
TELECOPIER (602) 224-9663

MAILING ADDRESS
P.O. BOX 16450
PHOENIX, ARIZONA 85011

NOV 1987
DEPARTMENT OF WATER RESOURCES

November 9, 1987

Mr. Al Ramsey, Branch Chief
Surface Water/Adjudication
Operations Division
Department of Water Resources
99 East Virginia
Phoenix, AZ 85004

RE: Protest to Application for Permit to Appropriate No. 33-90513, as Filed by the National Park Service on Mine Tunnel Spring

Dear Mr. Ramsey:

On January 14, 1986, the United States of America, National Park Service, filed Application to Appropriate No. 33-90513. This Application was filed on Mine Tunnel Spring, which is one of the water sources utilized by the HYL Ranch, in Cochise County, Arizona. At that time, the HYL Ranch was owned by M. S. MacCollum. On April 7, 1987, M. S. MacCollum timely filed a protest to Application No. 33-90513. In late 1986, M. S. MacCollum conveyed the HYL Ranch to my client, HYL Ranch Properties, an Arizona partnership.

Please be advised that HYL Ranch Properties is the current owner of the HYL Ranch and, as such, is the successor-in-interest to all rights formally held by M.S. MacCollum. HYL Ranch Properties is therefore the real party in interest in this matter and should be substituted as the protestant of the above-referenced Application. The address for HYL Ranch Properties is as follows:

4455 East Camelback Road
Suite 290 E
Phoenix, Arizona 85018



As always, please call me if you have any questions about this matter or about the water rights on the HYL Ranch. I would appreciate receiving copies of any pleadings, notices, or similar documents filed in this matter.

Sincerely,

Carlos D. Ronstadt
For the Firm

CDR/rkh

pc: HYL Ranch Properties

10C29/24

11-19-1987: letter to ellis, baker, clark & porter from arizona department of water resources regarding hyl ranch properties, an ariz

Arizona Department of Water Resources

99 East Virginia Avenue
Phoenix, Arizona 85004
(602) 255-1553

Evan Mecham, Governor
Alan P. Kleinman, Director

November 19, 1987

Carlos D. Ronstadt, Attorney
Ellis, Baker, Clark & Porter, P.C.
4444 No. 32nd Street, #200
Phoenix, Arizona 85018

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We have also input the new address for Hyl Ranch Properties into our computer system on all of their 46 filings.

Very truly yours,

Lawrence A. Ramsey

Lawrence A. (Al) Ramsey
Section Manager
Surface Water and Adjudications

LAR:ec

11-09-1987: letter to department of water resources form ellis, baker, clark & porter regarding protest to application for permit to a

ELLIS, BAKER, CLARK & PORTER, P.C.

ATTORNEYS AT LAW

R. J. ELLIS
OF COUNSEL

WILLIAM D. BAKER
RICHARD W. CLARK
ROBERT S. PORTER
PAUL R. ORME
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4444 NORTH 32ND STREET
PHOENIX, ARIZONA 85018
(602) 956-8878
TELECOPIER (602) 224-9663

MAILING ADDRESS
P.O. BOX 16450
PHOENIX, ARIZONA 85011



November 9, 1987

Mr. Al Ramsey, Branch Chief
Surface Water/Adjudication
Operations Division
Department of Water Resources
99 East Virginia
Phoenix, AZ 85004

RE: Protest to Application for Permit to Appropriate No. 33-90513, as Filed by the National Park Service on Mine Tunnel Spring

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Please be advised that HYL Ranch Properties is the current owner of the HYL Ranch and, as such, is the successor-in-interest to all rights formally held by M.S. MacCollum. HYL Ranch Properties is therefore the real party in interest in this matter and should be substituted as the protestant of the above-referenced Application. The address for HYL Ranch Properties is as follows:

4455 East Camelback Road
Suite 290 E
Phoenix, Arizona 85018



As always, please call me if you have any questions about this matter or about the water rights on the HYL Ranch. I would appreciate receiving copies of any pleadings, notices, or similar documents filed in this matter.

Sincerely,

Carlos D. Ronstadt
For the Firm

CDR/rkh

pc: HYL Ranch Properties

10C29/24

FRAN & BIFF
MacCOLLUM

HYL RANCH

P. O. BOX 16
BOWIE, ARIZONA 85605
602-847-2404

ESTABLISHED
1897

APR 1986
DEPARTMENT OF
WATER RESOURCES

April 7, 1986

Arizona Department of Water Resources
99 East Virginia Avenue
Phoenix, Arizona 85004

RE: Application for Permit to Appropriate Public Water of the State of Arizona No. 33-90513

Protesting Party: M. S. MacCollum, 126 E. Desert Park Lane
Phoenix, Arizona 85020

Location of the protesting party's point of diversion of water--SW¼ SE¼ and SE¼ NE¼, Section 12, Township 15 South, Range 28 East, Gila and Salt River Base and Meridian, Cochise County, Arizona.

The undersigned does not protest the amount of water proposed for use at Fort Bowie except to the extent that it would interfere with the agreement of October 8, 1982 between Maya Apartments and the United States of America in which half of the water from Mine Tunnel Spring is allocated to Maya Apartments. If the amount of water from the Springs should become insufficient to supply both parties with 1,313,180 gallons a year I would appreciate the Park Service acknowledging that we both would receive a reduced amount.

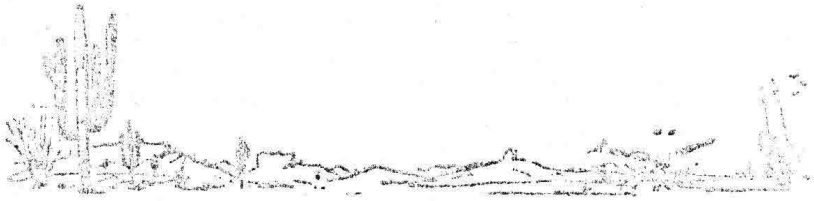
I have enclosed a copy of the agreement reached with the government. A copy of this protest has been mailed to the National Park Service.

Sincerely,

M. S. MacCollum

MSM:ch

cc: United States of America
National Park Service
Western Regional Office (Fort Bowie NPS)
by John D. Cherry Assoc.
Reg. Dir. Res. Mgmt. & Planning
450 Golden Gate Avenue
San Francisco, California 94102



State of Arizona
DEPARTMENT OF WATER RESOURCES
99 E. Virginia Avenue, Phoenix, Arizona 85004

BRUCE BABBITT, Governor
KATHLEEN FERRIS, Director

April 2, 1986

Arizona Range News
122 South Haskell
P. O. Box 250
Willcox, Arizona 85643

RE: Application for Permit to Appropriate Public Waters
No. 33-90513

Dear Editor:

The Department of Water Resources submits the following material which you may find newsworthy.

Enclosed is a copy of the notice required to be posted by an applicant seeking a permit to appropriate public waters of the State of Arizona.

The area and the permit sought may interest your readers.

Sincerely,

Lawrence A. (Al) Ramsey
Branch Chief
Surface Water/Adjudication

LAR:kw

Enclosure

04-14-1986: letter to nps from department of water resources regarding application for permit to appropriate no. 33-90513

: of Arizona

DEPARTMENT OF WATER RESOURCES

99 E. Virginia Avenue, Phoenix, Arizona 85004

BRUCE BABBITT, Governor
KATHLEEN FERRIS, Director

April 14, 1986

National Park Service
Western Regional Office (Fort Bowie NPS)
John D. Cherry, Associate
Reg. Dir. Res. Mgmt. & Planning
450 Golden Gate Avenue
San Francisco, California 94102

RE: Application for Permit to Appropriate No. 33-90513

Dear Mr. Cherry:

Enclosed is a copy of the protest submitted by M. S. MacCollum.

You may file a written response within thirty days from the date of this letter. Please send Mr. MacCollum a copy of your response and file the original and one copy of your response with the Department of Water Resources.

Additionally, upon close review of your file, it appears that these sources of water may be man-made and not natural. If these springs are indeed flowing out of man-made holes (horizontal or vertical), they are not appropriable water.

Please examine your reference #8, copy attached, and the other attached documents. If these sources are indeed man developed, you may consider withdrawing your application as being unnecessary.

Sincerely,

Richard A. Gessner
Chief, Operations Division

RAG:bis
Enclosures

cc: M. S. MacCollum

Never Rec'd in WRD

FRAN & BIFF
MacCOLLUM

HYL RANCH

P. O. BOX 16
BOWIE, ARIZONA 85605
602-847-2404

ESTABLISHED
1897



April 7, 1986

Arizona Department of Water Resources
99 East Virginia Avenue
Phoenix, Arizona 85004

RE: Application for Permit to Appropriate Public Water of the State of Arizona No. 33-90513

Protesting Party: M. S. MacCollum, 126 E. Desert Park Lane
Phoenix, Arizona 85020

Location of the protesting party's point of diversion of water--SW$\frac{1}{4}$ SE$\frac{1}{4}$ and SE$\frac{1}{4}$ NE$\frac{1}{4}$, Section 12, Township 15 South, Range 28 East, Gila and Salt River Base and Meridian, Cochise County, Arizona.

The undersigned does not protest the amount of water proposed for use at Fort Bowie except to the extent that it would interfere with the agreement of October 8, 1982 between Maya Apartments and the United States of America in which half of the water from Mine Tunnel Spring is allocated to Maya Apartments. If the amount of water from the Springs should become insufficient to supply both parties with 1,313,180 gallons a year I would appreciate the Park Service acknowledging that we both would receive a reduced amount.

I have enclosed a copy of the agreement reached with the government. A copy of this protest has been mailed to the National Park Service.

Sincerely,

M. S. MacCollum

MSM:ch

cc: United States of America
National Park Service
Western Regional Office (Fort Bowie NPS)
by John D. Cherry Assoc.
Reg. Dir. Res. Mgmt. & Planning
450 Golden Gate Avenue
San Francisco, California 94102



12-31-1995: letter to arizona department of water resources from nps regarding application to appropriate water

United States Department of the Interior

NATIONAL PARK SERVICE
WESTERN REGION
450 GOLDEN GATE AVENUE, BOX 36063
SAN FRANCISCO, CALIFORNIA 94102

IN REPLY REFER TO:
L54 (WR-RNW)
FOBO/WR

December 31, 1985



Arizona Department of Water Resources
99 East Virginia Avenue
Suite 100
Phoenix, Arizona 85004

Gentlemen:

Enclosed is an Application for Permit to Appropriate Water. Also, enclosed is a map of the appropriate area with the site displayed, along with your required $25.00 filing fee.

If you have any questions in this matter, please call Gerard Witucki at (415) 556-8660.

Thank you for your assistance in this matter.

Sincerely,

John D. Cherry
Associate Regional Director
Resource Management and Planning

Enclosures

cc:
Field Solicitor, San Francisco, w/enc.
Justice Department - Attn: Steve Carroll, w/enc.
General Superintendent SOAR, w/enc.
Superintendent FOBO, w/enc.

01-06-1985: public voucher for purchases and services other than personal

Standard Form 1034
September 1973
4 Treasury FRM 2000
1034-115

PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL

VOUCHER NO.

U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT AND LOCATION

Department of the Interior
National Park Service
Western Region

DATE VOUCHER PREPARED

CONTRACT NUMBER AND DATE

REQUISITION NUMBER AND DATE

SCHEDULE NO.

PAID BY

PAYEE'S NAME AND ADDRESS

Arizona Department of Water Resources
99 East Virginia Avenue
Suite 100
Phoenix, Arizona 85004

DATE INVOICE RECEIVED

DISCOUNT TERMS

PAYEE'S ACCOUNT NUMBER

SHIPPED FROM | TO | WEIGHT

GOVERNMENT B/L NUMBER

NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES (Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)	QUANTITY	UNIT PRICE COST	UNIT PRICE PER	AMOUNT (1)
		Application for Permit to Appropriate Water: filing fee				$25.00

(Use continuation sheet(s) if necessary) **(Payee must NOT use the space below)** **TOTAL**

PAYMENT:
- ☐ COMPLETE
- ☐ PARTIAL
- ☐ FINAL
- ☐ PROGRESS
- ☐ ADVANCE

APPROVED FOR =$

EXCHANGE RATE = $1.00

DIFFERENCES

BY [2]

TITLE

Amount verified; correct for

(Signature or initials)

Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.

Jan 6, 1985 (Date) — Gerard L. Ritzke (Authorized Certifying Officer) [3] — Hydrologist (Title)

ACCOUNTING CLASSIFICATION

PAID BY

CHECK NUMBER ON TREASURER OF THE UNITED STATES

CHECK NUMBER ON (Name of bank)

CASH $

DATE

PAYEE [3]

[1] When stated in foreign currency, insert name of currency.
[2] If the ability to certify and authority to approve are combined in one person, one signature only is necessary, otherwise the approving officer will sign in the space provided, over his official title.
[3] When a voucher is receipted in the name of a company or corporation, the name of the person writing the company or corporate name, as well as the capacity in which he signs, must appear. For example: "John Doe Company, per John Smith, Secretary", or "Treasurer", as the case may be.

PER

TITLE

U.S. GOVERNMENT PRINTING OFFICE : 341-526 (6295)

Owen Williams

Stanley L. Ponce

November 29,1985

L54 (479)
FOBO Water Rights

Memorandum

To: Associate Regional Director, Resource Management & Planning
Western Regional Office

From: Chief, Water Rights Branch
Water Resources Division

Subject: Water Rights - Fort Bowie NHS

Attached please find an application, in duplicate, to the Arizona Department of Water Resources (ADWR) for a water right at Mine Tunnel Springs at Fort Bowie NHS.

A copy of this material has been sent to the Superintendent of CHIR/FOBO for review and verification. If no changes are forthcoming, the application shall be ready for your signature and transmittal to the ADWR. This application is a result of our efforts to prepare the claim for NPS water rights in the Upper Gila River general adjudication. When we found that we could not claim any rights to Mine Tunnel Springs since none had been previously registered with the State, it became apparent that the situation needed to be remedied as soon as possible.

It is uncertain how the State will react to this application in view of the ongoing adjudication noted above. However, we hope the agreement between the United States and Maya Apartments may be of help since the only two parties which have an interest in the production of this water source have already "adjudicated" their respective rights and it is unlikely any other appropriator can legitimately claim injury. In any case, even though this water right, if secured, will be very junior, it will at least place the right in the name of the United States and protect it from further jeopardy.

You will note in my memo to the Superintendent of CHIR/FOBO that no application for a water right in Apache Springs has been prepared. The reasons for this action, or lack thereof, are noted in the memo.

If you require additional explanation or assistance, please contact Owen Williams of my staff.

Stanley L. Ponce

Stanley L. Ponce

Attachments

cc: Superintendent, CHIR/FODO

FNP:OWilliams:pml:11/27/85:221-5341:31127wil.mml

DEPARTMENT OF WATER RESOURCES
99 East Virginia Avenue
Phoenix, Arizona 85004

APPLICATION FOR PERMIT TO APPROPRIATE WATER
STATE OF ARIZONA

Application No. _____
Permit No. _____
Filed: _____ at _____ M
(date) (time)

Examination Fee $25.00
Map (see Instructions)
APPLICATION MUST BE SUBMITTED IN DUPLICATE

To be filled in by Department of Water Resources

United States of America
C/O National Park Service, Western Regional Office (Fort Bowie NHS)
450 Golden Gate Ave.

1. Name of Applicant: San Francisco, CA 94102 by John D. Cherry Assoc. Reg. Dir. Res. Mgmt & Planning (415)556-6732
(Address, City, State, Zip) (Phone No.)

2. Indicate by an (x) on the proper line(s) the use(s) for which this application is being submitted: Irrigation ___ Domestic ___ Stockwatering ___ Municipal ___ Power ___ Mining ___ Other Uses x .

3. If for irrigation purposes, fill in the following:

Township (N/S)	Range (E/W)	Section	Legal Subdivision	No. of Acres

If for domestic purposes, number of persons _____, or families _____.
If for stockwatering purposes, number and kind of stock watered _____.
If for municipal purposes, name of municipality _____.
If for power purposes, type of plant, size and rated capacity _____.
If for mining, the water will be used in _____ mine.
If for other uses, describe Park Operations, Wildlife Watering and Habitat Maintenance .

4. For each use applied for (use symbols) state amount of water required for each use:
Irrigation - (I), Domestic - (D), Stockwatering - (S), Municipal - (M), Power - (P), Mining - (Mi), Other uses - (O).

Symbol				Month/Day		
O-1- 0.41	~~cfs~~/gpm or	0.66	ac. ft. from	1 Jan	to	31 Dec
O-2 - 0.21	~~cfs~~/gpm or	0.08	ac. ft. from	1 Mar	to	31 May
O-3 - 1.88	~~cfs~~/gpm or	0.75	ac. ft. from	1 Mar	to	31 May
O-4- 2.09	gpm or	2.54	ac. ft. from	31 May	to	1 Mar

5. The direct source of supply is Mine Tunnel Spr.
tributary to San Simon River on the _____ watershed.
(leave blank)

6. The point of diversion (locate on map) is within the SW¼ & SE¼ of SE ¼ NE ¼, Section 12, of Township 15 (N/S), Range 28 (E/W), G&SRB&M., in the County of Cochise.

7. The place of use (locate on map) is in the SW¼ & SE¼ of SE ¼ NE ¼, Section 12, of Township 15 (N/S), Range 28 (E/W), G&SRB&M., in the County of Cochise.

8. Description of the proposed works by which the water is to be put to beneficial use See attachment

9. If water is to be stored, give capacity of reservoir in acre feet N/A, height of dam _____ ft., area inundated in acres _____. Use explanatory sheet for capacity for each foot of depth.

10. Construction Schedule. It is proposed to begin construction within See attachment (not over 2 years) after approval of this application, to complete construction within _____ (not more than 4 years) thereafter, and to completely apply the water to the proposed use within _____ (not more than 5 years) after the beginning of construction.

11. Is the land owned by the applicant? Yes X No ____. If "No" explain on page 2.

12. Is the water to be used supplementally with other water(s)? Yes ____ No X . If "Yes" identify other waters or water rights on page 2.

10-80-33

INSTRUCTIONS:

A map of the standard equal to the maps printed by the United States Geological Survey (Quad Sheets) or State Orthophoto base maps shall be submitted with the application.

EXPLANATORY

* O-1= Year round Park support for consumption by visitors and residents, and for other administrative purposes.

O-2= Seasonal employee residential use.

O-3= Wildlife watering and habitat maintenance during Park high use season.

O-4= Wildlife watering and habitat maintenance during remainder of year.

The undersigned hereby acknowledges that, even though he may have been assisted in the preparation of the above numbered application through the courtesy of employees of the Department of Water Resources all responsibility and risk of loss for the accuracy of the information contained herein, at the time of filing, rests with the applicant.

_____
Signature of Applicant

PERMIT

Permit No._____ Application No._____

STATE OF ARIZONA,)
) ss.
County of Maricopa)

This is to certify that I have examined the foregoing application and do hereby approve the same, and grant to the applicant a permit to appropriate the water and/or to construct the reservoir described therein subject to all prior existing rights as provided by law and to the following limitations and conditions:

The total capacity of the reservoir shall not exceed_____

The amount of water appropriated shall be limited to the amount which can be applied to beneficial use and shall not exceed_____

The priority date under this permit is_____.

Actual construction work shall begin on or before_____ and shall be prosecuted with reasonable diligence and be completed on or before_____. Complete application of the water to the proposed use shall be made on or before_____.

WITNESS my hand and seal of office this_____ day of_____, 19_____.

SEAL

_____
for the Director

ATTACHMENT

Reference # 8

Description of Physical Diversion and Delivery Works: The diversion of the upper source of Mine Tunnel Spring is made at the mouth of the tunnel by a concrete dam, with a 2" galvanized steel pipe delivering the flow to two catchments, (galvanized steel culvert pipes buried vertically, the first 6-1/2'X 7', and at a distance of 24', the second 3'X 10') thence by 2" galvanized steel pipe (128') ending in PVC pipe (75') to a splitting weir which diverts 50% of the flow into a 450 gal tank in the pump house, where it is delivered to the N.P.S. utility/residential area by a pressure system. The remaining 50% flows through a 1-1/2' PVC pipe 240' to a concrete collection box thence to the old Schaffer Ranch.

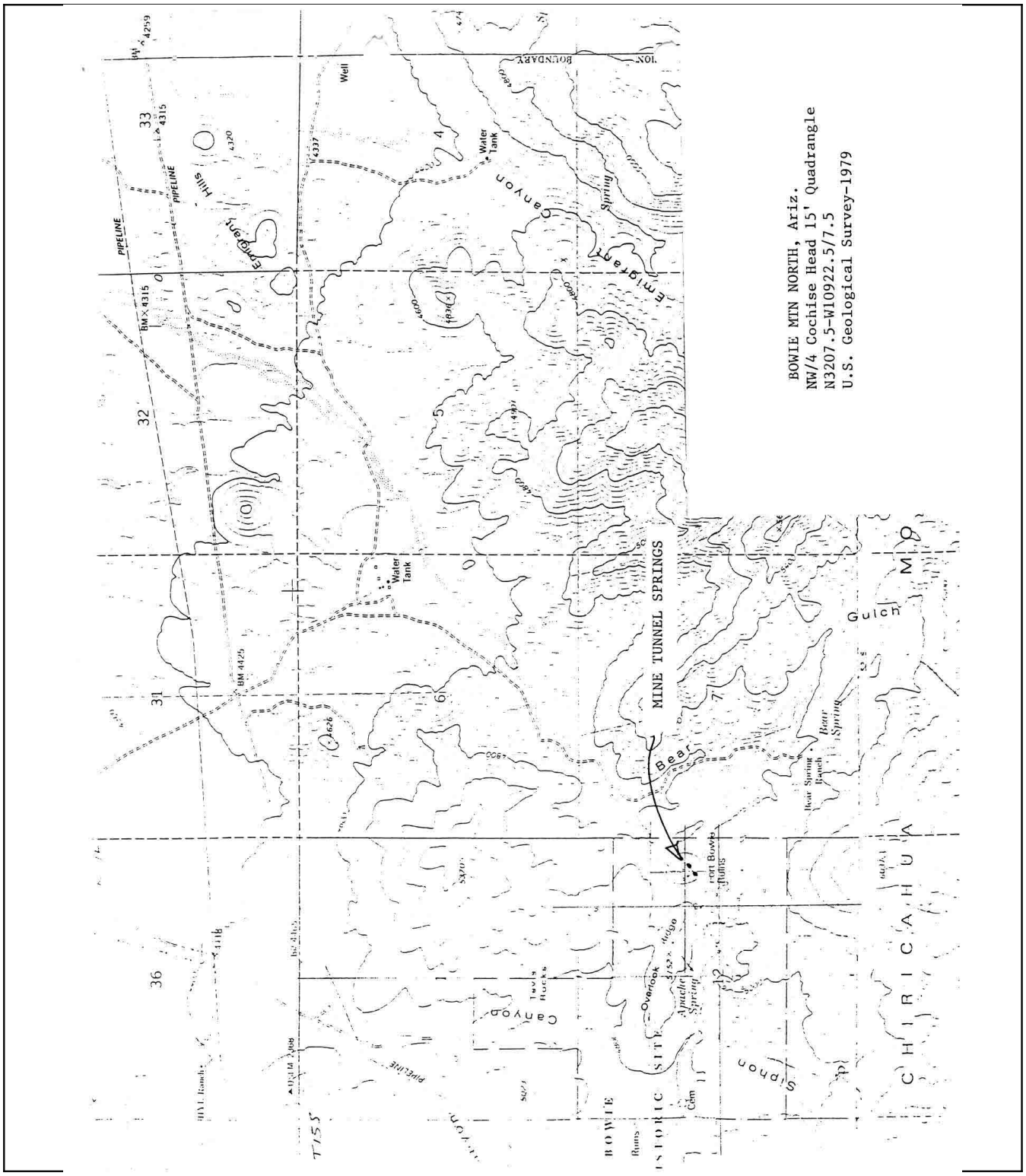
The Lower Mine Tunnel Spring (located below the pump house) flows from a concrete dam at its mouth 200' via a combination (100' of each) 1-1/4" galvanized steel and PVC pipe to a splitting weir where 50% of the flow is diverted to a 500 gal fiberglass underground tank. The remaining 50% joins the flow to Schaffer Ranch (Maya Apts. Inc. owner). The overflow from the pump house is delivered to the 500 gal. fiberglass tank via 228' of 1-1/2" PVC pipe. Water from the tank is pumped to the upper 450 gal tank (in the pump house) on demand, while the overflow from the lower (500 gal) tank is discharged into an unnamed drainage, a tributary of the San Simon River, to provide for wildlife habitat.

Reference # 10.

At the time that the N.P.S. took possession of Fort Bowie, a 1-1/2" PVC pipe was diverting water from the lower Mine Tunnel source and carrying it down canyon (East) to a stock watering trough. It is unknown which of the previous land owners constructed this line. With the establishment of Fort Bowie N.H.S. (8/30/64), but prior to the completion of the land acquisition, the NPS utilized this source of water to supply the Administrative site and a residential trailer. This use began in August, 1965 through an agreement with the land owner Earl J. Neel. With the completion of the land acquisition, the upper mine tunnel source was developed (approximately 1972) and combined with the lower source in the system described in item #8 above.

A dispute as to ownership of the Mine Tunnel Springs (Maya Apartments vs. the United States of America, No. Civ. 76-202-TUC-RMB) was resolved by stipulation with an agreement dated 8 Oct. 1982 (copy attached). The parties to the agreement recognized mutual and equal ownership to the production of mine tunnel springs.

00-00-0000: map of bowie mountain, north arizona



AGREEMENT CONCERNING WATER RIGHTS TO THE
MINE TUNNEL WATER SOURCES AND RELATED MATTERS

THIS AGREEMENT, made this 8 day of October, 1982, between the UNITED STATES OF AMERICA acting by and through the National Park Service ("United States") and MAYA APARTMENTS, an Arizona limited partnership ("Maya"),

W I T N E S S E T H:

WHEREAS:

A. There exist two developed water sources within the boundaries of Fort Bowie National Historic Site, on land owned by the United States, located in the SE 1/4, NE 1/4 Section 12 of T. 15 S., R. 28 E., Gila and Salt River P. M. Said land was acquired by the United States from a predecessor-in-interest of Maya. These two water sources are referred to herein as the "Mine Tunnel" water sources. The United States and Maya assert conflicting claims of ownership to said water sources, which conflicting claims have never been legally determined.

B. United States and Maya have concluded that it would be in their best interests to enter into this agreement to fix and determine their respective rights to the Mine Tunnel water sources and to reach agreements as to other matters.

NOW THEREFORE, the parties hereto agree as follows:

MINE TUNNEL WATER SOURCES

1. Equal Rights to Water. United States and Maya hereby agree to share equally in the use and right to use each of the two Mine Tunnel water sources. Failure of either party to use all or part of its rights herein shall not be construed as a loss of all or part of the rights of said party to the other party. To effectuate this Agreement to share the Mine Tunnel water sources equally, the parties will each quitclaim to the other any-all of its water rights to each Mine Tunnel source

that is or may be in excess of one-half of the quantity of water that now flows from, or may in the future flow, from each Mine Tunnel source. A copy of the quitclaim is attached hereto as Exhibit A.

2. Operation and Maintenance. The parties agree that the operation and maintenance of the Mine Tunnel water sources water delivery system within Fort Bowie National Historic Site shall be handled in the following manner:

a. No work shall be done to increase flows from the two Mine Tunnel water sources without the written permission of the United States.

b. Any maintenance, repair, or new construction within the Historic Site shall be performed in such a manner as to minimize harm to the Historic Site and its resources. The United States shall have the right to limit the type of equipment used.

c. The responsibility for repair and maintenance of the system within the Historic Site shall be as follows:

(1) Both parties shall share equally the costs of repair and maintenance of the system from the springs to, and including, the collection box.

(2) The National Park Service shall be solely responsible for repair and maintenance of the pressure pump and the pipe from the pump to the National Park Service facilities.

(3) MAYA shall be solely responsible for repair and maintenance of the system from where it leaves the collection box throughout the remainder of the system.

(4) Both parties shall share the costs of repair of either Mine Tunnel Spring when repairs are necessary to maintain that equal share of the combined sources available to either party at 2.5 gpm. However, the parties shall first agree to the need and extent of repair before the resulting cost is shared. Provided, however, that in the event of inability to agree on the need or extent of repair, the reduction in flow attributable to the need for repair shall be borne by the dissenting party.

d. Any change in the present course or alignment of the system within the Historic Site is subject to the written approval of the United States. Furthermore, the United States shall have the right, at its sole expense, to further improve the system to transport water from either Mine Tunnel source up to the National Park Service facilities.

e. The United States shall have the right to further modify, at its own expense, the present system to ensure that no more than one-half of the water from the Mine Tunnel sources is transported to Maya, provided, however, that this shall not apply to that amount of water attributable to repairs made unilaterally by Maya pursuant to 2.c.(4), above.

3. Use of Water Off the Monument. Maya's Mine Tunnel water right, as established herein, is limited to the reasonable domestic needs for a ranch headquarters at the "Old Shaffer Place" and stock watering. Maya's water use is also limited to use on that land owned by Maya, or permitted to Maya from the Bureau of Land

Management and the State of Arizona for grazing purposes, as of September 1, 1981, adjacent to the Fort Bowie National Historic Site.

APACHE SPRING

4. Water Rights. The parties recognize that the right to water at Apache Spring which is located in the SW 1/4, SW 1/4, NE 1/4, Section 12, T. 15 S., R. 28 E., Gila and Salt River P.M., is governed by applicable law. However, the parties agree between themselves that Maya shall be entitled to that amount of Apache Spring water needed to sustain the number of livestock as permitted under the terms of the Bureau of Land Management/ National Park Service grazing allotment with the carrying capacity as determined by Bureau of Land Management. Said livestock shall not be allowed to drink directly from the spring or its water course, but shall be limited to drinking from two stock tanks as further discussed below. The United States shall have the right to use the remainder of said water.

5. Operation and Maintenance. The United States shall have the responsibility and control over the operation and maintenance of Apache Spring and the water delivery system from Apache Spring to Maya's two stock tanks. However, the cost of maintaining the system from where the system leaves the spring up to, but not including, the two stock tanks, shall be borne by the United States. Maya shall be solely responsible for the maintenance of the stock tanks and any associated costs.

6. Location of Stock Tanks. The two stock tanks shall remain where presently located unless the parties agree otherwise.

PIPELINE RIGHT-OF-WAY

7. Maya agrees to quitclaim to the United States any interest in that pipeline right-of-way reserved by Earl J. Neel in that

certain deed recorded in Book 1485, Pages 46 and 47 , Cochise County, Arizona. A copy of said quitclaim deed is attached hereto as Exhibit B.

MISCELLANEOUS

8. Maya agrees to dismiss, with prejudice, its action entitled: Maya Apartments v. United States, Civil No. 76-202-TUC-RMB (D. Arizona), with each party bearing its own costs.

9. The headings herein are for convenience only and said headings shall not be deemed to affect the agreements made herein.

10. This agreement shall be binding in all respects upon the successors and assignees of each of the parties hereto.

11. No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

12. Any obligation in this Agreement on the part of the United States to expend funds shall be subject to the availability of funds.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective officers thereunto duly authorized, all as of the day and year first above written.

UNITED STATES OF AMERICA

DATED: 10-8-82

By: Donald M. Spalding
Donald M. Spalding
Acting Regional Director, Western Region

MAYA APARTMENTS

DATED: 12 July 82

By: [signature]

07-15-1982: quitclaim deed

After recording return to:

National Park Service, Eastern Region
Division of Water Resources
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

QUITCLAIM DEED

By this instrument dated July 15, 1982, for a valuable consideration, I H. S. MacCollum for Maya Apartments, do hearby remise, release and forever quitclaim to the United States of America the following described pipeline right-of-way in the State of Arizona, County of Cochise:

That pipeline right-of-way reserved by Earl J. Neel in that certain deed dated November 28, 1966, and recorded at pages 46 and 47 of Book 1485, Cochise County, Arizona; said pipeline right-of-way being 10 (ten) feet in width; beginning at Apache Spring, located in the W½, SW¼, SW¼, NE¼ of Section 12, T. 15 S., R. 28 E., Gila and Salt River Meridian, thence N 80° 10' E, 1320 (one thousand three hundred twenty) feet and N 58° 10' E, 1500 (one thousand five hundred) feet to a point 1340 (one thousand three hundred forty) feet south of the NE corner of Section 12, T. 15 S., R. 28 E., Gila and Salt River Meridian.

STATE OF ARIZONA
COUNTY OF COCHISE] SS.

WITNESS MY HAND AND OFFICIAL SEAL
CHRISTINE RHODES, COUNTY RECORDER

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED AND RECORDED AT REQUEST OF: TRANSAMERICA TITLE INSURANCE CO.
P. O. BOX 1900
SIERRA VISTA, ARIZONA 85635

FEE $ $3.00
DEPUTY
DRAFT
DATE JAN 24 '83 -2 20 PM
INDEXED
FEE
DKT 1646 PAGE 263 NO 1382

COCHISE COUNTY RECORDER

FOR THE NATIONAL PARK SERVICE

for: Maya Apartments

County of Maricopa
State of Arizona

On this 15th day of July, 19 82, before me Mafine L. Smith, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared _____ known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Official Seal the day and year in this certificate first above written.

NOTARY PUBLIC MARICOPA CO. ARIZ.

Mafine L. Smith
Notary Public in and for said County of Maricopa, State of Arizona. My commission expires My Commission Expires Apr. 12, 1985.

DKT 1646 PAGE 263

After recording return to:

National Park Service, Western Region
Division of Water Resources
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

QUITCLAIM DEED

By this instrument dated July 15, 1982, for a valuable consideration, I M. S. MacCollum for Maya Apartments, do hearby remise, release and forever quitclaim to the United States of America the following described water rights in the State of Arizona, County of Cochise:

Any and all rights to water from each Mine Tunnel source that is or may be in excess of ½ (one-half) the quantity of water that now flows from, or may in the future flow from, each Mine Tunnel source.

TRANSAMERICA TITLE INSURANCE CO.
SIERRA VISTA, ARIZONA 85635

STATE OF ARIZONA] SS.
COUNTY OF COCHISE]

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED AND RECORDED AT REQUEST OF:

WITNESS MY HAND AND OFFICIAL SEAL
CHRISTINE RHODES, COUNTY RECORDER
FEE $ $3.00
DEPUTY
DRAFT
DATE JAN 24 '83 - 2 20 PM
INDEXED
NOTARY
VERIFIED
DOCKET 1648 PAGE 264 NO 1383

COCHISE COUNTY RECORDER

FOR THE NATIONAL PARK SERVICE

M. S. MacCollum

for: Maya Apartments

County of Maricopa)
State of Arizona)

On this 15th day of July, 19 82, before me Marine L. Smith, A Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared _____ known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Official Seal the day and year in this certificate first above written.

NOTARY PUBLIC MARICOPA CO.

Marine L. Smith
Notary Public in and for said County of Maricopa, State of Arizona. My commission expires My Commission Expires Apr 12 1985.

DKT 1646 PAGE 264

After recording return

National Park Service, Western Region
Division of Water Resources
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

QUITCLAIM DEED

By this instrument dated July 8, 1982, for a valuable consideration, the National Park Service, Department of the Interior, U.S. Government, do hearby remise, release and forever quitclaim to Maya Apartments the following described water rights in the State of Arizona, County of Cochise:

Any and all rights to water from each Mine Tunnel source that is or may be in excess of ½ (one-half) the quantity of water that now flows from, or may in the future flow from, each Mine Tunnel source.

Levi E. López

ACTING Regional Director, [illegible]

County of San Francisco)
State of California)

On this 8th day of July, in the year 1982, before me Mary E. Meredith, personally appeared Levi E. Lopez, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as Acting Regional Director of Western Region, National Park Service, Dept. of the Interior and acknowledged to me that the National Park Service, Department of the Interior executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Official Seal the day and year in this certificate first above written.

OFFICIAL SEAL
MARY E. MEREDITH
NOTARY PUBLIC-CALIFORNIA
PRINCIPAL OFFICE IN
SAN FRANCISCO COUNTY
My Commission Expires Mar. 26, 1985

Mary E. Meredith
Notary Public in and for said County of San Francisco, State of California. My commission expires March 26, 1985.

FILED

JUN 11 1982

W. J. FURSTENAU, CLERK
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

JUN 1982
UNITED STATES
DEPT OF THE INTERIOR
OFFICE OF THE SOLICITOR
SAN FRANCISCO
FIELD OFFICE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

MAYA APARTMENTS, an Arizona limited partnership,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, et al.,

Defendants.

No. CIV 76-202-TUC-[illegible]

ORDER

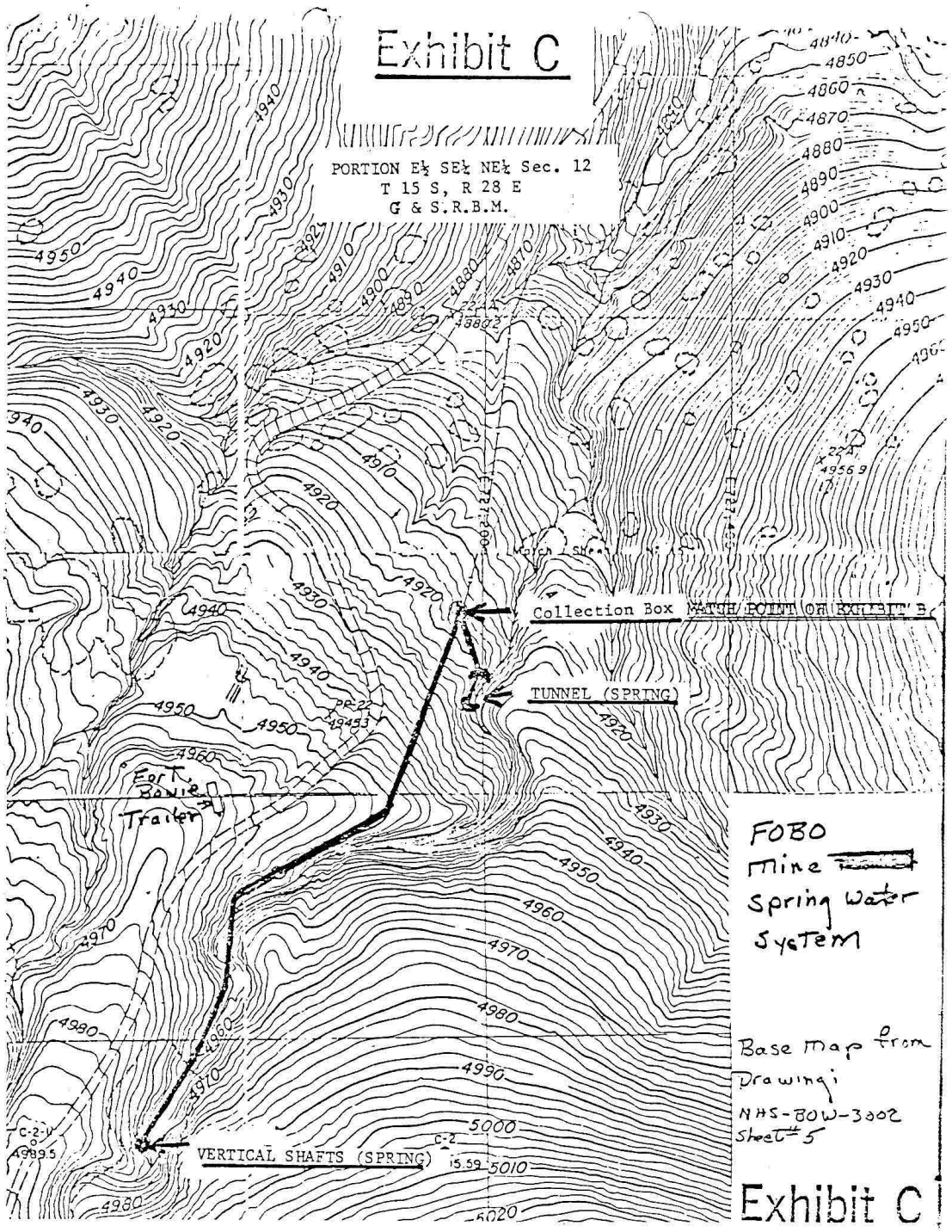
The Court having reviewed the first, second, third and fourth Reports on Settlement Progress,

IT IS ORDERED that unless this matter is settled and the documents furnished to the Court by July 16, 1982, the parties shall comply with Local Rule 42(A)(C) and file a proposed pretrial order with the Court no later than August 5, 1982

DATED: June 10, 1982.

Richard M. Bilby
United States District Judge

00-00-0000: topographic map of mine spring water system



FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

OCT 12 1982

CLERK, U. S. DISTRICT COURT
DISTRICT OF ARIZONA
BY: _____ DEPUTY

MAYA APARTMENTS, an Arizona limited partnership,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, et al.,

Defendants

No. CIV 76-202-TUC-RMB



STIPULATION FOR DISMISSAL

It is hereby stipulated that the above-entitled action be discontinued and dismissed with prejudice and without cost to either party.

Dated this 5 day of October, 1982.

MAYA APARTMENTS

By _____
M. S. MACCOLLUM, M.D.

_____
DARYL M. WILLIAMS
Murphy & Posner

ATTORNEY FOR PLAINTIFF

A. MELVIN MCDONALD
United States Attorney
District of Arizona

BRUCE R. HEURLIN
Assistant United States Attorney

_____
JOHN R. HILL, JR.
Attorney, Department of Justice
Land and Natural Resources Division
1961 Stout Street, Drawer 3607
Denver, Colorado 80294-3607
303/837-2892

ATTORNEYS FOR FEDERAL DEFENDANTS

Williams
Heurlin
Hill
Stanley
RMO

COPY FOR YOUR INFORMATION

CIV-76-202-TUC- B

MAYA APARTMENTS

vs.

U.S.A.

ORDER

PURSUANT to the foregoing Stipulation,

IT IS ORDERED that the above entitled action is DISMISSED with prejudice, each party to bear its own costs.

DATED: October 11, 1982.

Richard M. Bilby
United States District Judge

11-29-1985: memorandum to superintendent from chief regarding water right applications for mine tunnel springs

November 29, 1985

L54 (479)
FOBO Water Rights

Memorandum

To: Superintendent, CHIR/FOBO

From: Chief, Water Rights Branch
Water Resources Division

Subject: Water Rights -- Fort Bowie NHS

Attached please find copies of water right applications for Mine Tunnel Springs at Fort Bowie NHS. The originals of the applications have been sent to the Western Regional Office for signature and transmittal to the Arizona Department of Water Resources. Please review the content of the applications for accuracy and contact Owen Williams of my staff if any errors are found.

We are uncertain as to how the State will respond to these applications in view of the ongoing adjudication in the Upper Gila River Basin. However, it is certain that our filing should be initiated as soon as possible so as to inform the State of our use and presumption of right.

You will note the absence of an application for water rights for Apache Springs. In view of the stipulation agreement with Maya Apartments, it will be difficult, at best, to quantify NPS interests in Apache Springs. If this situation changes, then an application for water rights would certainly be in order.

Stanley L. Ponce

Stanley L. Ponce

Attachments

cc: Western Regional Office

FNP:OWilliams:pml:11/27/85:221-5341:31127wil.mm2

DEPARTMENT OF WATER RESOURCES
99 East Virginia Avenue
Phoenix, Arizona 85004

APPLICATION FOR PERMIT TO APPROPRIATE WATER
STATE OF ARIZONA

Application No.	
Permit No.	
Filed: (date)	at (time) M

Examination Fee $25.00
Map (see Instructions)
APPLICATION MUST BE SUBMITTED IN DUPLICATE

To be filled in by Department of Water Resources

United States of America
C/O National Park Service, Western Regional Office (Fort Bowie NHS)
450 Golden Gate Ave.

1. Name of Applicant: San Francisco, CA 94102 by John D. Cherry Assoc. Reg. Dir., Res. Mgmt & Planning (415)556-6732
(Address, City, State, Zip) (Phone No.)

2. Indicate by an (x) on the proper line(s) the use(s) for which this application is being submitted:
Irrigation ___ Domestic ___ Stockwatering ___ Municipal ___ Power ___ Mining ___ Other Uses x

3. If for irrigation purposes, fill in the following:

Township (N/S)	Range (E/W)	Section	Legal Subdivision	No. of Acres

If for domestic purposes, number of persons_____, or families_____
If for stockwatering purposes, number and kind of stock watered_____
If for municipal purposes, name of municipality_____
If for power purposes, type of plant, size and rated capacity_____
If for mining, the water will be used in_____mine
If for other uses, describe Park Operations, Wildlife Watering and Habitat Maintenance

4. For each use applied for (use symbols) state amount of water required for each use:
Irrigation - (I), Domestic - (D), Stockwatering - (S), Municipal - (M), Power - (P), Mining - (Mi), Other uses - (O).

Symbol				Month/Day		
O-1- 0.41	~~cfs~~/gpm or	0.56	ac. ft. from	1 Jan	to	31 Dec
O-2 - 0.21	~~cfs~~/gpm or	0.09	ac. ft. from	1 Mar	to	31 May
O-3 - 1.88	~~cfs~~/gpm or	0.75	ac. ft. from	1 Mar	to	31 May
O-4- 2.09	gpm or	2.54	ac. ft. from	31 May	to	1 Mar

5. The direct source of supply is Mine Tunnel Spr.
tributary to San Simon River on the _____ watershed.
(leave blank)

6. The point of diversion (locate on map) is within the SW¼ & SE¼ of SE ¼ NE ¼, Section 12, of Township 15 (N/S), Range 28 (E/W), G&SRB&M., in the County of Cochise.

7. The place of use (locate on map) is in the SW¼ & SE¼ of SE ¼ NE ¼, Section 12, of Township 15 (N/S), Range 28 (E/W), G&SRB&M., in the County of Cochise.

8. Description of the proposed works by which the water is to be put to beneficial use See attachment

9. If water is to be stored, give capacity of reservoir in acre feet N/A, height of dam _____ ft., area inundated in acres_____. Use explanatory sheet for capacity for each foot of depth.

10. Construction Schedule. It is proposed to begin construction within See attachment (not over 2 years) after approval of this application, to complete construction within _____ (not more than 4 years) thereafter, and to completely apply the water to the proposed use within _____ (not more than 5 years) after the beginning of construction.

11. Is the land owned by the applicant? Yes X No____. If "No" explain on page 2.

12. Is the water to be used supplementally with other water(s)? Yes____ No X. If "Yes" identify other waters or water rights on page 2.

10-80-33

INSTRUCTIONS:

A map of the standard equal to the maps printed by the United States Geological Survey (Quad Sheets) or State Orthophoto base maps shall be submitted with the application.

EXPLANATORY

* O-1= Year round Park support for consumption by visitors and residents, and for other administrative purposes.

O-2= Seasonal employee residential use.

O-3= Wildlife watering and habitat maintenance during Park high use season.

O-4= Wildlife watering and habitat maintenance during remainder of year.

The undersigned hereby acknowledges that, even though he may have been assisted in the preparation of the above numbered application through the courtesy of employees of the Department of Water Resources all responsibility and risk of loss for the accuracy of the information contained herein, at the time of filing, rests with the applicant.

_____
Signature of Applicant

PERMIT

Permit No._____ Application No._____

STATE OF ARIZONA,)
) ss.
County of Maricopa)

This is to certify that I have examined the foregoing application and do hereby approve the same, and grant to the applicant a permit to appropriate the water and/or to construct the reservoir described therein subject to all prior existing rights as provided by law and to the following limitations and conditions:

The total capacity of the reservoir shall not exceed_____

The amount of water appropriated shall be limited to the amount which can be applied to beneficial use and shall not exceed_____

The priority date under this permit is_____

Actual construction work shall begin on or before_____and shall be prosecuted with reasonable diligence and be completed on or before_____ Complete application of the water to the proposed use shall be made on or before_____

WITNESS my hand and seal of office this_____day of_____, 19_____

SEAL

_____
for the Director

ATTACHMENT

Reference # 8

Description of Physical Diversion and Delivery Works: The diversion of the upper source of Mine Tunnel Spring is made at the mouth of the tunnel by a concrete dam, with a 2" galvanized steel pipe delivering the flow to two catchments, (galvanized steel culvert pipes buried vertically, the first 6-1/2'X 7', and at a distance of 24', the second 3'X 10') thence by 2" galvanized steel pipe (128') ending in PVC pipe (75') to a splitting weir which diverts 50% of the flow into a 450 gal tank in the pump house, where it is delivered to the N.P.S. utility/residential area by a pressure system. The remaining 50% flows through a 1-1/2' PVC pipe 240' to a concrete collection box thence to the old Schaffer Ranch.

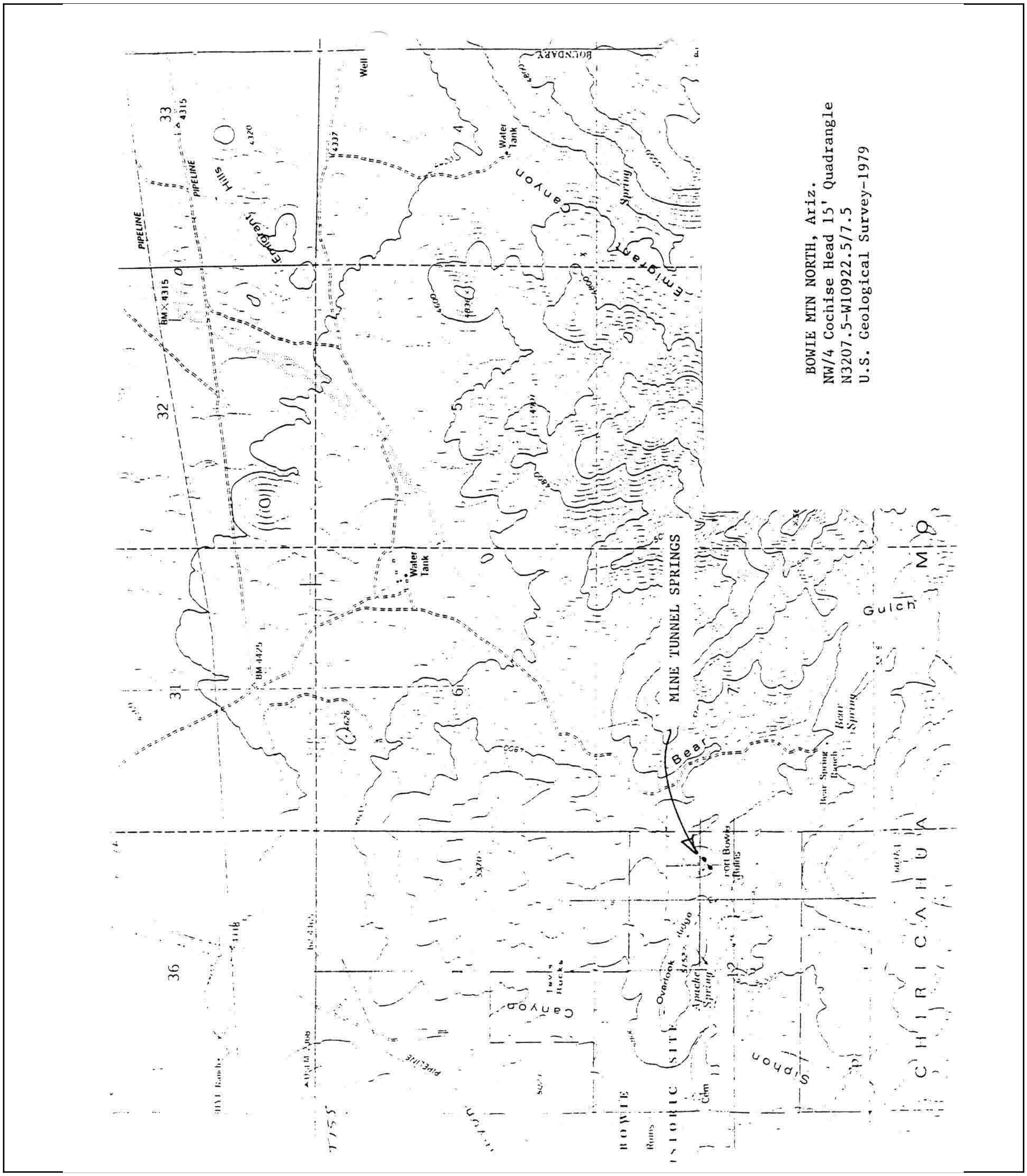
The Lower Mine Tunnel Spring (located below the pump house) flows from a concrete dam at its mouth 200' via a combination (100' of each) 1-1/4" galvanized steel and PVC pipe to a splitting weir where 50% of the flow is diverted to a 500 gal fiberglass underground tank. The remaining 50% joins the flow to Schaffer Ranch (Maya Apts. Inc. owner). The overflow from the pump house is delivered to the 500 gal. fiberglass tank via 228' of 1-1/2" PVC pipe. Water from the tank is pumped to the upper 450 gal tank (in the pump house) on demand, while the overflow from the lower (500 gal) tank is discharged into an unnamed drainage, a tributary of the San Simon River, to provide for wildlife habitat.

Reference # 10.

At the time that the N.P.S. took possession of Fort Bowie, a 1-1/2" PVC pipe was diverting water from the lower Mine Tunnel source and carrying it down canyon (East) to a stock watering trough. It is unknown which of the previous land owners constructed this line. With the establishment of Fort Bowie N.H.S. (8/30/64), but prior to the completion of the land acquisition, the NPS utilized this source of water to supply the Administrative site and a residential trailer. This use began in August, 1965 through an agreement with the land owner Earl J. Neel. With the completion of the land acquisition, the upper mine tunnel source was developed (approximately 1972) and combined with the lower source in the system described in item #8 above.

A dispute as to ownership of the Mine Tunnel Springs (Maya Apartments vs. the United States of America, No. Civ. 76-202-TUC-RMB) was resolved by stipulation with an agreement dated 8 Oct. 1982 (copy attached). The parties to the agreement recognized mutual and equal ownership to the production of mine tunnel springs.

00-00-0000: topographic map of bowie mtn north, arizona



FILED

JUN 11 1982

W. J. FURSTENAU, CLERK
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

JUN 1982
UNITED STATES
DEPT OF THE INTER
OFFICE OF THE SOLIC
SAN FRANCISCO
FIELD OFFICE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

MAYA APARTMENTS, an Arizona limited partnership,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, et al.,

Defendants.

No. CIV 76-202-TUC-R

ORDER

The Court having reviewed the first, second, third and fourth Reports on Settlement Progress,

IT IS ORDERED that unless this matter is settled and the documents furnished to the Court by July 16, 1982, the parties shall comply with Local Rule 42(A)(C) and file a proposed pretrial order with the Court no later than August 5, 1982.

DATED: June 10, 1982.

Richard M. Bilby
United States District Judge

FOR THE DISTRICT OF ARIZONA

OCT 12 1982

CLERK, U. S. DISTRICT COURT
DISTRICT OF ARIZONA
BY: _____ DEP.

MAYA APARTMENTS, an Arizona limited partnership,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, et al.,

Defendants

No. CIV 76-202-TUC-RMB



STIPULATION FOR DISMISSAL

It is hereby stipulated that the above-entitled action be discontinued and dismissed with prejudice and without cost to either party.

Dated this 5 day of October, 1982.

MAYA APARTMENTS

By _____
M. S. MACCOLLUM, M.D.

_____
DARYL M. WILLIAMS
Murphy & Posner

ATTORNEY FOR PLAINTIFF

A. MELVIN MCDONALD
United States Attorney
District of Arizona

BRUCE R. HEURLIN
Assistant United States Attorney

_____
JOHN R. HILL, JR.
Attorney, Department of Justice
Land and Natural Resources Division
1961 Stout Street, Drawer 3607
Denver, Colorado 80294-3607
303/837-2892

ATTORNEYS FOR FEDERAL DEFENDANTS

Williams
Heurlin
Hill
Stanley
RMB

COPY FOR YOUR INFORMATION

MAYA APARTMENTS
vs.
U.S.A.

ORDER

PURSUANT to the foregoing Stipulation,

IT IS ORDERED that the above entitled action is DISMISSED with prejudice, each party to bear its own costs.

DATED: October 11, 1982.

Richard M. Bilby
United States District Judge

AGREEMENT CONCERNING WATER RIGHTS TO THE
MINE TUNNEL WATER SOURCES AND RELATED MATTERS

THIS AGREEMENT, made this 8 day of October, 1982, between the UNITED STATES OF AMERICA acting by and through the National Park Service ("United States") and MAYA APARTMENTS, an Arizona limited partnership ("Maya"),

W I T N E S S E T H:

WHEREAS:

A. There exist two developed water sources within the boundaries of Fort Bowie National Historic Site, on land owned by the United States, located in the SE 1/4, NE 1/4 Section 12 of T. 15 S., R. 28 E., Gila and Salt River P. M. Said land was acquired by the United States from a predecessor-in-interest of Maya. These two water sources are referred to herein as the "Mine Tunnel" water sources. The United States and Maya assert conflicting claims of ownership to said water sources, which conflicting claims have never been legally determined.

B. United States and Maya have concluded that it would be in their best interests to enter into this agreement to fix and determine their respective rights to the Mine Tunnel water sources and to reach agreements as to other matters.

NOW THEREFORE, the parties hereto agree as follows:

MINE TUNNEL WATER SOURCES

1. Equal Rights to Water. United States and Maya hereby agree to share equally in the use and right to use each of the two Mine Tunnel water sources. Failure of either party to use all or part of its rights herein shall not be construed as a loss of all or part of the rights of said party to the other party. To effectuate this Agreement to share the Mine Tunnel water sources equally, the parties will each quitclaim to the other any-all of its water rights to each Mine Tunnel source

See FOBO AWR # 1 Docket for Historical Perspective of Settlement

that is or may be in excess of one-half of the quantity of water that now flows from, or may in the future flow, from each Mine Tunnel source. A copy of the quitclaim is attached hereto as Exhibit A.

2. Operation and Maintenance. The parties agree that the operation and maintenance of the Mine Tunnel water sources water delivery system within Fort Bowie National Historic Site shall be handled in the following manner:

a. No work shall be done to increase flows from the two Mine Tunnel water sources without the written permission of the United States.

b. Any maintenance, repair, or new construction within the Historic Site shall be performed in such a manner as to minimize harm to the Historic Site and its resources. The United States shall have the right to limit the type of equipment used.

c. The responsibility for repair and maintenance of the system within the Historic Site shall be as follows:

(1) Both parties shall share equally the costs of repair and maintenance of the system from the springs to, and including, the collection box.

(2) The National Park Service shall be solely responsible for repair and maintenance of the pressure pump and the pipe from the pump to the National Park Service facilities.

(3) MAYA shall be solely responsible for repair and maintenance of the system from where it leaves the collection box throughout the remainder of the system.

(4) Both parties shall share the costs of repair of either Mine Tunnel Spring when repairs are necessary to maintain that equal share of the combined sources available to either party at 2.5 gpm. However, the parties shall first agree to the need and extent of repair before the resulting cost is shared. Provided, however, that in the event of inability to agree on the need or extent of repair, the reduction in flow attributable to the need for repair shall be borne by the dissenting party.

d. Any change in the present course or alignment of the system within the Historic Site is subject to the written approval of the United States. Furthermore, the United States shall have the right, at its sole expense, to further improve the system to transport water from either Mine Tunnel source up to the National Park Service facilities.

e. The United States shall have the right to further modify, at its own expense, the present system to ensure that no more than one-half of the water from the Mine Tunnel sources is transported to Maya, provided, however, that this shall not apply to that amount of water attributable to repairs made unilaterally by Maya pursuant to 2.c.(4), above.

3. Use of Water Off the Monument. Maya's Mine Tunnel water right, as established herein, is limited to the reasonable domestic needs for a ranch headquarters at the "Old Shaffer Place" and stock watering. Maya's water use is also limited to use on that land owned by Maya, or permitted to Maya from the Bureau of Land

Management and the State of Arizona for grazing purposes, as of September 1, 1981, adjacent to the Fort Bowie National Historic Site.

APACHE SPRING

4. Water Rights. The parties recognize that the right to water at Apache Spring which is located in the SW 1/4, SW 1/4, NE 1/4, Section 12, T. 15 S., R. 28 E., Gila and Salt River P.M., is governed by applicable law. However, the parties agree between themselves that Maya shall be entitled to that amount of Apache Spring water needed to sustain the number of livestock as permitted under the terms of the Bureau of Land Management/ National Park Service grazing allotment with the carrying capacity as determined by Bureau of Land Management. Said livestock shall not be allowed to drink directly from the spring or its water course, but shall be limited to drinking from two stock tanks as further discussed below. The United States shall have the right to use the remainder of said water.

5. Operation and Maintenance. The United States shall have the responsibility and control over the operation and maintenance of Apache Spring and the water delivery system from Apache Spring to Maya's two stock tanks. However, the cost of maintaining the system from where the system leaves the spring up to, but not including, the two stock tanks, shall be borne by the United States. Maya shall be solely responsible for the maintenance of the stock tanks and any associated costs.

6. Location of Stock Tanks. The two stock tanks shall remain where presently located unless the parties agree otherwise.

PIPELINE RIGHT-OF-WAY

7. Maya agrees to quitclaim to the United States any interest in that pipeline right-of-way reserved by Earl J. Neel in that

certain deed recorded in Book 1485, Pages 46 and 47 , Cochise County, Arizona. A copy of said quitclaim deed is attached hereto as Exhibit B.

MISCELLANEOUS

8. Maya agrees to dismiss, with prejudice, its action entitled: Maya Apartments v. United States, Civil No. 76-202-TUC-RMB (D. Arizona), with each party bearing its own costs.

9. The headings herein are for convenience only and said headings shall not be deemed to affect the agreements made herein.

10. This agreement shall be binding in all respects upon the successors and assignees of each of the parties hereto.

11. No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

12. Any obligation in this Agreement on the part of the United States to expend funds shall be subject to the availability of funds.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered by their respective officers thereunto duly authorized, all as of the day and year first above written.

UNITED STATES OF AMERICA

DATED: 10-8-82

By: Donald M. Spalding
Donald M. Spalding
Acting Regional Director, Western Region

MAYA APARTMENTS

DATED: 18 July 82

By: Gus Mac Caca

National Park Servic stern Region
Division of Water Resources
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

QUITCLAIM DEED

By this instrument dated July 15, 1982, for a valuable consideration, I H. S. MacCollum for Maya Apartments, do hearby remise, release and forever quitclaim to the United States of America the following described pipeline right-of-way in the State of Arizona, County of Cochise:

That pipeline right-of-way reserved by Earl J. Neel in that certain deed dated November 28, 1966, and recorded at pages 46 and 47 of Book 1485, Cochise County, Arizona; said pipeline right-of-way being 10 (ten) feet in width; beginning at Apache Spring, located in the W½, SW¼, SW¼, NE¼ of Section 12, T. 15 S., R. 28 E., Gila and Salt River Meridian, thence N 80° 10' E, 1320 (one thousand three hundred twenty) feet and N 58° 10' E, 1500 (one thousand five hundred) feet to a point 1340 (one thousand three hundred forty) feet south of the NE corner of Section 12, T. 15 S., R. 28 E., Gila and Salt River Meridian.

STATE OF ARIZONA] SS.
COUNTY OF COCHISE]
WITNESS MY HAND AND OFFICIAL SEAL
CHRISTINE RHODES, COUNTY RECORDER
I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED AND RECORDED AT REQUEST OF: TRANSAMERICA TITLE INSURANCE CO.
P. O. BOX 1900
SIERRA VISTA, ARIZONA 85635
FEE $ $3.00
DEPUTY
DRAFT
DATE JAN 24 '83 -2 20 PM
INDEXED
FEE
DKT 1646 PAGE 263 NO 1382

COCHISE COUNTY * RECORDER * 1881

FOR THE NATIONAL PARK SERVICE

for: Maya Apartments

County of Maricopa)
State of Arizona)

On this 15th day of July, 19 82, before me Malvine L. Smith, A Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared _____ known to me to be the person whose name subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Official Seal the day and year in this certificate first above written.

PUBLIC MARICOPA CO.

Malvine L. Smith
Notary Public in and for said County of Maricopa State of Arizona
My commission expires My Commission Expires Apr. 12, 1985

DKT 1646 PAGE 263

National Park Service Western Region
Division of Water Resources
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

QUITCLAIM DEED

By this instrument dated July 15, 1982, for a valuable consideration, I M. S. MacCollum for Maya Apartments, do hearby remise, release and forever quitclaim to the United States of America the following described water rights in the State of Arizona, County of Cochise:

Any and all rights to water from each Mine Tunnel source that is or may be in excess of ½ (one-half) the quantity of water that now flows from, or may in the future flow from, each Mine Tunnel source.

TRANSAMERICA TITLE INSURANCE CO.
SIERRA VISTA, ARIZONA 85635

STATE OF ARIZONA] SS.
COUNTY OF COCHISE]

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED AND RECORDED AT REQUEST OF:

WITNESS MY HAND AND OFFICIAL SEAL
CHRISTINE RHODES, COUNTY RECORDER
FEE $ $3.00
DEPUTY
DRAFT
DATE JAN 24 '83 - 2 20 PM
INDEXED | MICROFILMED | NOTED
DOCKET 1616 PAGE 264 NO. 1383

COCHISE COUNTY RECORDER 1881

FOR THE NATIONAL PARK SERVICE

M S MacCollum

for: Maya Apartments

County of Maricopa)
State of Arizona)

On this 15th day of July, 19 82, before me Mafine L. Smith, A Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared _____ known to me to be the person whose name _____ subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Official Seat the day and year in this certificate first above written.

NOTARY PUBLIC MARICOPA CO.

Mafine L. Smith
Notary Public in and for said County of Maricopa, State of Arizona. My commission expires My Commission Expires Apr. 12, 1985

DKT 1616 PAGE 264

After recording retur

National Park Service, Western Region
Division of Water Resources
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

QUITCLAIM DEED

By this instrument dated July 8, 1982, for a valuable consideration, the National Park Service, Department of the Interior, U.S. Government do hearby remise, release and forever quitclaim to Maya Apartments the following described water rights in the State of Arizona, County of Cochise

Any and all rights to water from each Mine Tunnel source that is or may be in excess of ½ (one-half) the quantity of water that now flows from, or may in the future flow from, each Mine Tunnel source.

Levi E. Lopez

ACTING Regional Director, [illegible]

County of San Francisco)
)
State of California)

On this 8th day of July, in the year 1982, before me Mary E. Meredith, personally appeared Levi E. Lopez, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as Acting Regional Director of Western Region, National Park Service, Dept. of the Interior and acknowledged to me that the National Park Service, Department of the Interior executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Official Seal the day and year in this certificate first above written.

OFFICIAL SEAL
MARY E. MEREDITH
NOTARY PUBLIC-CALIFORNIA
PRINCIPAL OFFICE IN
SAN FRANCISCO COUNTY
My Commission Expires Mar. 26, 1985

Mary E. Meredith
Notary Public in and for said County of San Francisco State of California My commission expires March 26, 1985

RECEIVED
Western Regional Office

Regional Director
Operations
Res. Mgmt.
Administration
Operations Eval.
Public Affairs
BUDGET

Action taken
w/ltr dtd. (last)

November 4, 1985

L54 (479)
WR Water Rights

Memorandum

To: Superintendent, Fort Bowie NHS

From: Chief, Water Rights Branch
Water Resources Division

Subject: Water Rights, Fort Bowie NHS (Upper Gila River Adjudication)
└ Mine Tunnel Spring

Owen Williams is in the process of putting together the "application for Permit to Appropriate Water, State of Arizona" for waters at Fort Bowie NHS (FOBO), as per your past telephone discussions. This approach is, as far as Owen can tell from conversations with them, supported by John Hill (Department of Justice) and William Swan (Office of the Solicitor). To move forward, however, he needs certain information and materials to prepare the required forms.

What we need to submit for each water source is the following:

1) Name of water source and those to which it is tributary.

2) Legal description of source (1/4, 1/4, 1/4, Section, T. and R., principal meridian).

3) Legal description of point of use, if different from that of source (1/4, 1/4, 1/4, Section, T. and R., principal meridian).

4) Description of physical diversion and delivery works (e.g., "Diversion from bubbly spring is made by a concrete spring box, 2' wide x 4' long x 3' deep, with a 2-1/2" galvanized steel pipe delivery line which is 1500' long on an approximately 3% grade. The delivery line outflow fills a 5,000-gallon concrete cistern with an overflow into an unnamed arroyo tributary to muddy creek, tributary to swift river.")

5) If any reservoirs are used, a description of capacity and surface area for each 1' increment in stage.

6) A statement of when the sources were developed, "improved."

7) A statement of when the water was put to beneficial use by the NPS and the nature of that beneficial use.

8) The maximum amount of use expected.

9) Any existing court decrees or other agreements with co-owners or other users.

10) USGS 7-1/2 minute quad depicting points of diversion and use.

11) Estimate of kind and amount of use (e.g., 6 year-round, single family residences, 2 ten-person dormatories, a visitor center, a maintenance shop, and a 14-unit campground with full hookups, serving a staff of 12 year-round employees (9 administrative and 3 maintenance) and 6 seasonal (May through September) employees (2 administrative and 4 maintenance) and 400,000 visitors a year (with an average stay of 1.35 days)).

We will proceed with preparing this application when we receive these materials. Should you have any questions, please contact Owen Williams of my staff.

Stanley L. Ponce

Stanley L. Ponce

Attachment

cc: Western Regional Office

FNP:OWilliams:pml:11/1/85:221-5341:31101WIL.MM1

5/30/80

Brief History of Water Rights at Fort Bowie National Historic Site

"The presence of a spring as much as anything else dictated the route through Apache Pass and the subsequent establishment there of Fort Bowie. And I might add that even to this day the water that made the pass important to travelers is vital and will continue to be used by man and animals." (Remarks by Mr. Udall, Legislative History on H.R. 946, Congressional Record, Vol. 110, August 3, 1964, p. 17814)

The development of the Southwest depended upon the location of a source of water. Springs at Apache Pass made it ideal as an overland route for settlers. In 1857, John Butterfield began to develop his overland stage coach route through the pass and in 1858 he established a stage station near the site of Apache Springs. The springs also supplied the first Fort Bowie in 1862. A second Fort Bowie was built just to the east and was supplied with water from Bear Spring. (Bear Spring is not within the Historic Site boundary.) Fort Bowie was finally abandoned in 1894 and the land was sold at public auction on June 20, 1911.

Sometime prior to 1964 (probably in the 1920's) a mine drift or adit was dug in the NE¼ of section 12. This shaft encountered an aquifer resulting in a water source. Also prior to 1964, two seeps which are located at the NE corner of the second Fort were partially developed. These two seeps, and the mine shaft are now referred to as the "Mine Tunnel Springs." Also sometime prior to 1964 the waters of Apache Springs were collected in a pool by construction of a low dam and this water was transported by electric pump over the hill to the east and down a pipeline to the Shafer Ranch House.

On August 30, 1964, Congress established Fort Bowie National Historic Site (Public Law 88-510). The Secretary of the Interior was authorized "to designate, for preservation...the site and remaining historic structures of old Fort Bowie...together with additional land, interests in land, and improvements thereon,...Provided, that the Secretary shall designate no more than one thousand acres for inclusion in said site." (78 Stat. 681) Upon acquisition of the necessary lands and interests, the Secretary was to administer the Historic Site pursuant to the provisions of the Act to establish a National Park Service and for other purposes approved August 25, 1916 (39 Stat. 535); and pursuant to the Historic Site Act of August 21, 1935 (49 Stat. 666).

While neither the Act creating the historic site, nor the legislative history of the floor debate in the House and Senate mention grazing or water rights, the comments made by letter and testimony in House and Senate Committee hearings on Fort Bowie make it quite evident that there was great concern about both of these subjects. John A. Carver, Jr., Assistant Secretary of the Interior, in a letter to the Committee on Interior and Insular Affairs on April 1, 1963, states that

> "Rights to the use of water from springs in Apache Pass on privately owned land and water now piped and used in cattle and ranching operations on the Neal (sic) Ranch will not be adversely affected. ...acquisition of privately owned lands at Fort Bowie will not include the water rights centering in these springs nor the related rights of piping and pumping water from them...."

Further, in testimony before the Committee, Jackson Price, Acting Director of the National Park Service iterated the same comments on grazing, water rights and piping for general ranching usage. He states: "Existing water rights and the related right of piping and pumping water from existing springs would be retained by the private owners." Letters and memorandums since have confirmed that such was the intentions of the parties. All of this in spite of the fact

that the Warranty Deed signed by Earl J. Neel, the owner of the lands containing Apache Springs, conveys the lands free and clear to the United States of America, except as to a water right to Apache Spring and a ten-foot wide right of way for a pipeline "to transport water for stockwatering." There is no language in this Warranty Deed of November 25, 1964, suggesting a right to stock grazing on the property. A later agreement executed on November 13, 1969 purported to convey and relinquish Neel's water rights to Apache Springs and his easement for the pipeline. However, failure to satisfy the conditions (construction and notification by NPS) have nullified the agreement.

The original National Park Service plan for the development of Fort Bowie included the establishment of a headquarters down at the old stage coach station site along with houses, visitor's center, and campgrounds. Also planned were stage coach rides and possibly a tram ride up to the old fort site. To further these plans, a well was drilled in early 1966 to provide an adequate water source.

By the early 1970's the Service's plan for development had been radically changed. The present plan calls for limited development and maximum preservation. As a result, no new roads have been built and almost all of the Monument has been left in its natural state. Visitors enter the area on foot and walk to the fort ruins. A small kiosk serves as the visitor's center and is located on the northwest corner of the old fort. The only other structures in the area are the ranger's mobile home and a small equipment shed. Vehicle access to this area was made possible by improvement of an old road. This road leaves the park on the east boundary and connects at the boundary with the dirt road which extends south across Shafer Ranch.

In view of the above changes in plan and/or development of the area, there was no need to utilize the well drilled in 1966. This well was the intended source of water to comply with the 1969 Neel agreement. As of this date the well is capped and has never been in use.

A call to William Lukens, Park Superintendent at Fort Bowie from 1972-76, was made (April 28, 1980) to assertain information on the development and use of the water sources at the Historic Site. Particular attention was made to learn of the use by private parties for stockwatering and other purposes.

When Mr. Lukens arrived at Fort Bowie in 1972, the Apache Springs pumpage system was not in operation and appeared to have been inoperable for several years. The electric pump appeared to be worn out and the power lines were in need of replacement -- also, the pipeline was in a questionable state. Cattle were permitted to graze unrestricted and took water directly from the spring.

Because the visitor foot path to the fort leads visitors up the pass, past the springs, park visitors were meeting semi-wild cattle at Apache Spring. To avoid this situation and thus provide a better measure of visitor safety, the Park Service built a rock dam across the channel below Apache

Spring. The area behind the dam was backfilled with dirt. Water from the Spring box was piped (plastic pipe) to the dam where the water flows from the pipe at the top of the dam. At the end of the pipe a cut off valve and a "T" were placed (hidden from view). Another line was laid from the "T" and extends several hundreds of feet to the SW where a stockwatering tank was placed. Adjustment of the valve is such that water constantly overflows from the stock tank with the remaining spring flow leaving the pipe at the dam for visitor observation of Apache Spring (interpretive purposes). This system operates by gravity flow and is still in existence today.

Mr. Lukens stated that at this time (1972) the Park Service rehabilitated the "Mine Tunnel Source." This rehabilitation work was done shortly after a flood down the canyon damaged the pipelines and the sources themselves. Regarding the Mine Tunnel proper, the shaft was cleared out and the entrance was sealed with concrete. Mr. Lukens reports that working in the shaft was dangerous due to falling rocks. A plastic pipeline was laid from the source to a point on the old pipeline which extended from Apache Springs to Shafer Ranch. At that point a concrete collection box was built and the new pipeline ended at the box. Regarding the two seeps at the NE corner of the second fort, rehabilitation work involved placement of two short sections of corregated culvert and minor concrete work. These sources are less than 10 feet apart. A single plastic pipeline which connects these two sources and extends North to the afore mentioned collection box was laid by Mr. Lukens. Along this line a "T" was placed to allow water to be diverted for NPS use as the line passes the residence area. This system operates by gravity flow and is still in existence today. Prior to this rehabilitation work the Service obtained water from the mine shaft source by pumping water uphill.

With the completion of the above work, the owners of the Shafer Ranch removed the old pump from Apache Springs and gave permission for the Park Service to remove the poles of the powerline. This was very desirable to the Service in that both the pump and the power line poles were a bad visual obtrusion to visitors of the Monument.

It is an important fact that the pipelines laid by Mr. Lukens were laid at random and do not lie upon the "Apache Spring easement," although the easement and pipelines may criss-cross several times because they trend in the same general direction. Another important fact is that it appears that the pipeline leaves the park at a point such that the single pipeline extends over another party's land before entering Shafer Ranch land.

In 1976, the State of Arizona was contacted regarding a possible water rights filing on Apache Springs. At that time no water rights filings existed on the Monument.

Mr. Lukens expressed the opinion that the right of way in the easement granted by the original Warranty Deed may run right over one of the collection sites for the Mine Tunnel Springs. If this is the case, there may be a real problem in restricting the future use of the water from Mine Tunnel Springs. However, Bill Lukens also is of the opinion that the water from the springs is too unreliable for any use except stockwatering.

Summary of Conversation with Bill Lukens:

The private ranchers had used the Apache Springs water in the past and had transported that water via a pump and pipes to watering tanks for stock. The pump has not been used since at least the early 1970's and stock had been watering directly at Apache Springs. In 1971-72 the Mine Tunnel Springs were redeveloped by the NPS and the over-flow was permitted to continue down the hill to stockwatering tanks outside the Historic Site and most certainly to the Shafer Ranch House. The Park Service apparently reconnected the Mine Tunnel Spring sources to the stockwatering tanks of the private parties, not out of any legal obligation, but merely to accommodate their neighbors.

The only legal obligations are those specifically contained in the original Warranty Deed signed by Mr. Neel; that is, the right to an easement to and use of the waters of Apache Springs for stockwatering.

In 1976 the Cardons, successors in interest to Earl Neel, filed suit in the U.S. District Court for the State of Arizona praying for relief in their efforts to obtain their alleged rights to water and access to Apache Springs and other water sources located on government lands at Fort Bowie. In their first count they claim that the 1967 agreement granting a license to the National Park Service for use of their Bear Springs road had a two year limitation on it and that the continued use of such road was trespassing and they seek damages for the trespass. The second count claims rights to water from both the Apache Springs and the Mine Tunnel Springs sources for both domestic and stockwatering. They claim the right to an easement to the 240 acres of private property sold to the United States to maintain their pipes for water transport. They further allege that the Novermber 13, 1969 agreement is null and void. In their third count they claim the right to the Mine Tunnel Springs water for both domestic and stockwatering use. They claim a right to and seek access to the Mine Tunnel Springs to lay pipes and to maintain same. In their final count they claim that the November 13, 1969 agreement established a right to expect 10 gpm of water for domestic and stockwatering from the aggregate of the water sources found in the Fort Bowie site.

As of this date the Service has never completed the necessary construction (pipeline from well), nor given written notice, regarding the 1969 agreement with Neel.

Other NPS personnel who may be of benefit in clarification or verification of the status of the park at the time of its establishment are:

William Fields -- Southwest Region
Dicky Stanburg -- Mt. McKinley
Don Morris -- Southwestern Archeological Center

William Werrell
James H. Hershey
May 30, 1980

Other Supporting Information

REPORT OF TELEPHONE CONVERSATION

DATE Aug 14 TIME 9:10 AM/PM

PROJECT FOBO - Mine Tunnel Springs

NPS PERSON ON CALL Dan McGlothlin ☐ I CALLED ☒ S/HE CALLED

PERSON Joe Stuart

ORGANIZATION Arizona Dept. Water Resources

ADDRESS Phx., AZ

TELEPHONE NUMBER

DISCUSSION Stuart called to say the following:

- HYL Ranch (their attorney) filed another protest (2nd protest) to the Mine Tunnel Sp. Application posted/noticed a second time by NPS
- Stuart wants to get the issue moving, to get protest settled.
- Proposed to write conditions in a permit that reference the 1982 Agreement/Decree between NPS and Maya Apartments
- The conditions would say the NPS would received up to/and no more than 50 percent of the flow from Mine Tunnel (as per the decree).
- He will send the proposed ~~language~~ permit to both parties for their concurrence

I told Stuart we have had great difficulty in communicating with Crockett, the attorney for HYL.

He said this should get them moving now.

I said we will need review terms with our Solicitor and he said fine, that he just wanted to get the issue resolved.

cc: Hansen
Williams

REPORT OF TELEPHONE CONVERSATION

DATE 7/22/91 TIME 11:15 AM/PM

PROJECT FOBO - Mine Tunnel Spring

NPS PERSON ON CALL Dan McGlothlin ☒ I CALLED ☐ S/HE CALLED

PERSON Dick Anderson

ORGANIZATION FOBO

ADDRESS

TELEPHONE NUMBER 602-824-3560

DISCUSSION I called Anderson as follow-up to a call he placed to Bill Hansen on 7/16. On that date, Anderson called to find out if the old notice for Mine Tunnel Spring could be used for signing the Affidavit of Posting because he never received from Bill the new or reissued notice sent to NPS by DWR. I said the notice was sent to CHIR/FO130 by memo dated June 21, 1991, but Anderson said he never saw it. Since the posting period of the reissued notice (that timeframe within which the reissued notice must be posted by NPS) had ~~stopped~~ expired, I told Anderson I would call Joe Stuart at AZ DWR to find out what could be done. I called Stuart and explained that the reissued notice was never received ~~by~~ the individual at the monument whom we have been working with. However, the old (~~official~~ original) notice was posted and the monument had sent an Affidavit of Posted Notice to DWR within the required timeframe. My question to Stuart was "would DWR accept this Affidavit?" and Stuart said yes. I called Anderson back to ~~him~~ inform him of DWR's answer. He acknowledged that no other action was needed, for now.

He then asked a question pertaining to water rights for the proposed Headquarters well and what, if anything need to be done there. I told him it was likely the well was unregistered with DWR and that, possibly, two documents were needed: a well registration form and a well completion report. He asked if WRB would take care of this and I said I would send him the forms - they were relatively simple to fill out - then he could decide whether or not WRB needed to assist.

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SW1200              ARIZONA DEPARTMENT OF WATER RESOURCES  TODAYS DATE 06/19/91
 NEXT SCREEN:                SURFACE WATER - CLAIMS
        NEXT #: 36 - 0024154 0000
REGISTRATION #  36 - 0024154 0000          ACTIVE   - ACTIVE
PRIORITY DATE: 10 31 1900
HOLDER NAME: HYL RANCH PROPERTIES      ADDRESS: 4455 E CAMELBACK RD
                                                #290-E
                                                PHOENIX          AZ 85018
SOURCE NAME: # 4 GRAPHITE                SPRING
WATERSHED: UPPER GILA RIVER
ANNUAL USE:          6.50  AFA                  USES: DOMESTIC
                                                      STOCK
CAPACITY:                CLAIMED ACRES:
LIVESTOCK NUMBER:        TYPE:
LAND OWNER: PRIVATE

STATUS: ON FILE

INACTIVE BOX NUMBER:
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SW1200              ARIZONA DEPARTMENT OF WATER RESOURCES  TODAYS DATE 06/19/91
 NEXT SCREEN:                SURFACE WATER - CLAIMS
        NEXT #: 36 - 0024153 0000
REGISTRATION #:  36 - 0024153 0000          ACTIVE   - ACTIVE
PRIORITY DATE: 12 31 1900
HOLDER NAME: HYL RANCH PROPERTIES      ADDRESS: 4455 E CAMELBACK RD
                                                #290-E
                                                PHOENIX          AZ 85018
SOURCE NAME: #5 GRAPHITE                SPRING
WATERSHED: UPPER GILA RIVER
ANNUAL USE:          6.50  AFA                  USES: STOCK

CAPACITY:               CLAIMED ACRES:
LIVESTOCK NUMBER:       TYPE:
LAND OWNER: PRIVATE

STATUS: ON FILE

INACTIVE BOX NUMBER:
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00-00-0000: statement of claim of right to use public waters of the state: no. 4 spring (graphite spring) aka mine tunnel springs

ARIZONA STATE LAND DEPARTMENT
1624 West Adams
Phoenix, Arizona 85007

STATEMENT OF CLAIM OF RIGHT TO USE PUBLIC WATERS OF THE STATE

Filing Fee $5.00

(LEAVE BLANK)
Registry No. 36-24154
Filed JUN 28 1979 at 8:00 A.M.
(DATE) (TIME)

INSTRUCTIONS:

1. Submit Statement of Claim in duplicate.
2. Answer all questions fully.
3. File separate claim for each claimed right to appropriate and for each source of water.

1. Name of Claimant Cardon Investments
(Print Last Name or Name of Co.) (First Name) (Middle Initial)

134 W. Broadway, Mesa, AZ 85202 833-4221
(Address, City, State, Zip) (Phone No.)

2. The purpose(s) and extent of use(s) Stockwater, domestic
(Examples: Irrigation, Stockwater, Domestic)

3. The quantities of water used annually 6.5 acre feet (Gallons or Acre feet) from 1st (Day) January (Month)

to 31st (Day) December (Month) each year

4. The date(s) the water was first used beneficially _____ (Month) _____ (Day) 1900 (Year)

5. The Name(s) of the water course(s) or Water Source(s) being claimed No. 4 Spring (Graphite Spring) aka Mine Tunnel Spring
(Source Name)

Tributary to Gila River on the UPPER GILA RIVER (Leave Blank) Watershed

6. The point of diversion is within the SE ¼, NE ¼, Section 12, of Township 15 S (N/S), Range 28 E (E/W), G&SRB&M, in the County of Cochise.

7. The Place(s) of use is in the NW ¼, NW ¼, Section 7, of Township 15 S (N/S), Range 29 E (E/W), G&SRB&M, in the County of Cochise.

8. The legal basis for the claim Prior use prior to June 12, 1919.

See attached affadavit.
(Attach copies of any documents being filed in support of Claim)

STATE OF ARIZONA)
) SS
County of)

Mark Dangerfield being first duly sworn on oath, deposes and states that the foregoing Statement of Claim is true and correct of his own knowledge except as to any matters stated therein to be on information and belief and as to all such matters so stated he believes the same to be true and correct.

Cardon Investments
BY: _____
(CLAIMANT(S))

Subscribed and sworn to before me this 27 day of June, 19 79.

My Commission Expires:

My Commission Expires June 28, 1982, 19____.
(SEAL)

Janet L. Hickinger
(NOTARY PUBLIC)

Filed in Water Rights Claim Registry No. 36-24154 of the State Land Department of June 28, 1979 at 8:00 a. M.

Brian Kirby
Adjudication Section

ARS 45-184 "FILING OF CLAIM WITH THE DEPARTMENT NOT DEEMED ADJUDICATION OF RIGHT"
28-76

ARIZONA STATE LAND DEPARTMENT
1624 West Adams
Phoenix, Arizona 85007

STATEMENT OF CLAIM OF RIGHT TO USE PUBLIC WATERS OF THE STATE

Filing Fee $5.00

(LEAVE BLANK) 36-24153
Registry No.
Filed JUN 28 1979 (DATE) at 4:00 P.M. (TIME)

INSTRUCTIONS:

1. Submit Statement of Claim in duplicate.
2. Answer all questions fully.
3. File separate claim for each claimed right to appropriate and for each source of water.

1. Name of Claimant Cardon Investments
(Print Last Name or Name of Co.) (First Name) (Middle Initial)

134 W. Broadway, Mesa, AZ 85202 833-4221
(Address, City, State, Zip) (Phone No.)

2. The purpose(s) and extent of use(s) Stockwater, domestic
(Examples: Irrigation, Stockwater, Domestic)

3. The quantities of water used annually 6.5 acre feet (Gallons or Acre feet) from 1st (Day) January (Month)

to 31st (Day) December (Month) each year

4. The date(s) the water was first used beneficially ____ (Month) ____ (Day) 1900 (Year)

5. The Name(s) of the water course(s) or Water Source(s) being claimed No. 5 Spring (Graphite Spring) aka Mine Tunnel Spgs
(Source Name)

Tributary to Gila River on the UPPER GILA RIVER (Leave Blank) Watershed

6. The point of diversion is within the NE ¼, SE ¼, Section 12, of Township 15 S (N/S), Range 28 38 E (E/W), G&SRB&M, in the County of Cochise.

7. The Place(s) of use is in the NW ¼, NW ¼, Section 7, of Township 15 S (N/S), Range 29 E (E/W), G&SRB&M, in the County of Cochise.

8. The legal basis for the claim Prior use prior to June 12, 1919.
See attached affadavit.
(Attach copies of any documents being filed in support of Claim)

STATE OF ARIZONA)
) SS
County of)

Mark Dangerfield being first duly sworn on oath, deposes and states that the foregoing Statement of Claim is true and correct of his own knowledge except as to any matters stated therein to be on information and belief and as to all such matters so stated he believes the same to be true and correct.

Cardon Investments
BY: _____
(CLAIMANT(S))

Subscribed and sworn to before me this 27 day of June, 1979.

My Commission Expires:
My Commission Expires June 19, 1983
_____, 19____.
(SEAL)

Janet L. Hickinger
(NOTARY PUBLIC)

Filed in Water Rights Claim Registry No. 36-24153 of the State Land Department of June 28, 1979 at 8:00 a. M.

Brian Kirby
Adjudication Section

ARS 45-184 "FILING OF CLAIM WITH THE DEPARTMENT NOT DEEMED ADJUDICATION OF RIGHT"

ARIZONA STATE LAND DEPARTMENT
1624 West Adams
Phoenix, Arizona 85007

STATEMENT OF CLAIM OF RIGHT TO USE PUBLIC WATERS - STATE OF ARIZONA

Examination Fee $5.00
Map (see instructions)
CLAIM MUST BE SUBMITTED IN DUPLICATE

To be filled in by State Land Department
Registry No. 36-24159
Filed JUN 28 1979 (Date) at 2:00 PM (Time)

1. Name of Claimant CARDON INVESTMENTS (10 Print Last Name or Name of Co.) (31 First Initial) (32 Middle Initial)

134 W. Broadway, Mesa, AZ 85202 (Address, City, State, Zip) 833-4221 (Phone No.)

2. The waters claimed are used for 0000 (33)

3. The amount of water used annually is 5.3 acre feet (Gallons or Acre Feet) from 1st (Day) January (Month)
to 31st (Day) December (Month) each year.

4. The date the water was first used beneficially was ___ (37 Month) ___ (39 Day) 1900 (41 Year)

5. The direct source of supply is SIPHON CANYON (44 Source Name) ___ CA (65 Type of Watercourse)
Tributary to Gila River on the 08 (67 Leave Blank) Watershed.
aka Hot Tunnel Spgs

6. The Point of Diversion (locate on map) is within the SW (10) ¼ SW (12) ¼, Section 12 (14),
of Township 15 S (16), Range 28 E (20), G&SRB&M, in the County of Cochise
Number of Points of Diversion 2 (24)

7. The Place(s) of Use (locate on map) is in the SW ¼ SW ¼, Section 12, of
Township 15 S (N/S), Range 28 E (E/W), G&SRB&M, in the County of Cochise
Acres irrigated ___ (25) Number and Kind of Stock 0050 (31 Number) A (35 Kind)
Number of Families ___ (36) Other uses explain on line 14.

8. The water is diverted by ___
___ the maximum flow is ___

9. If water is stored, give capacity and name of Reservoir in Acre Feet ___ (41 Capacity)
___ (Name)
Height of Dam ___ ft., Area inundated in Acres ___

10. The Claimed Right to Water was created by the following facts: ___
Continuous benificial use since 1900
(Attach copies of any documents supporting Claim)

11. The land on which the water is used is owned by F (50)

BLM-FEDERAL RESERVED WATER RIGHTS IN ARIZONA

Subregion 1504 Gila R. abv Coolidge Dam. (USGS/WRC Hydrologic Units)

BLM Identification Number	Water Source	Location	Uses Other Than Livestock, Wildlife and Recreation
36-20526 04-397 u8	Spring	SE ¼Sec21, T14S, R28E.	Cochise
20527 04-401 u8	Spring	NW ¼Sec22, T14S, T28E.	"
20528 04-411 u8	Spring	NW ¼Sec 2, T15S, R28E.	"
20529 04-414 u8	Spring	NE ¼Sec 21, T15S, R29E	"
20530 04-416 u8	Spring	SW ¼Sec12, T15S, R28E.	"
20531 04-417 u8	Spring	SW ¼Sec.8, T15S, R29E.	"
20532 04-421 u8	Spring	NE ¼Sec. 28, T4S, R28E.	Greenlee
20533 04-422 u8	Spring	SE ¼Sec28, T4S, R28E.	"
20534 04-429 u8	Spring	NW ¼Sec.34, T4S, T28E.	"
20535 04-436 u8	Spring	SE ¼ Sec. 13, T.5S, R28E.	"
20536 04-437 u8	Spring	NE ¼Sec24, T4S, R28E.	"
20537 04-446 u8	Spring	SW ¼Sec. 28, T5S, R28E.	Graham
20538 04-452 u8	Spring	SW ¼Sec1, T5S, R27E.	"
20539 04-453 u8	Spring	NE ¼Sec13, T5S, R27E	"
20540 04-454 u8	Spring	NE, ¼Sec13, T5S, R27E	"
20541 04-455 u8	Spring	NE ¼Sec13, T5S, R27E.	"
20542 04-458 u8	Spring	SE ¼Sec1, T5S, R27E	"
20543 04-461 u8	Spring	NE ¼Sec12, T5S, R27E.	"

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SW1200              ARIZONA DEPARTMENT OF WATER RESOURCES  TODAYS DATE 06/19/91
 NEXT SCREEN:                SURFACE WATER - CLAIMS
       NEXT #: 36 - 0024159 0000
REGISTRATION #  36 - 0024159 0000          ACTIVE    - ACTIVE
PRIORITY DATE: 12 31 1900
HOLDER NAME: HYL RANCH PROPERTIES      ADDRESS: 4455 E CAMELBACK RD
                                                #290-E
                                                PHOENIX          AZ 85018
SOURCE NAME: SIPHON                      CANYON
WATERSHED: UPPER GILA RIVER
ANNUAL USE:          5.30  AFA                  USES: STOCK

CAPACITY:                CLAIMED ACRES:
LIVESTOCK NUMBER:        TYPE:
LAND OWNER: FEDERAL GOVERNMENT

STATUS: ON FILE

INACTIVE BOX NUMBER:
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SW1200              ARIZONA DEPARTMENT OF WATER RESOURCES  TODAYS DATE 06/19/91
 NEXT SCREEN:                SURFACE WATER - CLAIMS
       NEXT #: 36 - 0027342 0000
REGISTRATION #  36 - 0027342 0000          ACTIVE   - ACTIVE
PRIORITY DATE: 12 31 1900
HOLDER NAME: HYL RANCH PROPERTIES      ADDRESS: 4455 E CAMELBACK RD
                                                #260-E
                                                PHOENIX          AZ 85018
SOURCE NAME: SIPHON                     CANYON
WATERSHED: UPPER GILA RIVER
ANNUAL USE:          5.00  AFA                  USES: STOCK

CAPACITY:               CLAIMED ACRES:
LIVESTOCK NUMBER:       TYPE:
LAND OWNER: FEDERAL GOVERNMENT

STATUS: ON FILE

INACTIVE BOX NUMBER:
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SW1200              ARIZONA DEPARTMENT OF WATER RESOURCES  TODAYS DATE 06/19/91
 NEXT SCREEN:                SURFACE WATER - CLAIMS
        NEXT #: 36 - 0024159 0000
REGISTRATION #:  36 - 0024159 0000          ACTIVE    - ACTIVE
PRIORITY DATE: 12 31 1900
HOLDER NAME: HYL RANCH PROPERTIES      ADDRESS: 4455 E CAMELBACK RD
                                                #290-E
                                                PHOENIX          AZ 85018
SOURCE NAME: SIPHON                      CANYON
WATERSHED: UPPER GILA RIVER
ANNUAL USE:          5.30  AFA                  USES: STOCK

CAPACITY:                CLAIMED ACRES:
LIVESTOCK NUMBER:        TYPE:
LAND OWNER: FEDERAL GOVERNMENT

STATUS: ON FILE

INACTIVE BOX NUMBER:
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SW1200              ARIZONA DEPARTMENT OF WATER RESOURCES  TODAYS DATE 06/19/91
 NEXT SCREEN:                SURFACE WATER - CLAIMS
        NEXT #: 36 - 0020530 0000
REGISTRATION #:  36 - 0020530 0000          ACTIVE   - ACTIVE
PRIORITY DATE:   4 17 1926
HOLDER NAME: B L M                       ADDRESS: 2400 VALLEY BANK CEN

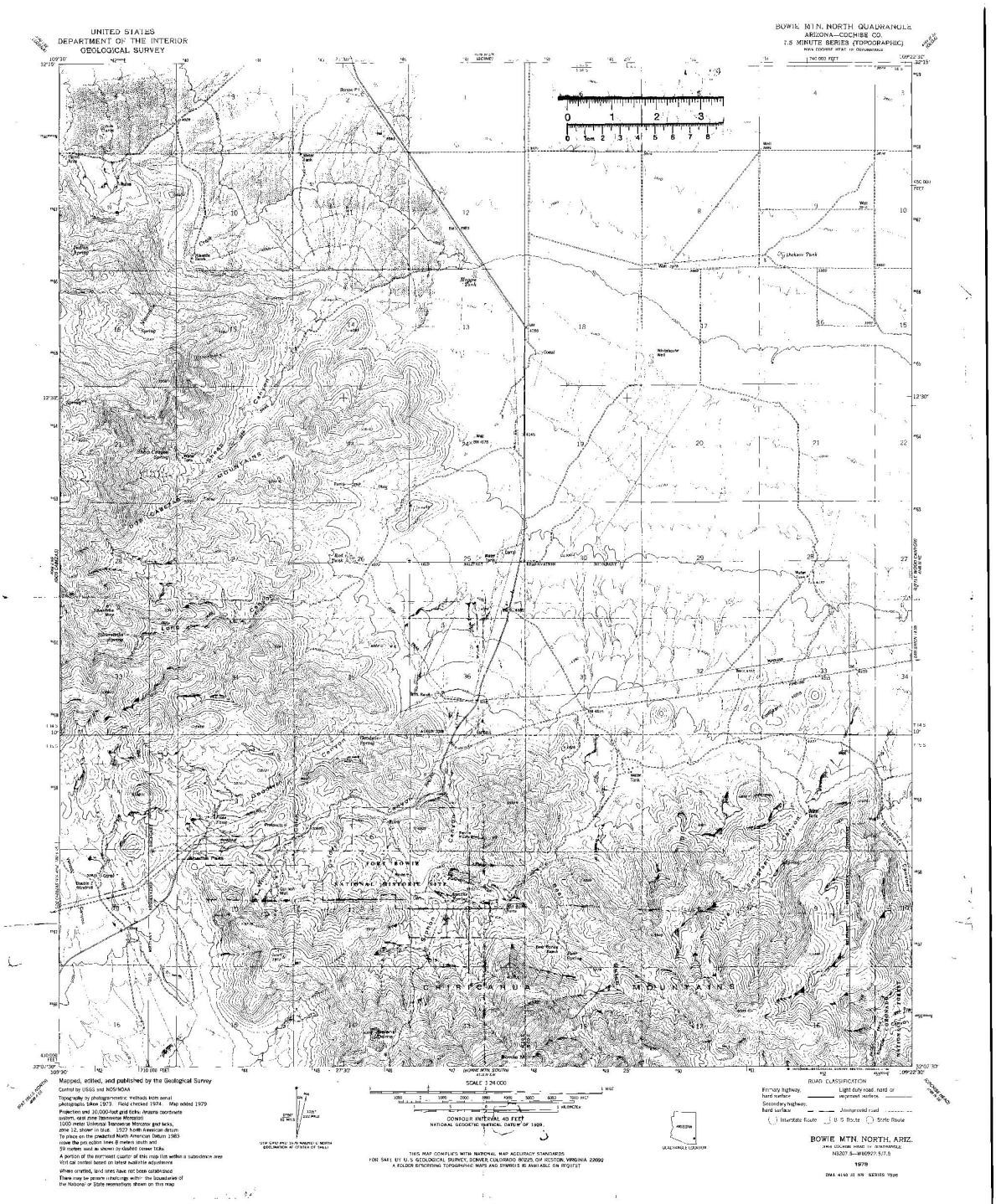
                                                  PHOENIX          AZ 85073
SOURCE NAME: NOT IDENTIFIED                SPRING
WATERSHED: UPPER GILA RIVER
ANNUAL USE:                AFA                    USES: RECREATION
                                                        STOCK
CAPACITY:                CLAIMED ACRES:                 WILDLIFE
LIVESTOCK NUMBER:        TYPE:
LAND OWNER: FEDERAL GOVERNMENT

STATUS: ON FILE

INACTIVE BOX NUMBER:
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Maps and Miscellaneous Information

00-00-1979: topographic map - bowie mtn. north quadrange



Docket Information

Number of Documents in Docket 139

Documents Dated from 3/25/1979 to 7/3/1996

Docket Compiled: 5/31/2016