



WATER-RIGHT DOCKET

Little Bighorn Battlefield National Monument

Docket No: 2

MONUMENT WATER SYSTEM

Land History

00-00-0000: notice of appropriation of water right

DRAFT

NOTICE OF APPROPRIATION OF WATER RIGHT

STATE OF MONTANA)
) ss.
COUNTY OF BIG HORN)

KNOW ALL MEN BY THESE PRESENTS, THAT WHEREAS by treaty of May 7, 1868 between the United States and the Crow Indians, certain lands in Montana, including those herein described, were established as the Crow Indian Reservation, and

WHEREAS, by Executive Order of December 7, 1886, upon request of the Secretary of War, acting under authority of Section 4870, Revised Statutes of 1878, ~~xxxxxx~~ apportion of the aforesaid lands were duly declared and set apart for military purposes, including the following described ~~xxxxxx~~ tract, which was designated as a National Cemetery of Custer's Battlefield:

Commencing at a point 1200 feet North, 35° ~~xxxxxx~~ West of Custer's Monument, and running thence North 55° East 1200 feet; thence South 35° East one (1) mile; thence South 55° West to the right bank of the Little Big Horn River; thence along said right bank to the prolongation of the western boundary; thence along said prolongation to the place of beginning; area, 1 square mile.

(The aforesaid boundary has been slightly amended, but not so as to affect facts as set forth herein) and

WHEREAS, By Executive Order of June 3, 1940 (No. 8428, 3 CFR Cum. Supp., 664, the President transferred administration of said cemetery from the War Department to the National Park Service, Department of the Interior, effective July 1, 1940, and the name of the area being changed to Custer Battlefield National Monument on March 22, 1946, and

WHEREAS, between 1887 and 1932, water for the use of the custodian of said cemetery or national monument was obtained from a cistern or well adjacent to the Little Big Horn River, probably intercepting the underground flow of said river. In the spring of 1932, acting for the United States, the War Department constructed the initial units of the existing water system with an

D R A F T

March 17, 1953

NOTICE OF APPROPRIATION OF WATER RIGHT

STATE OF MONTANA)
) ss.
 COUNTY OF BIG HORN)

KNOW ALL MEN BY THESE PRESENTS, ^{THAT WHEREAS} ~~That~~ by treaty of ^(between 1868 & 1880) May 7, 1868

between the United States and the Crow Indians, part of Big Horn County, Montana, was established as the Crow Indian Reservation, ^{and WHEREAS} ~~by agreement of~~ ^(between 1880 & 1882) ~~with the Crow Indians~~ ^{by Proclamation of} ~~land was ceded to the United States for a cemetery~~ ^{other military purposes} ~~and Custer's Monument, and by Proclamation of December 7, 1887, the~~ ^{whereby}

~~President did reserve the following portion of that Indian Reservation~~ ^{as the National Cemetery of Custer's Battlefield Reservation, placing it} ~~under the jurisdiction of the War Department:~~

Commencing at a point 1200 feet North 35° West of Custer's Monument, and running thence North 55° East 1200 feet; thence South 35° East one (1) mile; thence South 55° West to the right bank of the Little Big Horn River; thence along said right bank to the prolongation of the western boundary; thence along said prolongation to the place of beginning.

The boundary was changed slightly by _____ of April 14, 1926, ^{and}

TH ~~WHEREAS~~, By Executive Order No. 8428 of June 3, 1940, 3 CFR, Cum.

Supp., 664, the President transferred the administration of said cemetery to the National Park Service, Department of the Interior, effective July 1, 1940. ^{being} ~~The name of the area was changed to Custer Battlefield National Monument on March 22, 1946, and~~

^P ~~WHEREAS~~ Between 1887 and 1932, water for the Custodian of said Monument was obtained from a cistern or well adjacent to the Little Big Horn River, probably intercepting the underground flow of said river. In the spring of 1932, acting for the United States, the War Department constructed the initial units of the existing water system with an

underground collecting system under the said Little Big Horn River. Said system has been enlarged as needed by the War Department and National Park Service, the last enlargements having been completed prior to September 18, 1952.

Under authority of the act of June 28, 1946 (60 Stat. 333) the Bureau of Indian Affairs constructed the Willow Creek Reservoir on the Creek of the same name, a tributary of the Little Big Horn River through Lodge Grass Creek above said National Monument. Said reservoir has a capacity of 23,000 acre-feet, and said act of June 28, 1946, ^{supra} authorizes the sale of surplus water stored in said reservoir to white residents in the river basin under contracts to be negotiated within five years after June 28, 1946. By contract negotiated largely before February 1951, the National Park Service has contracted to purchase 4.5 acre-feet of water per year from said reservoir to augment the natural underground flow of said Little Big Horn River which is diverted and used at said Custer Battlefield National Monument, and

WHEREAS, pursuant to the Executive Order of December 7, 1886, ^{ratified by Act of September 11, 1888, page 11} ~~in consideration of the agreement of (1880-1882)~~, ^{Setting apart} ~~ceding~~ land for said Monument and cemetery, and the contract between the National Park Service and the Bureau of Indian Affairs for the use of waters of the Willow Creek Reservoir, the undersigned Superintendent of Custer Battlefield National Monument, and his predecessors, did, beginning before June 30, 1888, appropriate and claim, ^{all being duly authorized} in increasing ^{certain waters, as described in the following paragraph} amounts, for the United States of America, ^{TP Now, THEREFORE} the undersigned Superintendent through and by ^{UNITED STATES OF AMERICA, acting} ~~Director, National Park Service, for the use of Custer Battlefield N.M.~~ does by these presents appropriate, locate, and claim 4.5 acre-feet of water per year, to be diverted at a maximum rate of one (1) cubic foot of water per second of time legal measurement, of the ^{surface} ~~underground~~

waters of the Little Big Horn River in the County of Big Horn,
by his duly authorized agent
State of Montana, and did, on _____ 1953, post a
copy of this notice at a conspicuous place at the pumphouses of the
water system.

The said water is claimed for domestic, industrial, recreational, irrigation, and other useful and beneficial purposes, and the place of use is Custer Battlefield National Monument on the right bank of the Little Big Horn River in Sections 17, 18, 19, and 20, T. 3 S., R. 35 E., M.P.M. Approximately 5.21 acres are now irrigated, and the area will be gradually increased to about 10 acres. Water is also used at two employees' residences, at comfort stations in a museum by public visitors who numbered 106,000 in 1952 and whose numbers have been approximately doubling in each decade, and at the utility area.

Said water is now diverted and conveyed to said place by means of a collecting pipe under Little Big Horn River, and three pumps and a 4-inch GI pipe. The three pumps have a combined capacity of 175 gallons per minute, delivering water to a pressure tank for domestic use, and to a 20,000 gallon distribution and equalizing reservoir on the irrigation system.

That the stream from which said diversion is made is more particularly described as follows, to-wit: The underground flow of the Little Big Horn River at a collecting sump S. 29° 37' W. 5066.67 feet from the NE corner Sec. 18, T. 3 S., R. 35 E., M.P.M., in SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said section, and in Custer Battlefield National Monument.

By virtue of the aforesaid treaties and agreements between the United States and the Crow Indians, the proclamations, and the

contractual interests in the Willow Creek Reservoir, the undersigned, acting for the United States, hereby claims a right of way over and under the Little Big Horn River on the Crow Indian Reservation, on which said diversion is made, together with the right to repair and enlarge said water system whenever and wherever the same may be necessary to convey the water hereby appropriated.

A plan of Water System, Custer Battlefield National Monument, drawing NM-CUS-6950, is on file in the Office of the Records of Big Horn County.

~~Superintendent, Custer Battlefield National Monument,
for The United States of America~~

by

*Director, National Park Service
United States Department of the Interior*

Docket Information

Number of Documents in Docket 7

Documents Dated from 12/15/1941 to 3/17/1953

Docket Compiled: 6/3/2016