Docket No: 3

WALES ARNOLD DITCH MONTEZUMA WELL AREA

Preliminary Docket Information

01-31-1975: water right/source docket information

WATER RESOURCES/WATER RIGHT DATE: January 31, 1975

WATER RIGHT/SOURCE DOCKET INFORMATION

REGION Western AREA Montezuma Castle National Monument

SITE Montezuma Well

STATE Arizona COUNTY Yavapai DOCKET NO WR #3

LOCATION NW¼ SE¼ Section 31, T15N R6E

REGIONAL BASIN LOCAL BASIN

ACQUIRED BY purchase

APPLICATION none PERMIT CERTIFICATE

ACTION DUE PRIORITY 1870 RESERVATION

QUANTITY see narrative USE

STATUS SOURCE

Summary of MOCA WR #3

The land containing Montezuma Well was purchased by the United States from William Back on Dec. 30, 1946. The first owner of a water right on these lands was a Wales Arnold who filed in 1870 on Beaver Creek, which flowed past his lands. Back purchased Arnold's interest in Beaver Creek along with his land, and in a court adjudication of 1906, was decreed a proportionate share of the flow of Beaver Creek. He subsequently changed his point of diversion from Beaver Creek to Montezuma Well (abandoning the use of the "Walws Arnold Ditch" and initiating the use of the "Well Irrigation Ditch"). He also sold a portion of his land and half of his water right in Beaver Creek to a Charles Chestnut. This portion was eventually divided into thirds and each parcel had a 1/6 interest in Beaver Creek. The interest in Beaver Creek which Back retained, equal to ½ of his original interest, was conveyed along with his land to the U.S. in 1946 (though he had changed his point of diversion by that time to Montezuma Well). Beginning in the early fifties and continuing to date, the downstream users have been claiming waste by the Park Service of the water from Montezuma Well and demanding water be delivered to them via the irrigation ditch sufficient to satisfy their irrigation needs.

3/10/75
M. Ackerman

REMARKS This narrative concerns the Montezuma Well and the rights in relation to the water flowing therefrom. These rights are somewhat confused due to the fact that there was a change in point of diversion and the only determination or adjudication of rights was made in 1906.

NARRATIVE:

Wales Arnold and his wife conveyed their land, which was immediately adjacent to the land containing Montezuma Well (Section 36, T15N R5E and Section 31, T15N R6E respectively), "together with all the ditch property and water right belonging thereto, said water right being a right to all the water that can flow in said ditch and a right located to one-half of water of Beaver Creek, at the head of said ditch and the first water right located on Beaver Creek" to Robert Hornbeck on March 2, 1880. Back in 1870, Mr. Arnold had filed a location notice for what he called the "Government Ditch" (later known as the Wales Arnold Ditch) in which he claimed a use which began many years before. On November 20, 1882, Wales Arnold obtained a patent from the U.S. for the above mentioned tract of land upon receipt by the U.S. of full payment for said parcel. This land and the water rights appurtenant thereto were conveyed to William B. Back in 1897 (by two separate deeds, each deed for an undivided one-half interest). About this same time, Mr. Back made a homestead entry on the lands including Montezuma Well (a part of Section 31, R6E) and he obtained a patent for this tract on July 18, 1907 under Certificate 253. This patent was subject to any vested and accrued water rights and rights to ditches and reservoirs. (See sketch attached showing the lands described above)

The only adjudication of water rights that we have of record was made on May 29, 1906 (Decree No. 3583) in the District Court of the Territory of Arizona in Yavapai County. The action was between Priscilla and Charles Mahan, as plaintiffs, and several parties including William Back, as defendants, all of whom were claiming rights to appropriate water from Beaver Creek. The court found that there was insufficient water for all to use and if the earliest appropriators (William Back being the first with a priority of 1870 for 101 acres of land) were allowed a continuous flow of the waters, "it would be an injustice to the appropriators and users of water, parties to this suit." It was decreed that the water be equitably distributed under a water commissioner appointed by the court to the lands of the respective parties. (It appears that each party was given a right proportionate to the irrigated acres of land he owned; William Back had 101 acres at the time and the other parties had a total of 373 acres).

(Continued)

Compiled by Mike Ackerman

Approved by William Werrell

William Back was required along with the Mahans and a William Schroeder to contribute one-third each of the cost to box or flume the ditch for 100 yards from its head to prevent the waste of water. The maintenance of the flume was to be kept up by Back at his own expense.

William Back, on April 5, 1912, conveyed a large segment of his acquired land (the $E\frac{1}{2}$ $SW\frac{1}{4}$ of Section 36 and a portion of the $NW\frac{1}{4}$ $SE\frac{1}{4}$ of Section 36, T15N, R5E) to a Charles R. Chestnut and took a mortgage from Chestnut for the unpaid purchase price (a purchase money mortgage). On January 5, 1921, William Back foreclosed on the mortgage suing the successive conveyees of Chestnut (Cause No. 8062 in the Superior Court of Yavapai County, Arizona). Back won the case and the sheriff executed the judgement by seizing the land previously conveyed by Back to Chestnut. The land was sold at a Sheriff's sale to a Rowena VanDeren on June 2, 1921 (Certificate No. 8062). The Sheriff's deed, dated Dec. 5, 1921, conveyed the subject land and "also an undivided one-half interest in and to the ditch and a water right known as the "Wales Arnold Water Right", belonging to and used in connection with the said land." Rowena and her husband then conveyed portions of this parcel by deed to":

(1) the Rimrock Ranch Company, dated August 24, 1927; 21 acres and "also an undivided one-sixth (1/6) interest in and to that certain ditch and water right heretofore wholly owned by W.B. Back and the grantors herein, an undivied one-half each, and used by said grantors in the irrigation of the land hereby quitcalimed." (This deed was corrected by a second deed dated Dec. 29, 1938 from the Van Derens to Ralph and Honora Schlegel.)

(2) A.G. Dickison, dated Dec. 7, 1935; 16.06 acres "together with all improvements thereon including a one-sixth interest in water and ditch of Montezuma Well Irrigation Ditch."

Sometime after the purchase and patenting of his lands, William Back constructed the ditch from Montezuma Well and used this water as a partial substitute for the water from Beaver Creek. It appears that he eventually supplied all his needs from the ditch from Montezuma Well and discontinued his diversion from the Wales Arnold Ditch. (Note the change in description of the water rights in the VanDeren deeds.)

On December 30, 1946, Mr. Back conveyed his land remaining in both sections to the U.S. together with all rights and appurtenances thereto, (Deed 5). This became a part of Montezuma Castle National Monument proclaimed on December 8, 1906. A specific boundary change in 1943 provided for the inclusion of this detached area, (detached from the Castle area).

On October 28, 1947, Homer F. Hastings, Custodian, reported that there was a total of 98 acres of land irrigated by water from the well of which 41 was on NPS land (Montezuma Well area). It appeared that there was an agreement at that time to rotate use of the water from the well so that all the users would have sufficient water. (In the deed from W. Back to Charles Chestnut, dated April 5, 1912, it provided that "said water right is to be divided equally by each using the water three days and nights alternately.") There was also an understanding between the NPS and the three downstream users of the Well water (Schlegel, Dickison, and Watters) that the Montezuma Well property had a right to one-half the water and the other three users downstream shared the remainder equally. It appears that both the amounts and time of use of the water from Montezuma Well was divided according to the terms contained in the deeds conveying the specific parcels, and the court decree of 1906 played no part in the understanding and division by the users.

In the late part of 1954 and the early part of 1955, the three downstream users (now Schlegel, McSparron and Winneman, successors of the previous landowners) sought assistance first from the NPS and then from Senator Goldwater to alleviate an irrigation problem they were having. They stated that there was a past practice whereby one half of the water from Montezuma Well was allocated to the Well Area of the Monument and the remainder to the downstream users. They also claimed that the land in the Monument area was lying idle while the ditch to convey the water was deteriorating badly thereby wasting water and depleting their share to an amount insufficient for their needs.

A memorandum of May 10, 1955, form John O. Cook, Superintendent of Montezuma Castle, recorded the results of a meeting between the three downstream users and the NPS. The results of the meeting concurred with an opinion given by Field Solicitor, Merritt Barton, on March 16, 1955, in which he suggested that the cost of repairing and improving the ditch be shared proportionately to the amount of water each was entitled to use. As previously mentioned, the understanding at that time was that the U.S. was entitled to one half and Mr. Barton felt that an agreement, as mentioned above, would strengthen our claim. However, at the meeting, only one downstream user wanted to go to the expense of lining the ditch and so the only action taken was to install flumes to measure the water flow and to repair the sections where large losses were occuring.

On May 24, 1955, Mr. A. wan V. Dunn reccommended the U.S. claim that the ditch from Montezuma Well was a replacement of the Wales Arnold Ditch, and that all priorities were based thereon. He also pointed out that lining the ditch would kill the natural vegetation alongside (the phreatophytes).

The Regional Director of Operations, for Region 3, in a memo, dated July 5, 1955, to the Director, (after consultation with Field Solicitor Barton) replied to Mr. Dunn's memo. He was of the opinion that the decree of May 29, 1906 was the only basis of considering the present water right an adjudicated one. He considered the change in diversion from Beaver Creek to Montezuma Well was merely a change from the mainstream to a tributary (see Water Resource Proposal dated 5/30/74 dealing with a Hydrological Ground Water Study of Montezuma Well which seems to support this) and therefore the newer ditch was merely a change in point of diversion and not of the source. He also expressed his view as to what a court would decide in viewing the problem at that time. He felt a court would (1) recognize the change in point of diversion, (2) reduce the irrigated acreage to 98, and (3) recognize a lapse (abandonment) of the unused water rights as provided for in the 1906 decree. He went on to question whether the U.S. would be able to change the use from crop irrigation to irrigation of native trees and vegetation. In his opinion, he thought it would be better to "let sleeping dogs lie" and that no action should be taken to clarify our rights.

The Field Solicitor, on June 20, 1956, wrote to the General Superintendent of the Southwest National Monuments regarding this problem. He reiterated his opinion that "each and every user is a co-owner of the ditch rights, has the right to make his own repairs, all the way up to the diversion point, and as a matter of common law and equity, is obliged to contribute his proportionate share to the maintenance of all parts of the ditch." He then stated that "there is no absolute obligation to deliver any particular amount of water to the boundary of any particular lands." The obligation of each user is to refrain from using more than his share of the water (proportionate to the lands irrigated under the adjudication of 1906).

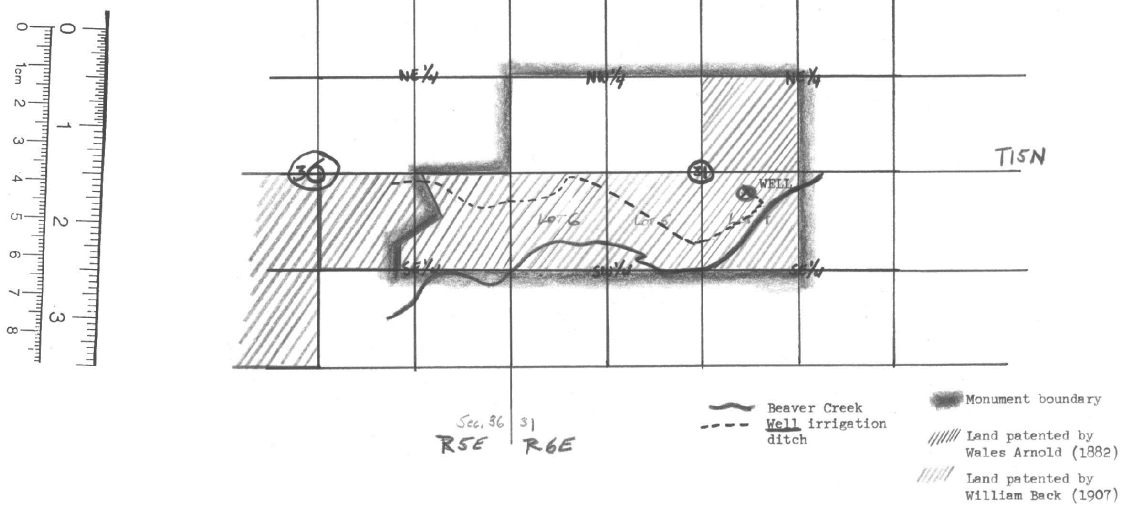
Since about 1956, the flow of the water from Montezuma Well has been measured by the installation of wiers at various points along the ditch. Questions as to losses within the Monument and the obligation to line the ditch have arisen at many times since then.

It should be noted that the NPS has drilled a well in the vicinity of Montezuma Well (in June of 1947) to provide a domestic supply in the Well Area and supplementing the supply from Montezuma Well itself.

1/31/75 Mike Ackerman

00-00-0000: rough sketch of the well area of montezuma castle

ROUGH SKETCH OF THE WELL AREA OF MONTEZUMA CASTLE N.M.



WATER DOCKET INFORMATION

AREA MONTEZUMA CASTLE N.M.

DOCKET NO. 3

APPLICATION NO. _____

PERMIT NO. _____

CERTIFICATE NO. _____

TITLE OF DOCKET WALES ARNOLD DITCH

PRIORITY 1880 plus or minus

REMARKS: _____

Memo 2/24/59 from Reg 3

Montezuma Castle National Monument - Docket No. 3

Part I - Land Status

1. Base Map, Beaver Creek Drainage, Sheet 1 of 1.

2. Plat of Property of Wm. B. Back heirs (to illustrate proposed Monument Area).

3. Copy of Warranty Deed dated December 30, 1946.

Part II - Water Rights Definition

1. Decree 3583 of May 29, 1906.

2. Memorandum of October 28, 1947 to Regional Director from Custodian with Map.

3. Memorandum of May 10, 1955 to General Superintendent from Superintendent, Montezuma Castle.

Part III - Permissive Use

1. Special Use Permit dated December 22, 1947.

MONTEZUMA CASTLE

Docket 3

Index

Part I - Land Status

A. Plat of Beaver Creek Drainage
B. Plat of Property of Wm. B. Back heirs (to illustrate proposed Monument Area)
C. Copy of Deed 5 to U.S. and Partial Abstract to be supplied later (

Part II - Water Right Definition

A. Decree 3585 of May 29, 1906
B. Memo of October 28, 1947 to Reg. Director from Custodian, with map
C. Memo of May 10, 1955

Part III - Permissive Use

A. Special Use Permit

Memo 2/24/54 from Reg 3

Montezuma Castle National Monument - Deed 3, Application A-1744

1. Letter of February 9, 1937 to Frank Pinkley from Joseph E. Taylor, Attorney.

2. Letter of October 18, 1937 to Joseph E. Taylor from Frank Pinkley, Superintendent, enclosing letter dated October 11 from Jesse C. Wanslee, State Water Commissioner, to Frank Pinkley.

3. Letter of October 29, 1937 to Frank Pinkley from J. E. Taylor.

4. Letter of January 12, 1948 to O. C. Williams from Dunn.

5. Notice of Beginning of Construction dated January 9, 1948.

6. Memorandum for the Regional Director dated April 30, 1948 from Conrad L. Wirth, Acting Assistant Director.

7. Memorandum for the Director dated June 8, 1948 to J. R. Lassiter, Regional Engineer.

8. Record of Well.

STATEMENT OF CLAIMANT FORM FOR OTHER USES[1]

File No. 39-_____
Date Filed:_____
WFN_____

VERDE RIVER WATERSHED
SUPERIOR COURT OF MARICOPA COUNTY

1. Claimant Name: United States of America, c/o National Park Service (Montezuma Castle Natl Monument)
Claimant Address: Box 36036, 450 Golden Gate Avenue City San Francisco
State: California Zip Code 94102 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._____, Permit No._____, or Certificate of Water Right No._____
C. ☒ Decreed water right. Principal litigants, court, date and case no.: Priscilla and Charles Mahan, William Bech, et. al., District Court of the Territory of Arizona, May 29, 1906 Decree No. 3583
D. ☐ Right to withdraw groundwater.
E. ☐ Other, describe:_____

3. Claimed Priority Date: 1870 (month/day/year)

4. Use:
A. ☐ Municipal
B. ☐ Commercial or Industrial
C. ☐ Mining
D. ☐ Stockwatering other than from a stockpond
E. ☐ Recreation, Fish & Wildlife
F. ☒ Other, describe: Historic integrity (Ethnological interest)

5. Source of Water:
A. ☐ Stream: name_____, tributary to_____
B. ☒ Spring: name Montezuma Well, tributary to Beaver Creek
C. ☐ Lake or Reservoir: name_____, tributary to_____
D. ☐ Groundwater

6. Legal description of the Point of Diversion: (attach additional sheet if required)
NE ¼, NE ¼, SW ¼, Section 31, Township 15 (N)/S, Range 6 (E)/W

7. If there are Irrigation, Domestic or Stockpond uses also supplied from the Point of Diversion, describe:
Lands are irrigated within the monument under permit.

8. Means of Diversion:
A. ☐ Instream pump
B. ☒ Gravity flow into ditch, canal or pipeline.
C. ☐ Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No._____
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 N/A

Legal Subdivision	Section	Township	Range
_____	_____	_____N/S	_____E/W
_____	_____	_____N/S	_____E/W

11. Claimed Right:
   A. Maximum Flow Rate: 1.5* ☒ cubic-feet per second ☐ gallons per minute ☐ Arizona miner's inches
   B. Annual Volume of Water Use: _____ acre-feet
   C. Storage Right: _____ acre-feet

12. Attach photographs, maps or sketches necessary to show the point of diversion, storage reservoir(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 Bruce M. Kilgore, Chief Div.of Nat.Res.& Research Western Regional 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) 556-1036

15. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85062.

16. Additional comments: *This is an estimate of half the flow from Montezuma Well, the U.S. Government claims half the flow from this "well" which is a spring-fed, natural limestone sink, as per Decree No. 3583.

(attach additional sheet if required)

17. Notarized Statement:
I (We), Bruce M. Kilgore, 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.

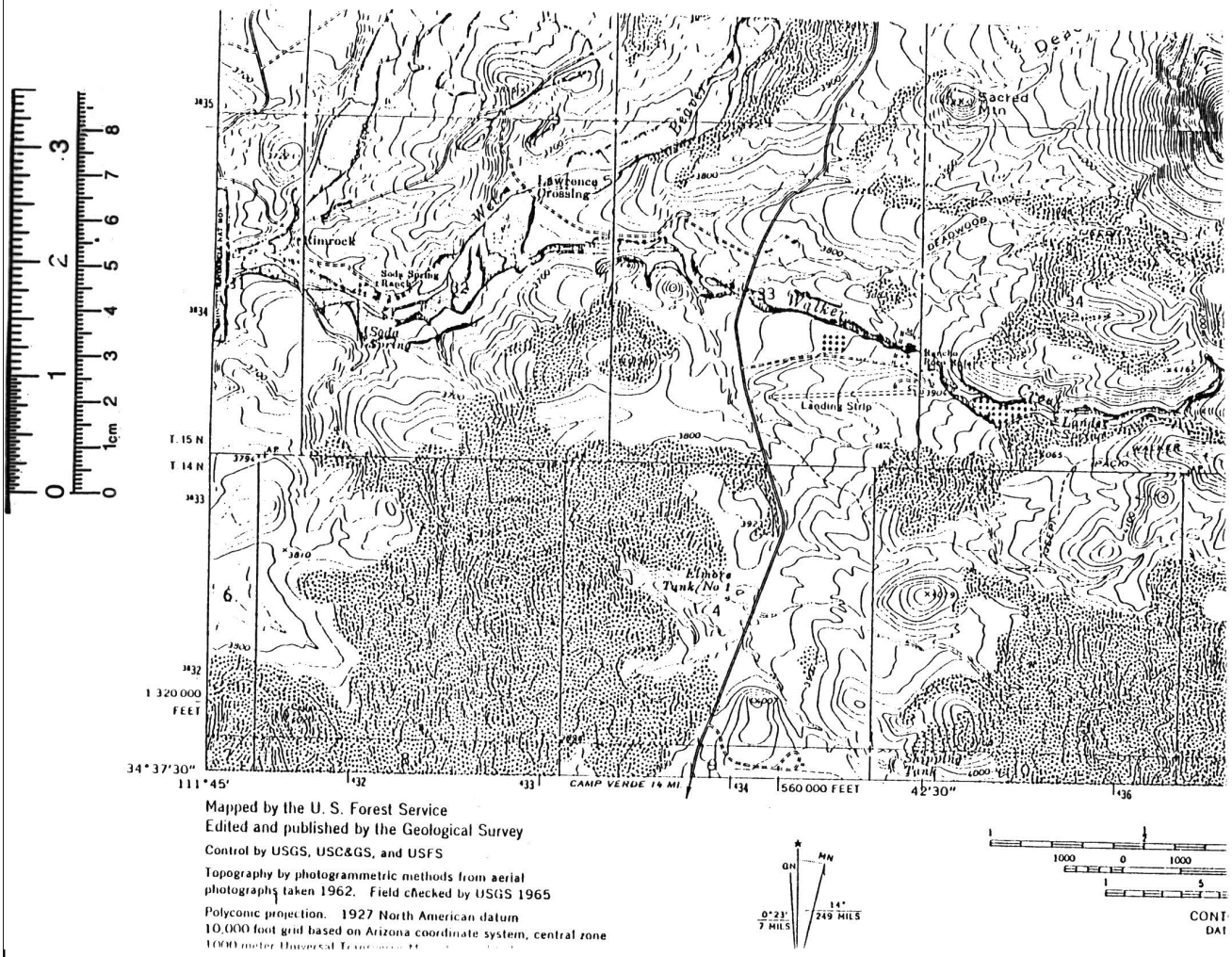
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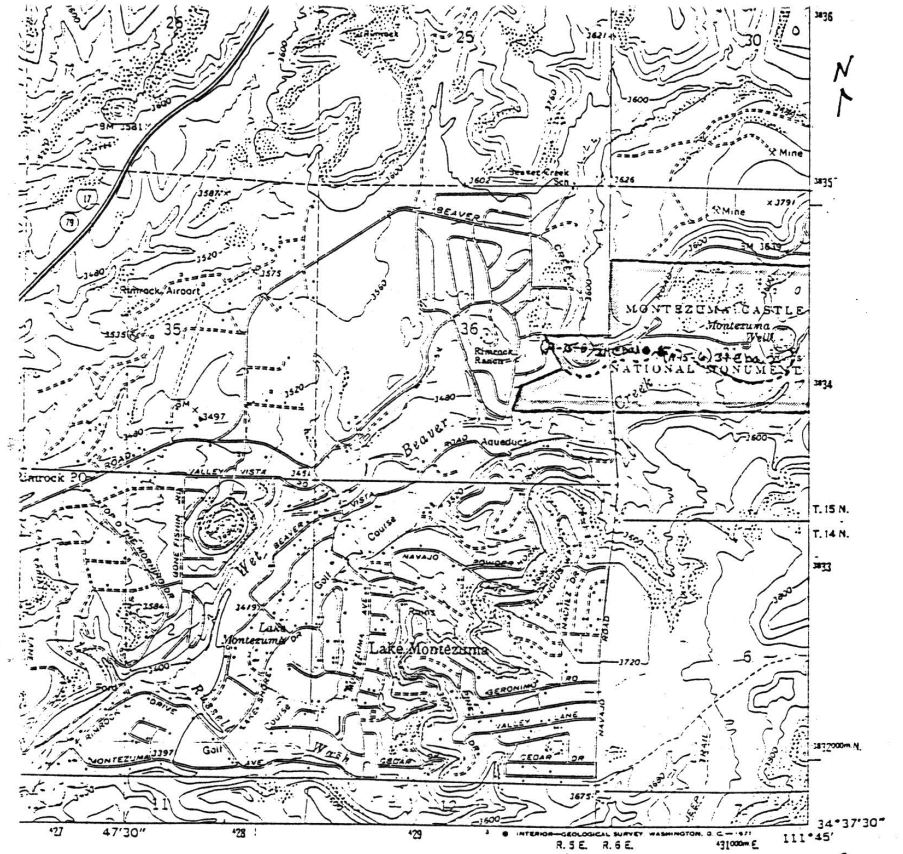
_____ _____
My Commission Expires: Notary Public

or, _____
Authorized Personnel of the Department of Water Resources

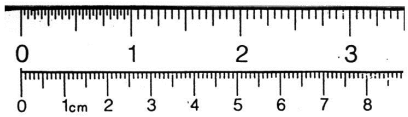
00-00-0000: topographical map of montezuma castle national monument



00-00-1969: map of lake montezuma, az - road classification

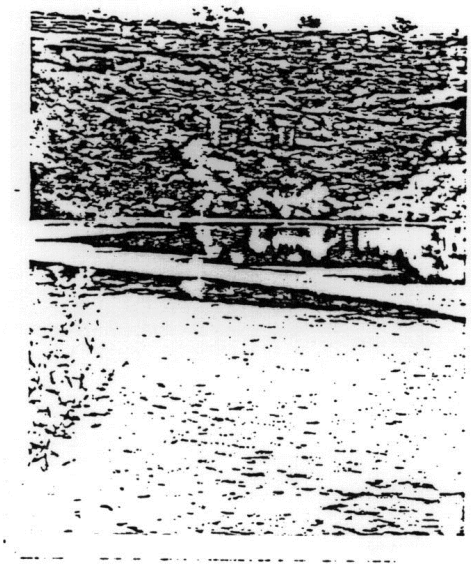


Wales Arnold Ditch
within Monument



09-16-1980: picture of montezuma castle (montezuma well area) spring #(a-15-6) 31 dbb, montezuma well

. ıtezuma Castle (Montezuma Well Are
Spring #(A-15-6) 31 dbb
Montezuma Well



Montezuma Well (sinkhole and pond formed by spring); photo taken from trail leading to Swallet Ruin, looking Northeast over pond to far wall of sinkhole.

W. Reed
9/16/80

09-16-1980: picture of montezuma castle (montezuma well area) spring #(a-15-6) 31 dbb, montezuma well

. ntezuma Castle (Montezuma Well Area
Spring #(A-15-6) 31 dbb
Montezuma Well



Montezuma Well (outlet and irrigation ditch), this site is approximately 25 feet northwest of Wet Beaver Creek. A park maintained trail leads to this site. The flow in the ditch was estimated at approximately 3 cfs when this photo was taken. (See hydrologic folder (A-15-6) 31 cbal for another view of the irrigation ditch.)

W. Reed
9/16/80

00-00-0000: picture of montezuma castle (montezuma well area) spring #(a-15-6) 31 dbb, montezuma well

COPY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE TERRITORY OF ARIZONA; IN AND FOR THE COUNTY OF YAVAPAI.

Priscilla Mahan and Charles F. Mahan,

Plaintiffs,

vs

William Schroeder, James O. Maxwell, Leonard Maxwell, William Beck, B. F. Taylor, Robert Finney, Elizabeth Clift, Nelson Hollingshead, John Skaggs, Nicodemus Hutchinson and Riley Casner,

Defendants.

No. 358

DECREE.

This cause came on regularly by the court sitting without a jury, on the 7th day of November, 1905, the same being one of the days of the regular November term of said court, and was tried from day to day until the 9th day of November, 1905, when, all the evidence in the cause having been produced before the court, the case was submitted to the court for final judgment. At said hearing all of the parties were present both in person and by counsel, Priscilla and Charles F. Mahan being represented by Herndon and Norris, William Schroeder and William Beck being represented by E. S. Clark, and Robert Finney, B. F. Taylor, Elizabeth Clift, Nelson Hollingshead, John Skaggs, Nicodemus Hutchinson and Riley Casner begin represented by Street & Alexander. And Now, to-wit, on the 29th day of May, 1906, the court, after due consideration and being fully advised in the premises, makes and files this, the final decree of the Court;

I.

That the parties hereto, namely, Priscilla Mahan and Charles F. Mahan, plaintiffs, and William Schroeder, William Beck, B. F. Taylor, Robert Finney, Elizabeth Clift, Nelson Hollingshead, John Skaggs, Nicodemus Hutchinson and Riley Casner, defendants, or their predecessors in interest, have made appropriations of water from the waters of Beaver Creek, Yavapai County, Arizona, for the useful and beneficial purposes of diverting the same from the bed of Beaver Creek and conducting itupon the lands lying along Beaver Creek, in order to farm, till and cultivate the same in the raising of useful products of the soil; and that they are now diverting and using water under such appropriations for the useful purpose of cultivation as aforesaid. That the number of acres of land now being cultivated by the respective parties, and the dates of their appropriations in order of time, are as follows, to wit;

1st. William Beck, 101 acres of land under his appropriation made in the year 1870;

2nd. Priscilla and Charles F. Hahn, 120 acres of land under an appropriation made in theyear 1871, and 20 acres of land under appropriations made in 1898.

3rd. William Schroeder, 90 acres of land under an appropriation made by Priscilla and Charles F. Hahn and their predecessors in interest;

4th. Robert Finney, 30 acres of land under an appropriation made in the year 1879;

5th. Elizabeth Clift, 15 acres of landunder an appropriation made in the year 1880;

6th. Riley Canner, 5 acres of landunder an appropriation direct of the waters of Beaver Creek made in the year 1885, and 18 acres of land under an appropriation of the waters of a spring adjacent to the land and not in the bed of Beaver,Creek, made in the year 1884;

7th. John Skaggs, 15 acres of land under an appropriation madein the year 1889;

8th. B. F. Taylor, 14 acres of land under an appropriation made in the year 1890;

9th. Nicodemus Robinson, 8 acres of land under an appropriation made in 1897;

10th. Nelson Hollingshead, 10 acres of land under an appropriation made in the year 1898.

II.

That during portions of each and every year the flow of the waters of Beaver Creek is not sufficient to give to each and all of the appropriators of water and the cultivators of land along said Beaver Creek, parties to this action, a sufficient amount of water to properly cultivate their lands, if the older appropriators and users of water be allowed a continuous flow of the waters of Beaver Creek under their appropriations according to their legal priorities, and the Court adjudges that it would be an injustice to the appropriators andusers of water, parties to this suit, to permit the waters to be so used and applied, and further adjudges that if the waters of Beaver Creek, under the several appropriations made by thepartiesto this action, be equitably distributed, there would be sufficient water, properly and economically applied, to answer the necessary purposes of all of the parties to this action, and so orders and decrees that the same be equitably distributed to the lands of thepartiesto this action. It adjudges that it is the duty of this Court to so distribute and apply the waters of Beaver Creek to the respective lands of the parties to this suit, under the superintendence of a Water Commissioner appointed by the Court, to take chargeof and divert and distribute the waters of said Creek to the different lands under the respective appropriations of thepartiesto this action, and that the said Court from time to time make such orders in regard to all matters pertaining to the diversion, application and use of said waters to said lands, as may be necessary.

2

III.

That all the parties to this action shall have the use of the necessary amount of water of the waters of Beaver Creek under their respective appropriations, equitably distributed under the orders of the Court from time to time and administered through the medium of a Water Commissioner to be appointed by this Court, and the Court shall make such orders as may be necessary from time to time to accomplish such equitable distribution; and regulate by order the pay of said Commissioner, and the periods, terms and months in and through which said Commissioner shall have control of the waters of Beaver Creek in the distribution as aforesaid. That this decree shall be kept open for the purpose of retaining jurisdiction of the Court over the distribution of said waters under said appropriations and the orders pertaining thereto. That said orders, when made and filed, shall be regarded as a part of this decree of the nature of final order and decree from the date of the filing of such order.

IV.

That each of the parties hereto be, and they are hereby perpetually restrained and enjoined from using the waters of said Beaver Creek to any greater extent, or otherwise, than is prescribed herein, and from any interference whatever with the Water Commissioner in his distribution of water, and from any waste, extravagance or careless use thereof, except whenever there may be a surplus of water flowing in said creek, each of the parties hereto may use his or her proportion of said surplus according to the extent of his or her right as herein established, and the method of diverting, measuring, conducting and using the waters of said Creek as by the Court or Water Commissioner ordered, shall apply at all times and seasons of the year.

That in order to save water and prevent the waste thereof, the ditch of defendant, William Beck, be boxed or flumed for a distance of about 100 yards from its head; the original expense of the boxing or fluming of said ditch to be borne by William Beck and by plaintiff (Priscilla and C. P. Mahan) and the defendant, William Schroeder, in the proportion of one-third each. The defendant Beck shall keep the same up at his own cost.

VI.

That in order to save water and prevent the waste or loss thereof, it is hereby ordered and adjudged that a dam be constructed and maintained by plaintiffs, Priscilla and C. P. Mahan, and said defendant, Schroeder, at the head of plaintiffs' present ditch, whereby all of the water herein adjudged to said parties, and not exceeding 250 inches in the dry or irrigating season when water is scarce, under a 4 inch pressure, may be diverted, and that the same be conveyed through the plaintiffs' ditch to

III.

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That in order to save water and prevent the waste thereof, the ditch of defendant, William Beck, be boxed or flumed for a distance of about 100 yards from its head; the original expense of the boxing or fluming of said ditch to be borne by William Beck and by plaintiff (Priscilla and C. F. Mahan) and the defendant, William Schroeder, in the proportion of one-third each. The defendant Beck shall keep the same up at his own cost.

VI.

That in order to save water and prevent the waste or loss thereof, it is hereby ordered and adjudged that a dam be constructed and maintained by plaintiffs, Priscilla and C. F. Mahan, and said defendant, Schroeder, at the head of plaintiffs' present ditch, whereby all of the water herein adjudged to said parties, and not exceeding 250 inches in the dry or irrigating season when water is scarce, under a 4 inch pressure, may be diverted, and that the same be conveyed through the plaintiffs' ditch to

some convenient point of measurement or division; said water to be divided in the proportion of three-fifths to plaintiffs and two-fifths to the defendant Schroeder. That the expense of enlarging plaintiffs' ditch and of establishing a proper means of measurement and of maintaining the same, shall be borne by said parties in the proportion of three-fifths to plaintiffs and two-fifths to defendant Schroeder. That immediately after any destruction or damage to the dam or ditch, the same shall be repaired by plaintiffs and defendant Schroeder, the expense to be borne in the same ratio, and if one shall fail to do his pro rata of such repair at once after the damage occurs, then the other may do so and charge the proper pro rata expense to the one so failing.

That in addition to the amount of water adjudged to Defendant Schroeder in the preceding paragraph, it is hereby ordered and adjudged that the defendant Schroeder is entitled to use such quantity of water in his lower ditch on Beaver Creek as will properly irrigate 15 acres of land, at such times as the amount he obtains is insufficient to irrigate all of his lands, including such 15 acres.

Each party to pay his own costs.
Done in open court this 29th day of May, 1906.

Richard E. Sloan
Judge.

FILED: at 10 o'clock A.M.
Aug 23, 1906
J. N. Watts, Clerk.

4

STATE WATER COMMISSIONER
STATE HOUSE
PHOENIX, ARIZONA

JUL 20 1942
JESSE C. WANSLEE
COMMISSIONER
FILE

July 18, 1942

(Copies mailed Director, Reg. 3, Supt. S. W. Mons. and Custodian, Mont. Castle N.M. 8/20/42.)

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

Dear Sir:

We are in receipt of your letter of July 13th requesting any information we may have concerning applications for permit to appropriate water on Beaver Creek, and especially if we have of record appropriations in the name of L. L. Davis or Mrs. Floe Alice Davis.

Our records do not disclose any appropriations on Beaver Creek under the name of Davis, however old rights may have been initiated prior to the effective date of the present Water Code, June 12, 1919, of which we have no record.

Although we find no appropriations in the sections mentioned in your letter, our records disclose several filings on Beaver Creek in which you may be interested and we submit the following abstracts from these records:

T. 15 N., R. 5 E.

Application No. A-1497, by C. D. Bell.
Filed March 29, 1934.
Permit granted August 4, 1939.
300 gallons per day for domestic use.
3-3/4 acre feet per acre per annum for irrigation of 5 acres.
182,500 gallons per annum for stock watering.
Source: Dry Beaver Wash.
Point of diversion, $SW\frac{1}{4}SW\frac{1}{4}$, Sec. 14.

T. 15 N., R. 6 E.

Application No. A-880, by Beaver Creek Ranch Corp.
Filed November 28, 1928.

This is part of remainder of next page

Permit granted December 3, 1928.
Certificate of Water Right issued August 13, 1930.
Assigned to E. H. Leith of Chicago.
10 second feet for power.
Source Beaver Creek.
Point of diversion, NW¼SE¼, Sec. 23.

T. 15 N., R. 6 E.

Applications Nos. R-372, A-1084, Ralph Murphy.
Filed March 14, 1930.
To store 274,800 acre feet.
To divert 204 second feet
For power purposes
Source, Wet Beaver Creek.
Storage and point of diversion within NW¼SW¼, Sec. 24.
Action on applications has not been taken.

T. 15 N., R. 8 E.

Applications Nos. R-378, A-1116, Ralph Murphy.
R-378, filed May 14, 1930; A-1116 filed June 10, 1930.
To store 42,500 acre feet
To divert 60 second feet
For power, mining & domestic purposes.
Storage and point of diversion within S½, Sec. 17.
Action on applications has not been taken.

T. 15 N., R. 6 E.

Claimed Right No. C-95, by Flora M. Finney.
Filed July 26, 1934.
To divert about 400 miners inches
For irrigation of 50 acres.
Statement states right established by Court Order
Suit No. 3583, Yavapai Co., 1903.
Claimed date of priority, 1879.
Source, Beaver Creek.
For use on N½, Sec. 31 & S½, Sec. 32.

Application No. A-1744 of the United States of America, Southwestern National Monument, filed March 9, 1937, is yet pending not having been rejected as you state. The question was raised and not definately determined in this case as to the character of the water. There was one well in use at the time of filing the application. It was proposed to sink another well about 500 feet up stream from the house and it appears that the application has been held pending until the new well was sunk. The application in its present status protects the Park Service from other appropriations if it is finally determined that the water is appropriable.

There has been no change in the ground water law of Arizona since 1937. We enclose herewith copy of our latest issue of the Water Code.

Sincerely yours,

Jesse C. Wanslee

Jesse C. Wanslee
State Water Commissioner

JCW:ETS:LC
Enc.

(NOTE: This is a retyped copy of a blurry 1906 copy. Because of the poor quality of the copy, the names of the parties contained in the decree were illegible and may be mispelled.)

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE TERRITORY OF ARIZONA IN AND FOR THE COUNTY OF YAVAPAI.

Priscilla Mahan and Charles F. Mahan, Plaintiffs, vs William Schroeder, James O. Maxwell, Leonard Maxwell, William Back, B. C. Taylor, Robert Finney, Elizabeth Clift, Nelson Hollingshead, John Skaggs, Nicodemus Hutchinson and Riley Camer, Defendants.	No. 3583 DECREE.

This cause came on regularly by the court sitting without a jury, on the 7th day of November, 1905, the same being one of the days of the regular November term of said court, and was tried from day to day until the 9th day of November, 1905, when, all the evidence in the cause having been produced before the court, the case was submitted to the court for final judgment. At said hearing all of the parties were present both in person and by counsel, Priscilla and Charles F. Mahan being represented by Herodon and Harris, William Schroeder and William Back being represented by E. S. Clark and Robert Finney, B. F. (sic) Taylor, Elizabeth Clift, Nelson Hollingshead, John Skaggs, Nicodemus Hutchinson and Riley Camer begin represented by Street & Alexander, and now, to-wit, on the 27th day of May, 1906, the court, after due consideration and being fully advised in the premises, makes and files this, the final course of the Court;

I.

That the parties hereto, namely, Priscilla Mahan and Charles F. Mahan, plaintiffs, and William Schroeder, William Back, B. F. (sic) Taylor, Robert Finney, Elizabeth Clift, Nelson Hollingshead, John Skaggs, Nicodemus Hutchinson and Riley Camer, defendants, or their predecessors in interest, have made

appropriations of water from the waters of Beaver Creek, Yavapai County, Arizona, for the useful and beneficial purpose of diverting the same from the bed of Beaver Creek and conducting it upon the lands lying along Beaver Creek, in order to farm, till and cultivate the same in the raising of useful products of the soil, and that they are now diverting and using water under such appropriations for the useful purpose of cultivation as aforesaid. That the number of acres of land now being cultivated by the respective parties, and the dates of their appropriations in order of time, are as follows, to wit;

1st. William Back, 101 acres of land under his appropriation made in the year 1870;
2nd. Priscilla and Charles F. Mahan, 150 acres of land under an appropriation made in the year 1871, and 20 acres of land under appropriation made in 1895;
3rd. William Schroeder, 90 acres of land under an appropriation made by Priscilla and Charles F. Mahan and their predecessors in interest;
4th. Robert Finney, 50 acres of land under an appropriation made in the year 1879;
5th. Elizabeth Clift, 15 acres of land under an appropriation made in the year 1880;
6th. Riley Camer, 5 acres of land under an appropriation direct of the waters of Beaver Creek made in the year 1885, and 18 acres of land under an appropriation of the waters of a spring adjacent to the land and not in the bed of Beaver Creek, made in the year 1884;
7th. John Skaggs, 15 acres of land under an appropriation made in the year 1889;
8th. B. F. (sic) Taylor, 14 acres of land under an appropriation made in the year 1890;
9th. Nicodemus Hutchinson and his son, 8 acres of land under an appropriation made in 1897;
10th. Nelson Hollingshead, 10 acres of land under an appropriation made in the year 1898.

II.

That during portions of each and every year the flow of the waters of Beaver Creek is not sufficient to give to each and all of the appropriators of water and the cultivators of land along said Beaver Creek, parties to this action, a sufficient amount of water to properly cultivate their lands, if the older appropriators and users of water be allowed a continuous flow of the waters of Beaver Creek under their appropriations according to their legal priorities, and the Court adjudges that it would be an injustice to the appropriators and users of water, parties to this suit, to permit the waters to be so used and applied, and further adjudges that if the waters of Beaver Creek, under the several appropriations made by the parties to this action, be equitably distributed, there would be sufficient water, properly and economically applied, to answer the necessary purposes of all of the parties to this action, and so orders and decrees that the

same be equitably distributed to the lands of the parties to this action. It adjudges that it is the duty of this Court to so distribute and apply the waters of Beaver Creek to the respective lands of the parties to this suit, under the superintendence of a Water Commissioner appointed by the Court, to take charge of and divert and distribute the waters of said Creek to the different lands under the respective appropriations of the parties to this action, and that the said Court from time to time made such orders in regard to all matters pertaining to the diversion, application and use of said waters to said lands, as may be necessary.

III.

That all the parties to this action shall have the use of the necessary amount of water of the waters of Beaver Creek under their respective appropriations, equitably distributed under the orders of the Court from time to time and administered through the medium of a Water Commissioner to be appointed by this Court, and the Court shall make such orders as may be necessary from time to time to accomplish such equitable distribution and regulate by order the pay of said Commissioner, and the periods, terms and months in and through which said Commissioner shall have control of the waters of Beaver Creek in the distribution as aforesaid. That this decree shall be kept open for the purpose of retaining jurisdiction of the Court over the distribution of said waters under said appropriations and the orders pertaining thereto. That said orders, when made and filed, shall be regarded as a part of this decree of the nature of final order and decree from the date of the filing of such order.

IV.

That each of the parties hereto be, and they are hereby perpetually restrained and enjoined from using the waters of said Beaver Creek to any greater extent, or otherwise, than is prescribed herein, and from any interference whatever with the Water Commissioner in his distribution of water, and from any waste, extravagance or careless use thereof, except whenever there may be a surplus of water flowing in said Creek, each of the parties hereto may use his or her proportion of said surplus according to the extent of his or her right as herein established, and the method of diverting, measuring, conducting and using the waters of said Creek as by the Court or Water Commissioner ordered, shall apply at all times and seasons of the year.

That in order to save water and prevent the waste thereof, the ditch of defendant, William Back, be boxed or flumed for a distance of about 100 yards from its head; the original expense of the boxing or fluming of said ditch to be borne by William Back and by plaintiff (Priscilla and C. F. Mahan) and the defendant, William Schroeder, in the proportion of one-third each. The defendant Back shall keep the same up at his own cost.

VI. (sic)

That in order to save water and prevent the waste or loss thereof, it is hereby ordered and adjudged that a dam be constructed and maintained by plaintiffs, Priscilla and C. F. Mahan, and said defendant, Schroeder, at the head of plaintiffs' present ditch, whereby all of the water herein adjudged to said parties and not exceeding 250 inches in the dry or irrigating season when water is scarce, under a 4 inch pressure, may be diverted, and that the same be conveyed through the plaintiffs' ditch to some convenient point of measurement or division; said water to be divided in the properties of three-fifths to plaintiffs and two-fifths to the defendant Schroeder. That the expense of enlarging plaintiffs' ditch and of establishing a proper means of measurement and of maintaining the same, shall be borne by said parties in the proportion of three-fifths to plaintiffs and two-fifths to defendant Schroeder. That immediately after any destruction or damage to the dam or ditch, the same shall be repaired by plaintiffs and defendant Schroeder, the expense is to be borne in the same ratio, and if one shall fail to do his pro rata of such repair at once after the damage occurs, then the other may do so and charge the pro rata expense to the one so failing.

That in addition to the amount of water adjudged to defendant Schroeder in the preceding paragraph, it is hereby ordered and adjudged that the defendant Schroeder is entitled to use such quantity of water in his lower ditch on Beaver Creek as will properly irrigate 15 acres of land, at such times as the amount he obtains is insufficient to irrigate all of his lands, including such 15 acres.

Each party to pay his own costs.
Done in open court this 29th day of May, 1906.

Richard E. Sloan
Judge

FILED, at 10 o'clock A.M.
Aug. 25, 1906
J. N. Watts, Clerk

COPY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE

TERRITORY OF ARIZONA; IN AND FOR THE COUNTY OF YAVAPAI.

Priscilla Mahan and Charles F. Mahan, Plaintiffs, vs	
William Schroeder, James O. Maxwell, Leonard Maxwell, William Back, B. F. Taylor, Robert Finney, Elizabeth Clift, Nelson Hollingshead, John Skagge, Nicodemus Hutchinson and Riley Gasner, Defendants.	No. 3585 DECREE.

This cause came on regularly by the court sitting without a jury, on the 7th day of November, 1905, the same being one of the days of the regular November term of said court, and was tried from day to day until the 9th day of November, 1905, when, all the evidence in the cause having been produced before the court, the case was submitted to the court for final judgment. At said hearing all of the parties were present both in person and by counsel, Priscilla and Charles F. Mahan being represented by Herndon and Norris, William Schroeder and William Back being represented by E. S. Clark, and Robert Finney, B. F. Taylor, Elizabeth Clift, Nelson Hollingshead, Johan Skagge, Nicodemus Hutchinson andRiley Gasner begin represented by Street & Alexander, And Now, to-wit; on the 29th day of May, 1906, the court, after due consideration and being fully advised in the premises, makes and files this, the final decree of the Court;

I.

That the parties hereto, namely, Priscilla Mahan and Charles F. Mahan, plaintiffs, and William Schroeder, William Back, B. F. Taylor, Robert Finney, Elizabeth Clift, Nelson Hollingshead, John Skagge, Nicodemus Hutchinson and Riley Gasner, defendants, or their predecessors in interest, have made appropriations of water from the waters of Beaver Creek, Yavapai County, Arizona, for the useful and beneficial purposes of diverting the same from the bed of Beaver Creek and conducting itupon the lands lying along Beaver Creek, in order to farm, till and cultivate the same in the raising of useful products of the soil; and that they are now diverting and using water under such appropriations for the useful purpose of cultivation as aforesaid. That the number of acres of land now being cultivated by the respective parties, and the dates of their appropriations in order of time, are as follows, to wit;

1st. William Back, 101 acres of land under his appropriation made in the year 1870;
2nd. Priscilla and Charles F. Mahan, 150 acres of land under an appropriation made in theyear 1871, and 20 acres of land under appropriations made in 1895.
3rd. William Schroeder, 90 acres of land under an appropriation made by Priscilla and Charles F. Mahan and their predecessors in interest;
4th. Robert Finney, 30 acres of land under an appropriation made in the year 1879;
5th. Elizabeth Clift, 15 acres of landunder an appropriation made in the year 1880;
6th. Riley Gasner, 3 acres of landunder an appropriation direct of the waters of Beaver Creek made in the year 1885, and 18 acres of land under an appropriation of the waters of a spring adjacent to the land and not in the bed of Beaver,Creek, made in the year 1884;
7th. John Skaggs, 15 acres of land under an appropriation madein the year 1889;
8th. B. F. Taylor, 14 acres of land under an appropriation made in the year 1890;
9th. Nicodemusbutchinson, 8 acres of land under an appropriation made in 1897;
10th. Nelson Hollingshead, 10 acres of land under an appropriation made in the year 1898.

II.

That during portions of each and every year the flow of the waters of Beaver Creek is not sufficient to give to each and all of the appropriators of water and the cultivators of land along said Beaver Creek, parties to this action, a sufficient amount of water to properly cultivate their lands, if the older appropriators and users of water be allowed a continuous flow of the waters of Beaver Creek under their appropriations according to their legal priorities, and the Court adjudges that it would be an injustice to the appropriators andusers of water, parties to this suit, to permit the waters to be so used and applied, and further adjudges that if the waters of Beaver Creek, under the several appropriations made by theparties to this action, be equitably distributed, there would be sufficient water, properly and economically applied, to answer the necessary purposes of all of the parties to this action, and so orders and decrees that the same be equitably distributed to the lands of theparties to this action. It adjudges that it is the duty of this Court to so distribute and apply the waters of Beaver Creek to the respective lands of the parties to this suit, under the superintendence of a Water Commissioner appointed by the Court, to take chargeof and divert and distribute the waters of said Creek to the different lands under the respective appropriations of theparties to this action, and that the said Court from time to time make such orders in regard to all matters pertaining to the diversion, application and use of said waters to said lands, as may be necessary.

2

III.

That all the parties to this action shall have the use of the necessary amount of water of the waters of Beaver Creek under their respective appropriations, equitably distributed under the orders of the Court from time to time and administered through the medium of a Water Commissioner to be appointed by this Court, and the Court shall make such orders as may be necessary from time to time to accomplish such equitable distribution; and regulate by order the pay of said Commissioner, and the periods, terms and months in and through which said Commissioner shall have control of the waters of Beaver Creek in the distribution as aforesaid. That this decree shall be kept open for the purpose of retaining jurisdiction of the Court over the distribution of said waters under said appropriations and the orders pertaining thereto. That said orders, when made and filed, shall be regarded as a part of this decree of the nature of final order and decree from the date of the filing of such order.

IV.

That each of the parties hereto be, and they are hereby perpetually restrained and enjoined from using the waters of said Beaver Creek to any greater extent, or otherwise, than is prescribed herein, and from any interference whatever with the Water Commissioner in his distribution of water, and from any waste, extravagance or careless use thereof, except whenever there may be a surplus of water flowing in said creek, each of the parties hereto may use his or her proportion of said surplus according to the extent of his or her right as herein established, and the method of diverting, measuring, conducting and using the waters of said Creek as by the Court or Water Commissioner ordered, shall apply at all times and seasons of the year.

That in order to save water and prevent the waste thereof, the ditch of defendant, William Back, be boxed or flumed for a distance of about 100 yards from its head; the original expense of the boxing or fluming of said ditch to be borne by William Back and by plaintiff (Priscilla and C. F. Mahan) and the defendant, William Schroeder, in the proportion of one-third each. The defendant Back shall keep the same up at his own cost.

VI.

That in order to save water and prevent the waste or loss thereof, it is hereby ordered and adjudged that a dam be constructed and maintained by plaintiffs, Priscilla and C. F. Mahan, and said defendant, Schroeder, at the head of plaintiffs' present ditch, whereby all of the water herein adjudged to said parties, and not exceeding 250 inches in the dry or irrigating season when water is scarce, under a 4 inch pressure, may be diverted, and that the same be conveyed through the plaintiffs' ditch to

some convenient point of measurement or division; said water to be divided in the proportion of three-fifths to plaintiffs and two-fifths to the defendant Schroeder. That the expense of enlarging plaintiffs' ditch and of establishing a proper means of measurement and of maintaining the same, shall be borne by said parties in the proportion of three-fifths to plaintiffs and two-fifths to defendant Schroeder. That immediately after any destruction or damage to the dam or ditch, the same shall be repaired by plaintiffs and defendant Schroeder, the expense to be borne in the same ratio, and if one shall fail to do his pro rata of such repair at once after the damage occurs, then the other may do so and charge the proper pro rata expense to the one so failing.

That in addition to the amount of water adjudged to Defendant Schroeder in the preceding paragraph, it is hereby ordered and adjudged that the defendant Schroeder is entitled to use such quantity of water in his lower ditch on Beaver Creek as will properly irrigate 15 acres of land, at such times as the amount he obtains is insufficient to irrigate all of his lands, including such 15 acres.

Each party to pay his own costs.
Done in open court this 29th day of May, 1906.

Richard E. Sloan
Judge.

FILED: at 10 o'clock A.M.
Aug 25, 1906
J. M. Watts, Clerk.

4

Land History

montezuma Castle

WR copy
EWR
4/1/66

PARKS

In reply refer to:
L1417-SLN

MAR 29 1966

Dear Mr. Barton:

Thank you for your recent letter to the Secretary of the Interior, enclosing a copy of a letter from Mr. David H. Palmer of Head and Palmer, Attorneys at Law, concerning Mr. Paul Webb's riparian boundary claim along Beaver Creek at Montezuma Castle National Monument, Arizona.

Mr. Palmer's advice that his inability to find a qualified nominee for consideration as the third member of a three-man fact finding board, not a board of arbitration, and the prohibitive costs to be incurred, together with his suggestion that you proceed with filing your report, indicate he does not intend to participate further in the formation of a board.

In the foregoing circumstances and since Mr. Palmer has indicated that he does not propose to abandon the claims, we suggest that you proceed with completion of your report and submission thereof to the Regional Director of the National Park Service's Southwest Region. The Regional Director can then transmit the report to this Office for review by the Solicitor's Office as to the merits of the claims.

Sincerely yours,

(sgd) Orren Beaty

Assistant to the Secretary

Mr. Merritt Barton
724 Spruce Street
Santa Fe, New Mexico 87501

cc:
DCCO
Secretary's Reading File
Solicitor's Office - w/c of inc.
Regional Director, Southwest - copy of inc. furnished with Mr. Barton's ltr of March 3
Supt., Montezuma Castle - w/c of inc.
SLN - Mr. Reed - w/c of inc.
SLN - w/c of inc.
SLR ~~- w/c of inc.~~
NPS Office Copy
CRUSmith:HRG:pjk 3/21/66 S-9135

MAR 3 1966

224 Spruce Street
Santa Fe, New Mexico 87501

Hon. Stewart L. Udall
Secretary of the Interior
Department of the Interior
Washington, D. C. 20240

Re: Case involving disputed boundary of the Montezuma Well Section, Montezuma Castle National Monument, Arizona

Dear Mr. Secretary:

There is attached a copy of a letter of January 23 to me from David H. Palmer, attorney for the claimants. In effect, his clients do not wish to continue further with the plan for establishing a fact finding board which was proposed in your letter of June 25, 1965.

I talked over the telephone with Mr. Gary Hart, of the Solicitor's staff, and apparently your copy of Mr. Palmer's letter of January 23 had not come to their attention. I told him I had been informed about a year ago that my report was not desired, although it was substantially completed. When the fact finding board was authorized I intended offering parts of the report for the use of the board, particularly the file of maps and plats and references to recorded instruments.

Please inform me whether my report is now desired. It is addressed to the Regional Director, Southwest Region, National Park Service, since my personal service contract requiring my investigation and report was executed by him. I hope it will not be necessary to rewrite the first page so as to change the address. I had planned to deliver five copies to him for further distribution to your office and other offices concerned.

Sincerely yours,

Merritt Barton

Merritt Barton

Attachment

cc: Regional Director, Southwest Region
National Park Service (2) with copies of attachment

IMMEDIATE OFFICE OF THE SECRETARY
MAR 7 4 55 PM '66
U.S. DEPT. OF INTERIOR
RECEIVED

SAM J. HEAD DAVID H. PALMER

HEAD & PALMER
ATTORNEYS AT LAW
CORTEZ AND GURLEY
BOX 591
PRESCOTT, ARIZONA
HICKORY 5-2581

January 23, 1966

Mr. Merritt Barton
224 Spruce St.
Santa Fe, New Mexico

Re: Montezuma Well-Soda Springs Ranch,
Boundary line matter

Dear Mr. Barton:

Since receipt of your letter of September 10, 1965, together with letters from the Secretary of Interior from time to time, it appears to us that the contemplated cost of our attempting to meet the financial obligations of a fact finding board would be prohibitive - particularly so, in view of the difficulty encountered in locating a qualified person to serve on the board as third member.

We feel that the strong statements of the pioneers as to course of Beaver Creek, before the big flood changed the course, should be binding consideration in decision on this matter.

We are not in any way abandoning our claims, but feel the fact finding board method of procedure to be prohibitive from a cost point of view. This is especially true in view of letter of June 25, 1965, in which Secretary Udall states that decision of such a fact finding board would not necessarily be conclusive in settling the proper boundary line.

We suggest, therefore, that you proceed with filing of your report.

Very truly yours,

David H. Palmer

dlm
cc: Office of Secretary of Interior

11-29-1965: letter to mr. senner from assistant to the secretary regarding the action proposed by the nps in resolving the claim of

E W Reed 12/1/65

PARKS

L1425-SLW

NOV 29 1965

Dear Mr. Senner:

We are pleased to bring you current concerning the action proposed by the National Park Service in resolving the claim of Mrs. Paul Webb at the Montezuma Well in Arizona.

On June 25, Secretary Udall agreed to the appointment of a 3-man board which would consider Mrs. Webb's claim and submit a recommendation to resolve the matter.

To date, only two members of the board have been appointed. Mr. David H. Palmer, attorney for Mrs. Webb and a member of the board, was to have nominated a third member for our consideration but thus far Mr. Palmer has not informed us of a nominee.

We have written to Mr. Palmer with the request that his selection for the third member of the board be furnished as soon as possible in order that we may proceed in resolving the Webb claim.

As soon as some positive recommendation has been submitted by the appointed board, we shall be pleased to write you further in the matter.

Sincerely yours,

Clarence F. Pautzke

Deputy Assistant to the Secretary

Hon. George F. Senner, Jr.
House of Representatives
Washington, D. C.

cc:
FW
Secretary's Reading File
Mr. Merritt Barton, c/o Regional Director, Southwest
Regional Director, Southwest
Superintendent, Montezuma Castle
Mr. Reed, SLW
SLW
NPS Comeback Copy

RLStanton:lt 11/22/65

11-29-1965: letter to mr. palmer from assistant to the secretary regarding as a preliminary to the ultimate resolution of mrs. webb'

W/A copy
ans
12/1

PARKS

L1425-SLW

Dear Mr. Palmer: NOV 29 1965

As a preliminary to the ultimate resolution of Mrs. Webb's claim at the Montezuma Well in Arizona, you may remember that a third member of the board to develop final recommendations was to have been nominated by you, as agreed by Secretary Udall in his letter of June 25.

To date, the third member of this board has not been nominated. We shall appreciate your advice as to the nominee you have selected in order that we may proceed with the consideration of Mrs. Webb's claim.

Sincerely yours,

(sgd) Clarence F. Pautzke

Deputy Assistant to the Secretary

Mr. David H. Palmer
Head & Palmer
Attorneys at Law
Box 591
Prescott, Arizona

cc:
FW
Secretary's Reading File
Mr. Merritt Barton, c/o Regional Director, Southwest
Regional Director, Southwest
Superintendent, Montezuma Castle
Mr. Reed, SLW
SLW
NPS Comeback Copy

GBRLStanton:jr. - lt 11/22/65

NOV 2 - 1965

WR copy
Sent
11/29

L1425-SLW

Memorandum

To: Assistant to the Secretary Orren Beaty, Jr.

From: ASSOCIATE Director, National Park Service

Subject: Webb claim, Montezuma Well, Arizona

In a telephone conversation November 16 with Mr. John Kell of this Service's Southwest Regional Office concerning the delay in resolving the Webb claim at the Montezuma Well in Arizona, we were fortunate to find Mr. Merritt Barton visiting that office.

Mr. Barton, as you will recall, was appointed June 25, 1965, by Secretary Udall as the Government's representative on a 3-man board to develop and recommend upon the facts in the riparian matters concerning Mrs. Webb's claim against the United States.

Mr. Barton supplied us information for replying to the questions raised in your November 12 memorandum.

Mr. David Palmer, the claimant's attorney, is one member of the board. It was arranged that Mr. Palmer would nominate the third member, whose appointment would be subject to the Government's concurrence.

Secretary Udall, by letter of June 25, 1965, to Mr. Palmer, agreed on the composition of a board (not a board of arbitration) and advised that the Government would share the expense of the third member, and requested, in effect, that a nominee promptly confer with Mr. Barton.

Mr. Barton, by letter of August 20 to Mr. Palmer, urged that he select a nominee, preferably an Arizona lawyer, and furnish an estimate of the cost of his services.

To date only two members of the 3-man board, Messrs. Palmer and Barton, have been appointed.

We are still awaiting Mr. Palmer's nomination of the third man. Arrangements are completed for the Government's payment of half the cost of the third member's services.

Until the composition of the board is completed and its report submitted for consideration, it is impossible to foretell when the dispute might be settled.

A proposed letter to Mr. Palmer, urging him to nominate the third member to the board, is enclosed for your consideration and, if approved, your signature.

Enclosure

cc:
Regional Director, Southwest (2), w/c of inc.

Mr. Reed, SLW, w/c of inc.
SLW, w/c of inc.

CRWSmith:lt 11/17/65
Rewritten: CRWSmith:RBS:lt 11/22/65

A. CLARK STRATTON

THE SECRETARY OF THE INTERIOR

WASHINGTON

November 12, 1965

MEMORANDUM FOR DIRECTOR HARTZOG

The longstanding argument between NPS and owners of property adjoining Montezuma Well in Arizona apparently is stalled as far as any progress toward settlement is concerned.

We have not heard from attorney David Palmer who is working for the Webb family for several months, so I assume he is resigned to what he undoubtedly regards as inevitable bureaucratic delay. However, we have now had a query from Congressman Senner's office based on a letter Mrs. Webb wrote to the Congressman.

Would you please bring me up to date on this and give me your best guess as to when it might be settled.

/s/ O B

Orren Beaty
Assistant to the Secretary

COPY

PARKS
WRC copy
ewr 6/30

JUN 25 1965

L1425-SLW

Dear Mr. Palmer:

We are pleased to acknowledge your further inquiry of April 5 concerning the Webb boundary controversy involving land in the Montezuma Well area of the Montezuma Castle National Monument, Arizona.

The Department is agreeable to the appointment of a board (not a board of arbitration) to develop and recommend upon the facts in this matter. We understand that there is no legal impediment to this procedure provided it is distinctly understood that the Department will not be bound by the views of such body.

In accordance with the suggestion made in your letter of February 1 as to the composition of the board, the Department hereby appoints Mr. Merritt Barton as its representative.

Please have your representative contact Mr. Barton promptly so that they may appoint a third member of the board to inquire into this matter. The board will furnish a report of its findings to the Department for consideration at the earliest possible date. It is presumed that you will be responsible for the expenses of your representative and that we will share the expenses of the third member equally.

In the meantime, we hope that it will be possible for you to complete the assembly of any additional evidence you require so that the work of the board may be completed promptly.

A copy of this letter is being forwarded to Mr. Merritt Barton for his information.

Sincerely yours,

(sgd) Stewart L. Udall

Secretary of the Interior

Mr. David H. Palmer
Head & Palmer
Attorneys at Law
Box 591
Prescott, Arizona

HRGarrett:lt 4/23/65
Rewritten: HRGarrett:lt 4/30/65

cc:
LM (2)
Secretary's Reading File
Regional Director, Southwest.
Supt., Montezuma Castle.
Mr. Merritt Barton
With copy of incoming
Land and Water Rights.
With copy of incoming
Mr. Reed, Land and Water Rights.
With copy of incoming
NPS Office Copy
LNP Comeback Copy

PARKS

JUN 25 1965

L1425-SLW

Dear Mr. Barton:

Your attention is invited to the enclosed copy of a self-explanatory letter to Attorney David H. Palmer with regard to the Webb boundary dispute in the Montezuma Well area of Montezuma Castle National Monument.

Pursuant to your informal discussion with officials of the National Park Service, we are pleased to appoint you as the Government's representative on a board to develop and recommend upon the facts.

Your cooperation in scheduling your time to assist the Government in this matter is greatly appreciated.

Sincerely yours,

(sgd) Stewart L. Udall

Secretary of the Interior

Mr. Merritt Barton
224 Spruce Street
Santa Fe, New Mexico 87501

Enclosure

cc:
LM (2)
Secretary's Reading File
Regional Director, Southwest
Supt., Montezuma Castle
Land and Water Rights
Mr. Reed, Land and Water Rights
NPS Office Copy
LNP Comeback Copy

HRGarrett:lt 4/30/65

W Beaty Encl 5/10

L1425-SLW

MAY 6 1965

Memorandum

To: Mr. Orren Beaty, Jr.
Assistant to the Secretary

From: Director

Subject: Webb property, Montezuma Well boundary dispute, Montezuma Castle National Monument

This refers to your memorandum of April 16 (including the enclosure, copy of Mr. Palmer's letter dated April 5) and confirms our telephone discussion of April 22 concerning the subject controversy.

As we advised in our memorandum to you of March 22, Mr. Palmer wrote to Mr. Barton on February 1 requesting that he delay completing his report on this matter. We assume that Mr. Barton will defer further action in the matter until he receives further word from Mr. Palmer.

We believe that the Solicitor's Office would have no objection to the appointment of a board to develop and recommend on the facts, with the express understanding that the Department is not bound by its views.

There is enclosed a draft of a reply to Mr. Palmer's letter for your consideration.

(SGD) GEORGE B. HARTZOG, JR.

Enclosure

cc:
LM
Regional Director, Southwest (2)
Land and Water Rights
Mr. Reed, Land and Water Rights

HRGarrett:lt 4/23/65

OFFICE OF
THE SECRETARY OF THE INTERIOR

April 16, 1965

Note to George Hartzog:

It seems to me we are stalling
Dave Palmer and his clients
beyond the point of normal
human endurance.

/s/ O. B.

Orren Beaty

COPY

04-05-1965: letter to secretary of interior from mr. palmer, attorney regarding montezuma well boundary line

SAM J. HEAD DAVID H. PALMER

HEAD & PALMER
ATTORNEYS AT LAW
CORTEZ AND GURLEY
BOX 591
PRESCOTT, ARIZONA
HIckory 5-2581

April 5, 1965

Honorable Stewart Udall
Secretary of Interior
Washington 25, D. C.

Re: Montezuma Well boundary line

Dear Mr. Secretary:

I received your letter of March 24th and note that you state you thought the procedure suggested with respect to a board of arbitration had considerable merit but that your solicitor advises that such procedure would lack legal authority.

In this regard may I point out that neither the findings of a Board of Arbitration nor the finding of Mr. Barton would be binding upon either party. It would simply be the fact that we feel you would have a more objective and impartial finding of fact made of the situation by a board of three persons as previously outlined. We fail to see why the solicitor would feel this would be illegal as it is merely a manner of providing your office with a fair picture of the matter. After all, I presume you could have no findings and still make up your mind on past records.

As stated, we are not satisfied with Mr. Barton's attitude as to his being impartial in this matter. It was our purpose in advancing the idea of a board of arbitration - if that is the proper term to apply - that all parties would be convinced that the findings of such a board were correct, and unbiased.

Very truly yours,

HEAD & PALMER

/s/ David H. Palmer

David H. Palmer

dlm

COPY

07-24-1964: letter to pacific regional engineer, topographic division from assistant regional director regarding details of service coll

Mon. Zuma Well Property

WR Copy ~~EWR~~ ~~GWR~~

Southwest Region
Santa Fe, New Mexico
P.O. Box 728
July 24, 1964

AIR MAIL

Mr. Robert O. Davis
Pacific Regional Engineer
Topographic Division
345 Middlefield Road
Menlo Park, California 94025

Dear Mr. Davis:

Our service is collecting information regarding the location of Beaver Creek in Section 31, T. 15 N., R. 6 E., G&SRB&M, Arizona. An adjoining land owner contends that Beaver Creek shifted suddenly on or about 1937.

Mr. Ed Davidson of the U.S. Geological Survey in Tucson is supplying us with a copy of the 1932 Edition, Camp Verde Sheet at a Scale of 1:125,000.

Is it possible that your office might have field notes or larger scale drawings (could be preliminary or final) showing the course of Beaver Creek when the data for the 1932 Camp Verde Sheet was collected. We have enclosed a print of Drawing NM-MC-5308 prepared by MPE Engineer Willard Bradley, December 26, 19 . The print is from a sheet retraced in this office September, 1960.

We are particularly interested in the location of Beaver Creek as it traverses lot 4, Section 31 in the above described township and range.

We would appreciate receiving sheets or field notes which would establish the location of Beaver Creek prior to 1937. If there is a charge for supplying this material, please advise and we will arrange reimbursement promptly.

George W. Miller
Assistant Regional Director

Enclosure

cc: Director (2)
w/1 print
Superintendent, Montezuma Castle
Mr. Merritt Barton

WR Copy

August 10, 1964

L54-SLW

GWR 8/24

Memorandum

To: Regional Director, Southwest Region

From: Acting Chief, Division of Land and Water Rights

Subject: Property Map by Paul F. Cutter, Montezuma Castle

Per telephone request of Mr. Kell, there are enclosed eight (8) copies of the subject map. Mr. Kell mentioned a 1946 date, but since this 1944 map is the only one in any of the area's several dockets, and otherwise fits the description, we felt reasonably sure it was the desired map.

HARRY K. SANDERS

Harry K. Sanders

Enclosures 8

cc:
Superintendent, Montezuma Castle, w/o encs.
Chief, WODC (2), w/o encs.
Mr. Reed

GWRobertson:ljc

12-06-1963: letter to mr. palmer from regional director regarding transmitted copy of your letter to the secretary with one print of a

721-12-19-63
WR Copy

Southwest Region
Santa Fe, New Mexico

Dec 9 9 55 AM '63

DEC 6 1963

Read

Mr. David H. Palmer, Attorney
Head and Palmer
P. O. Box 591
Prescott, Arizona

Dear Mr. Palmer:

We have your letter of November 22 addressed to Regional Chief of Lands Kell transmitting a copy of your letter of the same date to the Secretary together with one print of a map prepared by Arizona Engineering Company, Flagstaff, Arizona. This map is an enlarged edition of the survey line established on the ground and surveyed by Hydraulic Engineer William E. Fields of our Service.

We have transmitted a similar map together with a copy of your letter of November 22 to the Secretary and a reproduced copy of the print for the information of our Washington Office.

As we explained in our letter to you of August 16, the boundaries of all national monuments are established either by Presidential proclamation or by public law. There is no one in this office who has the authority to adjust the boundaries and therefore, the matter of any adjustment and Mr. Webb's claim for additional land must necessarily be referred to our Washington Office.

Sincerely yours,

(SIGNED)

Daniel B. Beard
Regional Director

cc: Director (2)
Superintendent, Montezuma Castle

W Rcopy
D. Ewe
10/22

OCT 18 1963

L1425-RLW

Memorandum

To: Regional Director, Southwest Region

From: Acting Chief, Division of Lands

Subject: Webb Riparian Claim, Montezuma Well Section, Montezuma Castle

Your memorandum of September 23 on the above subject has been received. Copies of Water Supply Papers 829 and 1313, as you requested, have been sent to your office under separate cover.

The records in these reports indicate that some flooding probably occurred in 1937. Climatological Data for the United States by Sections (vol. 24, Feb. 1937), states that "Flood conditions obtained in central Arizona streams for a short time as a result of heavy rains on the (February) 6th and 7th." Water Supply Paper 829, page 185, shows discharges of 24,700 c.f.s. and 20,100 c.f.s. for the Verde River near Camp Verde on the 7th and 8th of February. Presumably discharge from Beaver Creek was high also, but whether the course of Beaver Creek was changed or not cannot be determined.

However, Water Supply Paper 1313, page 687, gives records for Beaver Creek for the period 1913 through March 1920 and states that the maximum discharge observed was about 17,000 c.f.s. on February 22, 1920. On the same page, under "Verde River at Camp Verde," it is stated that the maximum discharge "probably exceeded 60,000 c.f.s. February 21, 1920." The period of record is from 1913 through March 1920. On page 688 under "Verde River near Camp Verde" maximum discharge was 97,000 c.f.s. on March 3, 1938. The period of record is 1934-1945. The two stations on the Verde River are about 10 miles apart, and Verde River at Camp Verde is the upstream station of the two. Thus, the 1937 flood on Beaver Creek probably was exceeded at least twice--in 1920 and in 1938.

These records neither prove nor disprove a change in the course of Beaver Creek in 1937, but do throw some doubt on such a change. Possibly local newspaper accounts of the February 1937, floods may include some reference to Beaver Creek. Another possibility would be to cut down the largest tree in the channel that Webb claims was the pre-1937 channel and count the tree rings to determine whether the tree was in the channel

✓

before 1937. Probably one of the naturalists within the Park Service would be competent to determine this. The University of Arizona has sponsored research in dendrology, primarily in relation to wet and dry cycles, and, if necessary, could be contacted.

If Mr. Merritt Barton is hired as a consultant, as indicated in previous correspondence, he can be relied upon for legal advice. In the meantime, you can consider the suggestions made above, and pursue them further if you think it advisable. The next step would appear to be up to Mr. Webb.

Thank you for keeping this Office posted on the progress of the Webb Claim.

SIGNED

C. Allen Harpine

cc:
Superintendent, Montezuma Castle
Chief, WODC (2)
Mr. Reed

EWReed:ljc 10-18-63

555- 10-11-63
Mr Sanders
Mr Smith
WR COPY
Read
AL

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

IN REPLY REFER TO:
L1425
Webb

OCT 8 1963

Memorandum

To: Director

From: Reginnal Director

Subject: Webb Riparian Claim, Montezuma Well Section, Montezuma Castle National Monument

Hydraulic Engineer William E. Fields, in connection with other work needed to be done at Montezuma Castle, has arranged through the Superintendent to meet with Mr. Paul Webb at the Montezuma Well Section on October 14.

At that time, Mr. Fields, in company with Mr. Webb, will walk a line believed by Mr. Webb to the the "old channel" of Beaver Creek. This line has been surveyed once by Mr. Fields as shown on Drawing NM-MC-7109. We do not anticipate that a "new survey" will materially change the line claimed by Mr. Webb. The only thing we think will be accomplished is to satisfy Mr. Webb that this is the area believed by him to be the "old channel" of Beaver Creek and to allow Mr. Webb's engineer to be present when Mr. Fields establishes the line on the ground.

In this connection we have enclosed a reproduced copy of Naturalist Earl Jackson's letter of September 24 in reply to Mr. Kell's inquiry of September 20. We have also enclosed a reproduced copy of Mr. Webb's letter of May 26, 1947 to the Custodian, Montezuma Castle. Certain other pieces of correspondence, copied from the Monument files, are enclosed which may or may not shed light on this controversy.

Daniel B. Beard

In duplicate

Enclosures E

cc: Superintendent, Montezuma Castle
Naturalist, SWAC

Stamped Received
Aug. 12, 1941
Montezuma Castle
Nat'l Mon.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

August 7, 1941.

MEMORANDUM for the Superintendent,
Southwestern National Monuments.

Reference is made to your memorandum July 31, relative to the Montezuma Well property in Yavapai County, Arizona offered for sale to the National Park Service.

In Acting Director Demaray's memorandum June 3 (copy attached) several points are raised in the second paragraph, requiring definite answers. None of these points can be answered by this Office without your recommendations. Apparently we neglected to send you a copy of Mr. Demaray's memorandum of June 3.

Are there any factors or conditions since the June 7, 1939 appraisal of the Montezuma Well property--including structures, that would change the appraisal as of the present date? Is purchase of the entire Back Estate desirable or simply necessary to acquire the proposed monument features?

Mr. Demaray asks for a definite statement as to our "views concerning the boundaries", and to date you stress the need of a survey of the Back property, plus "inclusion of the federal lands between the Back property." Custodian Jackson's letter July 21 gives land descriptions of the Back Estate, which show a slight discrepancy as to the acreage, but the descriptions seem to have only one questionable line--the stream or wash boundary, that can only be established by the U.S.General Land Office or a State licensed surveyor. There appears no question in the correspondence of our files as to the Montezuma Well and important features being located on the Back property, and if purchase of the entire estate is a consideration, the recorded abstract description should suffice. The accepted markers for "west, north, and northeast corners," provide a definite base line for resurvey to establish the position of the Well, and also the S½ of the NW¼, Sec. 31, T15N, R6E, shown as United States land and verified as public land according to General Land Office, Washington, October 20, 1939. To us there appears no reason why this 80 acres, plus or minus, should not be included in the proposed boundary if you so recommend.

COPY

You no doubt have investigated south and east of the Back Estate as to any further addition.

As considerable time has already been consumed on this matter, a prompt reply is requested in order to completely answer Mr. Demaray's June 3 memorandum.

Acting Regional Director.

Attachment.

cc Director.
Cust.Jackson.
Regl.Atty.Sroaf.

COPY

Stamped Received
Aug. 16, 1941
Montezuma Castle
Nat'l Mon

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
HEADQUARTERS, SOUTHWESTERN MONUMENTS
COLLIDGE, ARIZONA

August 12, 1941.

MEMORANDUM for the Regional Director, Region Three.

Reference is made to Acting Regional Director McColm's memorandum of August 7 requesting additional information concerning the Montezuma Well property in Yavapai County, Arizona, and enclosing a copy of Acting Director Demaray's memorandum of June 3 outlining the additional information required. The investigation of this property was handled by Superintendent Miller, Custodian Jackson, Supervisor of Historic Sites Lee, and representatives of your office. Since Superintendent Miller will be away on annual leave for several weeks, the proposed entension was discussed with Custodian Jackson by telephone and the following listed information is supplied in response to the inquire contained in your memorandum of August 7:

(1) Custodian Jackson advised that his appraisal of June 7, 1939, of the Montezuma Well property (including structures) should still hold, as there have been no changes in the Montezuma Well property which would warrant the change of this appraisal as of the present date. Reply to this question was given in Superintendent Miller's memorandum to your office of July, second paragraph.

(2) It is understood from Mr. Jackson that the purchase of the entire Back Estate is not desirable for park purposes, but it is required as the heirs of the Back Estate do not wish to subdivide the property, and will not sell it except on the basis of disposing of all of their holdings in the vicinity of the Montezuma Well.

(3) It was understood from Mr. Jackson that the boundaries of the present Back Estate are satisfactory for park purposes with the exception of a small addition of federal lands between this property and the highway. The acceptance of these boundaries was confirmed in Superintendent Miller's memorandum for your office, dated July 31, 1941, shown in Custodian Jackson's report of July 21, enclosed with this memorandum. Mr. Jackson also stated that only the $SE\frac{1}{4}$ of the $NW\frac{1}{4}$, Sec. 31, T 15 N, R 6 E, 40 acres more or less, would be necessary to give access to this proposed area from the present road. This is the portion of United States land mentioned in your memorandum of August 7; however, Mr. Jackson did not feel that the entire $3\frac{1}{2}$ of the $NW\frac{1}{4}$, 80 acres more or less, would be required for

COPY

inclusion in this proposed area. It is understood that the above-described parcel, 40 acres more or less, is the only additional land required to round out the boundaries of this proposed area, in addition to the present Back Estate holdings at Montezuma Well.

We still feel that it would be a mistake to place reliance on the plat of the Back property, as outlined in Mr. Miller's memoranda, until it has been verified and corrected by survey. This will require engineering assistance from your office.

Acting Superintendent.

cc: Director.
Custodian Jackson.

COPY

08-23-1941: memorandum to director from nps regarding reference made to memorandum relative to acquisition by this service of

Stamped Received
Sep 6, 1941
Montezuma Castle
Nat'l Mon

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

August 23, 1941

MEMORANDUM for the Director:

Reference is made to Acting Director Demaray's memorandum dated June 3, relative to acquisition by this Service of the Montezuma Well property in Yavapai County, Arizona, for national monument purpose as a detached addition to Montezuma Castle National Monument.

According to personal interview and investigation of the Yavapai County records, by Earl Jackson, Custodian of Montezuma Castle National Monument, the Montezuma Well is located in the east half of Sec. 31, T15N,R6E, Gila and Salt River Meridian, on private property known as the William B. Back Estate.

The property involved is described in the County Records as of July 20, 1941, as follows:

(1) "The SW¼ NE¼ and part of Lot 4, Lots 5 and 6, Section 31, T15N, R6E, G and SR Meridian, containing 138.21 acres." The part of Lot 4 which is not contained in the property is described as follows: "All that certain piece, parcel or tract of land, situate in the SE¼ NW¼ of the SE¼ of Section 31, T15N, R6E, laying south and east of Beaver Creek, containing 15 acres more or less, known as the Lyman S. Drum place."

(2) "That portion of the NW¼ SE¼, laying east of the natural wash running through part of Section 36, T15N, R5E, "and the NE¼ SE¼ of Section 36, T15N, R5E, less 8.78 acres, amounting to 41.22 acres."

According to these records, abstracted as above by Custodian Earl Jackson, the Back Estate on which the Montezuma Well is located, consists of 179.43 acres. It is believed that copy of report of Mr. Jackson's search of the records was sent you with copy of Superintendent Miller's memorandum of July 31 to this Office.

An appraisal of this property was made June 7, 1939 by Custodian Earl Jackson, Montezuma Castle National Monument, the original copy of which was forwarded to the Director's Office.

COPY

In line with your request of June 3, 1941, for an appraisal up to date, we wrote the Superintendent, Southwestern National Monuments, August 7 (copy forwarded to your office). Acting Superintendent Richey replied August 12 (copy mailed you), that the June 3, 1939 appraisal by Mr. Jackson "should still hold."

While Superintendent Miller and Custodian Jackson have suggested inclusion within the proposed monument, Public Domain north of the Back property "necessary to give access to this proposed area from the present road", their recommendation is limited to the SE¼ of the NW¼, Section 31, T15N, R6E; whereas the SW¼ of the NW¼, Section 31, T15N, R6E, is also Public Domain, and from a sketch map in our files the existing road connection between the present county road and Montezuma Well takes off in the last named 40-acre tract. If this map is correct this tract should also be included within the proposed monument boundary.

Superintendent Miller's office, nor any of the Regional Office staff acquainted with the Montezuma Well area have any suggestions for monument property additions beyond the limits of the Back Estate, and the 80 acres of Public Domain mentioned above, hence it is suggested that the proposed monument consist of the following described areas, containing in all 259.43 acres more or less:

(1) "The SW¼ NE¼ and part of Lot 4, Lots 5 and 6, Section 31, T15N, R6E, Gila and Salt River Meridian, containing 138.21 acres." (The part of Lot 4 which is not contained in the property described as follows): "All that certain piece, parcel or tract of land, situate in the SE¼ NW¼, of the SE¼ of Section 31, T15N, R6E, laying south and east of Beaver Creek, containing 15 acres more or less, known as the Lyman S. Drum place."

(2) "That portion of the NW¼ SE¼, laying east of the natural wash running through part of Section 36, T15N, R5E, and the NE¼ SE¼ of Section 36, T15N, R5E, less 8.78 acres, amounting to 41.22 acres."

(3) "And the S½ of the NW¼, Section 31, T15N, R6E."

Prints of the sketch map showing the suggested boundaries and land status are attached for your further action.

Encl.2489568.

/s/ M. R. TILLOTSON

cc Supt.Miller (2).

Regional Director

COPY

05-26-1947: letter to custodian, moca - camp verde from paul webb regarding recent purchase of the bill back or montezuma well



Soda Springs Ranch



Rimrock, Arizona.



May 26, 1947

The Custodian
Montezuma Castle
Camp Verde, Ariz.

Dear Sirs:

In the recent purchase of the Bill Back or Montezuma Well property by the U. S. Park Service , we (Mr. & Mrs. Paul Webb) the proprietors of the lands adjoining the Montezuma Well property on the east, are concerned about the new fence the Park Service will build between the two properties.

When the surveyors ran the lines on the Montezuma Well property I noticed surveyor stakes close to the waters edge along the creek side of the property.

The course of the creek has always been considered the line, but no one puts a fence at the waters edge. The creek changes its course from year to year to various channels in the creek bottom area.

A good strong new fence built too far out in the creek channel could catch debris and change the creek's course.

In this particular area if the flood waters of the creek should change, a piece of farm land just opposite the Montezuma Well property to the east would be endangered. If debris should change the creek's course and a strong current of water turn flowing in an easterly direction the waters would wash a good portion of this farm land away before any one could rectify the error.

When a fence is ready to be built we would like very much to go over the proposed fence line on the grounds with the Park Service before the fence is started and help work out a practical line as regards terrain, erosion and flood waters.

Respectfully yours

Paul Webb

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Southwest Archeological Center
Gila Pueblo, Box 1562
Globe, Arizona

RECEIVED
NPS SOUTHWEST REGIONAL OFFICE
SEP 27 1963
Regional Director
Chief, Division of Administration
Chief, Division of Public Information
Chief, Division of Program Coordination
Chief, Division of Operations
Chief, Division of Concessions
Chief, Division of Natural History
Chief, Division of History & Archeology
Chief, Division of Ranger Services

September 24, 1963

Memorandum

To: Regional Naturalist

From: Naturalist, SWAC

Subject: Webb Riparian Claim, Montezuma Well Section, Montezuma CASTLE

Please convey this material to John Kell, in response to his subject memo query of September 20.

We have searched the SWAC files in vain for a copy of the report which Willard Bradley must have prepared when surveying location of Beaver Creek through the Montezuma Well section in 1946. Some of our older records are, of course, in the Denver Federal Records Center, and possibly the desired paper is included. Mails and Files has copies of the schedules by which we sent old records (A7215), and so you may decide to have them request return of any listed files categories that might have such material.

We find nothing here now on Beaver Creek water rights.

During the years I lived at Montezuma Castle, I often visited Montezuma Well, and clearly remember that Beaver Creek ran very close to the wall supporting part of the Outlet ditch. When I was a boy in the late 1920's, we often picnicked at the Outlet, and I had only to step from the ditch-bank trail out onto a big sloping rock under the lower edge of which was a deep hole of water. Nowadays the deep hole opposite the point at which the outlet ditch begins to parallel the creek is almost filled up. In what year this hole filled up, I don't know.

I was in charge of Montezuma Castle when the big flood of 1937 occurred. It was a tremendous flood, probably the biggest one I ever saw on Beaver Creek up to that time. In our photo files are several pictures we took of the floodwaters from opposite the parking area downstream to opposite the Castle. I did not, however, get up to Montezuma Well, to see if the creek had changed its course any, although I have on several occasions seen major changes in water channels caused by those violent Beaver Creek floods.

Earl Jackson
Earl Jackson
Naturalist

cc: Supt., Montezuma Castle

10. R. Copy

Southwest Region
Santa Fe, New Mexico

L1425-RLR
Webb

SEP 23 1963

Memorandum

To: Director

From: Regional Director

Subject: Webb Riparian Claim, Montezuma Well Section, Montezuma Castle

We have Acting Chief, Division of Lands, Harry K. Sanders' memorandum of September 10 regarding the Webb riparian claim, Montezuma Well Section, Montezuma Castle National Monument. We agree with your thoughts that our Service should defend Beaver Creek in its present channel.

In that connection we have enclosed a copy of Mr. Kell's trip report reporting on the meeting with Mr. Webb and others, Thursday, September 12 at the Montezuma Well Section.

Following the preparation of the trip report, Mr. Kell telephoned Mr. Wilbur L. Heckler, Surface Water Branch of the local office of the Geological Survey. The purpose of that call was to determine if the USGS might maintain a stream gauge station on the Beaver Creek. According to Mr. Heckler, no permanent gauging station appears to be maintained on Beaver Creek. There is, however, a gauging station on the Verde River near Camp Verde, Arizona. Mr. Heckler reported that Water Supply Paper No. 829 indicates a measurement on March 8, 1937 of 2,800 cfs and on the same March 8 a measurement in Beaver Creek indicated a flow of11,210 cfs. We do not have Water Supply Paper No. 829 and perhaps Mr. Reed could obtain a copy for us. Mr. Heckler also reports that Water Supply Paper No. 1313 gives a 10-year analysis in the vicinity of Camp Verde. According to the report, 1941 is the highest stream flow year on record and 1937 is the second highest reading recorded.

Any information you can supply and suggestions regarding what action, if any, regarding the Webb riparian claim we should take would be appreciated.

(SIGNED)

Daniel B. Beard

In duplicate

Enclosure

cc: Superintendent, Montezuma Castle

Assistant Regional Director Arnberger September 20, 1963

Regional Chief of Lands

Trip Report, Webb Riparian Claim, Montezuma Well Section, Montezuma Castle

By previous arrangement and exchange of correspondence with David H. Palmer, the attorney representing Mr. Paul M. Webb, Superintendent Ebert and I met with Mr. Palmer at approximately 10:30 AM, Thursday morning, September 12. A short meeting was held at the Monument headquarters and the attorney, the Superintendent and I proceeded to the Montezuma Well section picnic area where we met with Mr. Webb.

Mr. Webb had gathered four people - Dave Hopkins, Camp Verde, Zeke Taylor, Cottonwood, Taylor Estes, Clarkdale, and Harland Van Deren, Centerville - as witnesses.

We then went on a Webb-conducted tour starting at the Rimrock post office where Mr. Webb pointed out the approximate site of an old building on the bank of Beaver Creek which was moved to a higher elevation because of flood conditions at Beaver Creek.

This area, while apparently still in Section 31, T. 15 N., R. 6 E., GSRB&M, is entirely outside Lot 4 of Section 31, the area in controversy.

From the school house the entire group was conducted by Mr. Webb down the stream course of Beaver Creek. Local names apparently have established Dry Beaver, Wet Beaver, and, I think, Little Beaver. I am uncertain of the nomenclature or number of various streams that may be called Beaver Creek but at this point I do not think the exact nomenclature is not important since we are dealing with "Wet"Beaver as it traverses Lot 4, Section 31, which is the only point of dispute.

The purpose of the four witnesses was to prove to our Service that Beaver Creek suddenly moved its course in 1937. All of the above mentioned witnesses are willing to testify or prepare affidavits that in their childhood and as they were growing up, they swam in Beaver Creek, they cleared out the Back ditch leading from the Montezuma Well and threw the dirt off the ditch embankment immediately into Beaver Creek. Mr. Webb contends that the rock wall, a stone cobble wall approximately 5 feet high, was constructed by Mr. Back because Beaver Creek in the early days and prior to the flood of 1937 ran adjacent to this wall.

The group was also advised by Mr. Webb and shown on the ground the remains of a diversion point where, according to Mr. Webb, Mr. Back at one time diverted water from Beaver Creek and co-mingled it with the water from Montezuma Well. This was shown as "evidence" of the position of the earlier channel of Beaver Creek.

We were also shown on the ground another diversion from the Montezuma Well ditch where Mr. Back presumably irrigated the "island" from the Montezuma Well ditch. It was Mr. Webb's contention that Beaver Creek was spanned by a diversion structure from the Montezuma Well ditch which he pointed out to the group. Some of the "witnesses" testified that they personally remember when Mr. Back irrigated the "island" and grew melons on the island.

It will be extremely difficult to refute the statements of the witnesses although it was evident from remarks that the four witnesses who accompanied the party had been especially conducted by Mr. Webb over the route he intended Superintendent Ebert and myself to see. This was evidenced by a remark of one of the members as we gathered at the start of the tour near the school house who said to Mr. Webb "Are you going to take us down the same place you took us the other day?" As you are aware the point of contention is the location of Beaver Creek in Lot 4.

The following day, September 13, Superintendent Ebert and I hiked over portions of Lot 4 north and west of Beaver Creek as it follows its present course. I am convinced that Beaver Creek, over the years, had many channels. I also believe that some of these channels were "main channels" and some were "overflow channels" that flowed intermittently depending on the amount of water flowing in Beaver Creek.

The fact that Mr. Webb himself pointed out the diversion of water to the "island" is in itself evidence that at the time Mr. Back farmed the island one or more of the channels of Beaver Creek, probably a main channel, was south of the island. According to the testimony the diversion to the island from the Montezuma ditch was necessary because of an earlier adjudication of water from Beaver Creek whereby Mr. Back, presumably having a junior claim to downstream users, was denied the right to divert water from Beaver Creek. On September 13 when Superintendent Ebert and I re-visited the area in Lot 4, I measured the remnants of the old diversion course and a sketch map showing this diversion to the island is attached as a part of this report. By personal observation on September 13, I noted considerable amounts of driftwood caught in trees on either side of Beaver Creek as it now flows. There was a relief channel some 50 feet north and west of the present course of Beaver Creek in Lot 4. Flood waters have carried a log estimated to be 15 feet long and at least 12 inches in diameter and deposited it on a gravel bar. Based on this evidence, I do not believe that the flume shown on the enclosed sketch could have withstood the debris carried in the main stream of Beaver Creek.

Mr. Webb, with the support of his 4 or 6 witnesses (2 were unable to be present on September 12) will testify that Beaver Creek moved suddenly in 1937 prior to the Bradley survey of December 1946. WEbb also contends that the adjoining land owners never were consulted about the course of Beaver Creek at the time of the Bradley survey. There is a statement in Park Planner John H. Diehl's memorandum to the Regional Chief of Lands of December 23, 1946, that "the present owner of Soda Springs Ranch, Mrs. Webb, was contacted with custodian Hastings the afternoon of December 13, and it was agreed that the approximate center line of the creek would be used as the boundary." The complete text of Diehl's memorandum is attached as an exhibit to this report.

One additional item that annoys Mr. Webb relates to the survey prepared by Hydraulic Engineer William E. Fields on May 24, 1961. Mr. Webb informed me that Superintendent Henson had arranged a firm date for Mr. Fields to be at Montezuma Castle and, among other things, run a traverse line of the old channel. Through some misunderstanding regarding dates, Mr. Webb arranged for his engineer to be present and Mr. Fields did not arrive until a later date. Therefore, Mr. Webb's engineer presented a bill and Fields arrived at a later date when Webb's engineer could not be present.

At the meeting on September 12, Mr. Webb insisted that he had not met with Mr. Fields on the ground. Fields was accompanied and assisted by Cartographic Draftsman Clyde Arquero and both men remember that Webb was present and the line shown on the Print NM-MC-7109 prepared by Mr. Fields is the line which Mr. Webb pointed out on the ground as the old channel of Beaver Creek on that date. This meeting and report is covered in Mr. Fields' report of June 12, 1961, Coded L54, copy to the Washington Office.

Mr. Webb requested that Mr. Fields return to Montezuma Castle when his engineer could be present. I agreed that, if possible, this would be done and October 7, 14 or 21 were tentative dates established. By mutual agreement one of these dates will be confirmed.

I would not have concurred in this arrangement except Mr. Fields needs to go to Montezuma Castle in connection with the installation of one additional Parshall flume in the Montezuma Well ditch. The other reason is that I think it would be an advantage to our Service for Mr. Fields to check one or more profiles across the NW portion of Lot 4 within the area of controversy. It appears that there are two or more old abandoned channels, with trees on either side, that are deeper than the old channel Mr. Webb contends ran at one time prior to 1937 at the base of the rock wall supporting the ditch.

All of Lot 4 at one time was owned by Mr. Back. Sometime about 1908 he conveyed the portion of what is now presumed to be Lot 4 lying south and east of Beaver Creek to Benjamin S. Witter and recited that is "contained 15 acres, more or less." The Bradley survey of 1946 which was a metes and bounds survey, determined that there was 16.83 acres of land in Lot 4 lying south and east of Beaver Creek. It is Mr. Webb's contention that Mr. Back and Mr. Witter to whom he conveyed the 15 acres were ranchers or farmers - not engineers or surveyors - and they knew where the line was. It would appear just as logical that Mr. Back and his neighbor recognized that what is Lot 4 contained 40 acres of land according to the Government survey and that Mr. Back, by mutual agreement with the purchaser, agreed to something less than one-half of the 40-acre tract and therefore, arrived at the 15 acres, more or less. This theory is supported by the use of the "island" by Mr. Back.

I have no constructive recommendations on how this matter can be solved and Attorney David H. Palmer indicated that, if necessary, he would bring a quiet title suit against the United States in order to settle Mr. Webb's claim. I think any qualified geologist or hydrologist would agree that some portion of the flood waters of Beaver Creek has been in several locations over many years. It is impossible for me to tell by observation on the ground that Beaver Creek did or did not change suddenly but it is my conscientious opinion that the change has been gradual based on the size of the trees that grow adjacent to the many channels.

JOHN E. KELL

John E. Kell

Enclosures

cc: Director (2)
Regional Director
Superintendent, Montezuma Castle

12-23-1946: memorandum to regional chief of lands from nps regarding instructions to clear points raised by the office of the solici

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UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE

Santa Fe, New Mexico

December 23, 1946

MEMORANDUM for the Regional Chief of Lands.

In accordance with instructions to clear points raised by the Office of the Solicitor, in order to acquire title to the Montezuma Well property in Yavapai County, Arizona, outlined in a letter dated November 15, by Theodore Spector addressed to the Director, National Park Service, I left Santa Fe, December 10, with Engineer Willard Bradley in Government automobile I-13816 and arrived at Montezuma Castle National Monument the morning of December 11, where Custodian Hastings was contacted.

Custodian Hastings then took me in a Government car to Prescott, Arizona, where at 1:20 P.M. we contacted Mrs. Mildred Fain, Mrs. Esther Henderson, Mrs. W. L. Back and Mr. E. C. Locklear, their attorney, at his office and discussed the points raised in the Solicitor's letter, a copy of which was delivered to Mr. Locklear in order that he might complete legal requirements stipulated.

The only question raised by the above group, centered on assurance as to whether the National Park Service intended to complete purchase of the property involved.

There being no recorded metes and bounds description of the property available, I told the group that Mr. Bradley, who holds a certificate as a licensed surveyor in Arizona, was with me and we intended to make the required survey, thus saving the owners the survey cost and as a gesture of Park Service sincerity of intended purchase.

They were anxious to get the deal completed before the end of the year, in order to be relieved of any 1947 taxes.

At the time I had hopes of completing the survey by December 14, but Mr. Bradley's assignment also to a road seal coat project at Montezuma Castle hindered survey progress, so that it was December 20 before the survey and computations were completed. A copy of the metes and bounds description was handed to Mr. Locklear that evening about 5:00 P.M. This description, copy attached, shows the area as 183.6 acres more or less.

Mr. Locklear did not think all details would be completed by the

end of the year, but he would forward the abstracts, which had been returned to him, brought up to date at the time the warranty deed is recorded, to this office for further review and action.

The land below the irrigation ditch is cultivated and planted to alfalfa. There were several inquiries as to whether the Government would lease this meadow land. In reply I stated that I did not think that the National Park Service would lease the land.

Mr. Bradley and I returned to Santa Fe December 21.

Pertinent to that portion of the property within Section 31, T. 15 N., R.6 E., it was necessary to rerun the west, north and east boundaries of the section before the interior subdivisions could be established and also a meander course of Beaver Creek to establish the boundary in Lot 4, of the NW¼ of the SE¼; that portion being south and east of the creek having been previously sold and not included in the present contract.

This south and east portion was not clearly described in the deed of conveyance, so the present owner of the Soda Springs Ranch, Mrs. Webb, was contacted with Custodian Hastings the afternoon of December 13, and it was agreed that the approximate center line of the creek would be used as the boundary.

The Beaver Creek meander line which we established gives the Soda Springs Ranch property 16.8 acres, south and east of Beaver Creek, out of Lot 4, part of the William Back homestead entry, and as their fence is now located on the bank above the creek, our location should never reach a point of question or disagreement with future owners.

The computed acreage of the detached section totals 278.51 acres more or less.

The Bill, 5378, authorizing acquisition of the Montezuma Well property also included transfer of the S½ of the NW¼ of Section 31, from the National Forest Service. In regard to this transfer acting Forest Supervisor Edward C. Groesbeck, Coconino National Forest, Flagstaff, Arizona, in a memorandum to the Regional Forester, dated June 2, 1942, stipulated that an open passageway across the land to the irrigation ditch for range livestock be provided, and submitted a map showing the proposed passageway location as the W½SW¼ of the NW¼, Section 31; the NW¼ of the NW¼ of Lot 6, (NW¼ of the SW¼), Section 31; the E½NE¼ of the SE¼, and the NE¼SE¼NE¼ of the SE¼, Section 36, T. 15 N., R. 5 E.; the portions in Section 36 and Lot 6, Section 31, being on the Montezuma Well property and not under Forest Service jurisdiction.

If a water passageway is necessary, from our standpoint and point of road traffic hazard the ditch can be contacted more advantageously in the NW¼NE¼ of the SE¼ Section 36; and the W½SW¼ of the NW¼ Section 31 need not be involved at all.

At the time of our visit, no free range stock was seen, nor was there any evidence of stock using the irrigation ditch for water. In fact such use would not be entirely under our control authority, as those irrigation water users below the Montezuma Well Property are vitally interested in their water supply and upkeep of the ditch which undoubtedly would suffer from range cattle use.

We should have the 40 acres in the SE¼ of the NW¼ Section 31, T. 15N., R. 6 E., as the southeast corner of this piece contains a portion of the prehistoric burial plot already uncovered; and this 40 is a favorable location for future public use development. As to Lot 2, lying west, it has no apparent value in the monument addition. The present county road to Stoneman Lake crosses this Lot 2 and might also increase our road maintenance problem.

That portion of this county road which now lies in the Montezuma Well property is a bad hazardous location, and the County Engineer informed me that a change is contemplated to construct on a more favorable location west about one half mile. This change would give us an access approach from the north, which I believe landscape architects of Plans and Design will agree is more desirable.

(SIGNED) John H. Diehl

John H. Diehl,
Park Planner

Enclosure 2857628.

cc: Custodian, Montezuma Castle.

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PROPERTY DESCRIPTION

The Montezuma Well property, formerly the Wm. Back Estate, more particularly described within the following metes and bounds.

Beginning at the ¼ corner common to Section 31, Township 15 North, Range 6 East, and Section 36, Township 15 North, Range 5 East, Gila and Salt River Base Meridian,

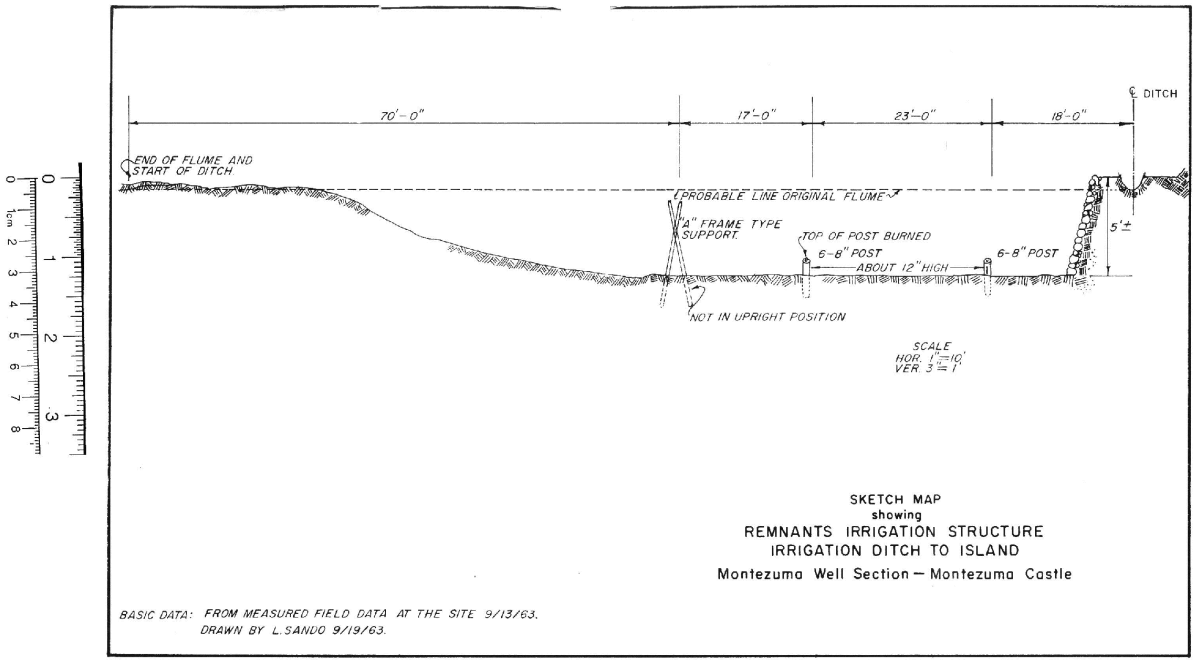
Thence	South	89° 56' E	2568.15'
"	North	0° 04' W	1322.23'
"	South	89° 53' E	1321.50'
"	South	0° 04' E	1317.20'
"	South	65° 31' W	116.00'
"	South	49° 02' W	291.20'
"	South	33° 43' W	425.00'
"	South	33° 06' W	350.00'
"	South	49° 33' W	424.62'
"	South	72° 35' W	255.77'
"	South	89° 45' W	2490.00'

to a point on the township line which bears South 3°23' E, 1351.00' from the above mentioned ¼ corner;

Thence	West		1858.99'
"	North	10° 13' E	83.69'
"	North	19° 20' E	280.70'
"	North	21° 02' E	116.74'
"	North	67° 20' E	826.10'
"	North	32° 42' W	528.56'
"	North	14° 18' W	133.45'
"	East		1185.80'

to the point of beginning containing 183.6 acres more or less.

09-19-1963: sketch map showing remnants irrigation structure irrigation ditch to island



Southwest Region
Santa Fe, New Mexico

SEP 20 1963

Roy T. Helmandollar
Bureau of Land Management
P. O. Box 777
Phoenix, Arizona

Dear Mr. Helmandollar:

At Montezuma Castle National Monument in the area known as the Montezuma Well Section, our Service acquired by purchase the area in Lot 4, Section 31, Township 15 North, Range 6 East lying North and West of Beaver Creek.

The area was acquired by purchase in 1946. It was purchased from the William B. Back Estate and prior to the purchase there was an off conveyance by Mr. Back conveying to Benjamin S. Witter that portion of Lot 4 (Section 31) lying South and East of Beaver Creek "containing 15 acres, more or less".

The adjoining land owner owning the portion of Lot 4 South and East of Beaver Creek now contends that Beaver Creek suddenly changed its course in 1937 and that some of the area we acquired North and West of Beaver Creek from the Back Estate was a part of his land.

We have a supplemental plat of Township 15 North, Range 6 East covering Sections 19 through 36 which was approved November 23, 1904. This plat shows Section 31 as lotted and Lot 4 to contain 40 acres. Would your office have any additional plats showing surveys enclosing Section 31 after the date of 1904?

Is it possible that the field notes for the 1904 supplemental survey plat gives any information by the surveyor establishing the location of Beaver Creek through Lot 4?

Was there a plat or diagram showing the location of Beaver Creek and the Montezuma Well when Lot 4 together with adjoining lands was patented to William B. Back? The date should be sometime about 1907.

If there is a charge for any material that you can supply, please advise and we will reimburse your office.

JOHN E. KELL

John E. Kell
Regional Chief of Lands

cc: Director (2)
Superintendent, Montezuma Castle

514-9-25-63
WRCopy
EWReed 9/25/63

Southwest Region
Santa Fe, New Mexico
SEP 20 1963

L1425
Webb

Memorandum

To: Supervisory Archeologist, Southwest Archeological Center

From: Acting Assistant Regional Director, Resource Planning

Subject: Webb Riparian Claim, Montezuma Well Section, Montezuma Castle

When our Service acquired the major portion of the Montezuma Well Section Engineer Willard Bradley made a survy establishing the location of Beaver Creek through Lot 4, Section 31, Township 15 North, Range 6 East.

Within the past few years Mr. Paul H. Webb, owning property south and east of Beaver Creek in the above mentioned Lot 4, is disputing the location of Beaver Creek and boundary in Lot 4.

Our records indicate that William B. Back in 1903 conveyed to Benjamin S. Witter "that portion of Lot 4 lying south and east of Beaver Creek", the area in controversy and Paul Webb now contends that in 1937 Beaver Creek suddenly changed its channel as a result of a flood.

He further contends that when Mr. Bradley made the survey running the traverse through the center of Beaver Creek in 1936, he did not establish the true line of Beaver Creek nor were the Webb's consulted prior to the survey.

We have a copy of Park Planner John H. Diehl's report of December 23, 1946 in which he reported that he and Engineer Bradley left Santa Fe on December 10th and indicates the survey was made between December 11 and 20, 1946.

It was customary for Willard Bradley to write a field report outlining in considerable detail the points established on the ground, old corners found and other information relating to the field survey. Bradley's survey is dated December 26, 1946 and presumably his report, it it was prepared, would be during the latter part of December, 1946.

It would be appreciated if someone familiar with the files could review the records retained in Globe and supply us with a copy of Bradley's survey report if it can be found.

In addition, Al Schroeder prepared a field report about May 24 through 25, 1947 and on or about that date reports a visit to Seligman, Arizona where he interviewed Mr. William Rack. One of the points of contention, according to Mr. Webb, is that originally Beaver Creek ran adjacent to the foot of the stone wall supporting the ditch that leads from the well outlet across the Montezuma Well property. There is also reference to the "island" which Mr. Rack irrigated and farmed and presumably did not convey to Witter when he conveyed the 15 acres, more or less, lying south and east of Beaver Creek.

Al Schroeder believes that reference to the ditch or Beaver Creek or perhaps other pertinent points may be retained at Globe or in the fact files at Montezuma Castle. We would appreciate any early history regarding Beaver Creek water rights.

It is our understanding that Earl Jackson lived at the Castle area for several years and may have personal knowledge of the condition or perhaps the location of Beaver Creek prior to the Bradley Survey and might have personal knowledge of the flood of 1937.

Any information you can supply is badly needed and if it is more convenient to mail excerpts from the files relating to the matter to this office you may send it by certified mail and the required copies can be reproduced here.

(SIGNED)

John E. Kell

cc: Earl Jackson, Southwest Monument Association
Superintendent, Montezuma Castle
Director (2)

W Rec'd 9/16 Ebert

September 10, 1963

L1425-RLR

Memorandum

To: Regional Director, Southwest Region

From: Acting Chief, Division of Lands

Subject: Webb riparian claim, Montezuma Well section, Montezuma Castle

We have reviewed your memorandum of June 27 enclosing a copy of Superintendent Ebert's memorandum to you of June 17 relating to a proposed meeting in early July with Mr. Webb and his attorney concerning the disputed Beaver Creek boundary.

We believe that use of former Field Solicitor Barton as a consultant, in accordance with Civil Service regulations, would be helpful.

It appears to us that this Service should defend Beaver Creek in its present channel as the riparian boundary and not abrogate any riparian right of the United States.

The Secretary's letter of May 29 addressed to Mr. Palmer (copy previously supplied you) and our memorandum to you of May 17 summarize our present knowledge of and views on the matter.

SIGNED

Harry K. Sanders

cc:
Mr. Reed, Water Resources
Lands

CRWSmith:lt

114 7-1-63

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

IN REPLY REFER TO:
L1425-RLR
Webb

JUN 27 1963

Memorandum

To: Director

From: Regional Director

Subject: Webb Riparian Claim, Montezuma Well Section, Montezuma Castle

In order to keep you informed we have enclosed a copy of Superintendent Ebert's memorandum of June 17 on the Webb boundary claim matter.

We are willing to send a representative to Phoenix, Arizona along with Superintendent Ebert to meet with Mr. Webb and his attorney. However, it is our opinion that there is nothing to be gained by having witnesses present at the meeting.

We believe that Beaver Creek has not changed its course since the Bradley Survey that led to the acquisition of the Back estate property as an addition to Montezuma Well Section, Montezuma Castle.

As we view the entire situation, it appears that the sole purpose for Mr. Webb's claiming additional land at this time is for one reason only. That reasoning would be that Mr. Webb eventually expects to receive a per-acre value if and when he disposes of his 16.00 acres, more or less, lying south of Beaver Creek.

It is our position that the land is not this important to the administration of the Monument. We also take the position that we cannot give up to Mr. Webb the land that was surveyed and purchased from the Back estate.

We would appreciate your comments in anticipation of a meeting on this matter in Phoenix with Mr. Webb and his attorney, a representative of this office and Superintendent Ebert sometime during the early part of July. We are exploring the possibility of some arrangement whereby we could engage former Field Solicitor Barton to assist this office and represent us in this matter.

Thomas J. Allen

In duplicate

Enclosure

Montezuma Castle National Monument
Camp Verde, Arizona

L1425-MLR
Webb

June 17, 1963

Memorandum

To: Regional Director, Southwest Region

From: Superintendent, Montezuma Castle

Subject: Webb Riparian Boundary Claim, Montezuma Well

As requested in Acting Regional Director Carpenter's memorandum of June 13, 1963 we contacted Mr. Webb this morning by phone and asked to meet with him regarding a date for a meeting regarding the subject matter. Mr. Webb immediately got cagey and said he had nothing to offer at this time as he hadn't heard from all his witnesses nor from Senator Goldwater. I explained to him that due to travel restrictions we would just as soon wait until after July 1, as long as he was not ready. We left it that a meeting would be arranged after July 1. Mr. Webb to notify us when he is ready and to give us time to arrange for our people to clear their schedules to be able to meet with him and his attorney and witnesses.

We used the travel restriction bit as an excuse hoping that a soliciter would be appointed in the mean time. We strongly urge that a field soliciter or at least some one acquainted with the law accompany us to the meeting. We think he is going to gather up old timers to prove by their testimony that the course of Beaver Creek has changed prior to the settlement of the Finnie estate. Also using what political pressure he can. His attorney is a state senator, by the way.

We will inform you, probably by phone, as soon as we hear anything more from Mr. Webb.

Hugh B. Ebert
Superintendent

In duplicate

SAM J. HEAD DAVID H. PALMER M. E. DARROW

HEAD & PALMER
ATTORNEYS AT LAW
CORTEZ AND GURLEY
BOX 591
PRESCOTT, ARIZONA
TELEPHONE 137

June 3, 1963

The Honorable Stewart Udall
Secretary of the Interior
Washington, D. C.

Re: Paul Webb - Department of Interior dispute
Montezuma Well Boundary

Dear Mr. Secretary:

Thank you very much for your detailed explanation of the position of the Department of the Interior relative to the above matter.

I will have to contact my client relative to the same, but at present it is our position that the course of Beaver Creek has changed in more recent times; and we are in a position to show you this, I believe, by the affidavits of local people pertaining to the same.

Kindest personal regards.

Very truly yours,

HEAD & PALMER

By _____
David H. Palmer

DHP:bb

Chief, Branch of National Park System Planning April 25, 1957

Chief, Water Resources Section

Effect of Proposed Boundary Change at Montezuma Castle National Monument on Water Rights of Private Owner

The status of water rights of Mrs. Flo Alice Davis was partially invested in 1942. She acquired title to parts of Sections 16 and 17, T 14 N, R 5 E, by Final Certificate No. Phoenix 076241 of April 21, 1937. We have not investigated her "proof" to determine when she and her predecessors first occupied the land. As of July 24, 1942, the State Water Commissioner had no record of appropriative rights but advised that his records only showed rights established after the present water code was adopted on June 12, 1919. Apparently there was no irrigation between January 1939 and July 28, 1942. Water rights lapse through 5 years of nonuse in Arizona.

There are recorded rights to Beaver Creek to the north of the Park. It is also possible that successors to Mrs. Davis have established rights appurtenant to her former land since 1942, or reactivated earlier rights without protest.

My first comment is that in acquiring only the designated small portion of the Davis tract, the option and deed should specifically include assignment of all appurtenant water rights. The vendor might still have title to diversion works and ditch on the acquired land.

Second, it would be desirable to have the vendor assign all rights to divert water from Beaver Creek on the conveyed land. This clause might boost the price to that for the whole tract, but it might be that the vendor could amend her rights to divert the water below the monument boundary.

Third, with rights to the north of the monument, including some of the United States at the Monezuma Well Area, I am not sure that elimination of rights to divert on the Davis tract, if they exist, will prevent continued alternate periods of flood and dry channel at the Castle Area of the monument.

Fourth, I see nothing wrong with your draft of a bill, or any way to alter it to gain better water control. The disposition of interests in water and encumbering water system should be covered in the option and deed to the land.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Mr. Siler
Mr. Dunn

AvVDunn:let

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Allison van V. Dunn

DATE: April 23, 1957

FROM : Chief, Branch of National Park System Planning

SUBJECT: Effect of Proposed Boundary Change at Montezuma Castle National Monument on Water Rights of Private Owner

Attached is a copy of a map of Montezuma Castle National Monument, showing the Service's proposed addition to the Monument. The authorization to add this 40-acre tract to the Monument must be obtained through legislative channels, inasmuch as the lands involved are all in private ownership. A draft of bill which would accomplish this addition is also attached.

When the Monument area was increased by Presidential proclamation in 1937, existing maps showed that the bend in Beaver Creek was within the proposed extension. Later when the boundary was fenced, the survey showed that Beaver Creek was outside the boundary and in an entirely different location than that shown on the maps. Straightening of the boundary in this section of the Monument would greatly facilitate protection against stock trespass and would eliminate a bad fencing problem.

There is evidence in our files that Beaver Creek is an intermittent stream with a flood crest during the spring run-off. Flash floods sometimes occur during the summer and fall as a result of rains. The files indicate that the former Davis property (a portion of which we now wish to acquire) was irrigated in about 1940. At that time water was pumped from Beaver Creek into the ditch heading and from there was conveyed by ditch to the irrigated lands. It was pointed out that when such irrigation is in process during dry periods, the entire flow of Beaver Creek through the National Monument is cut off.

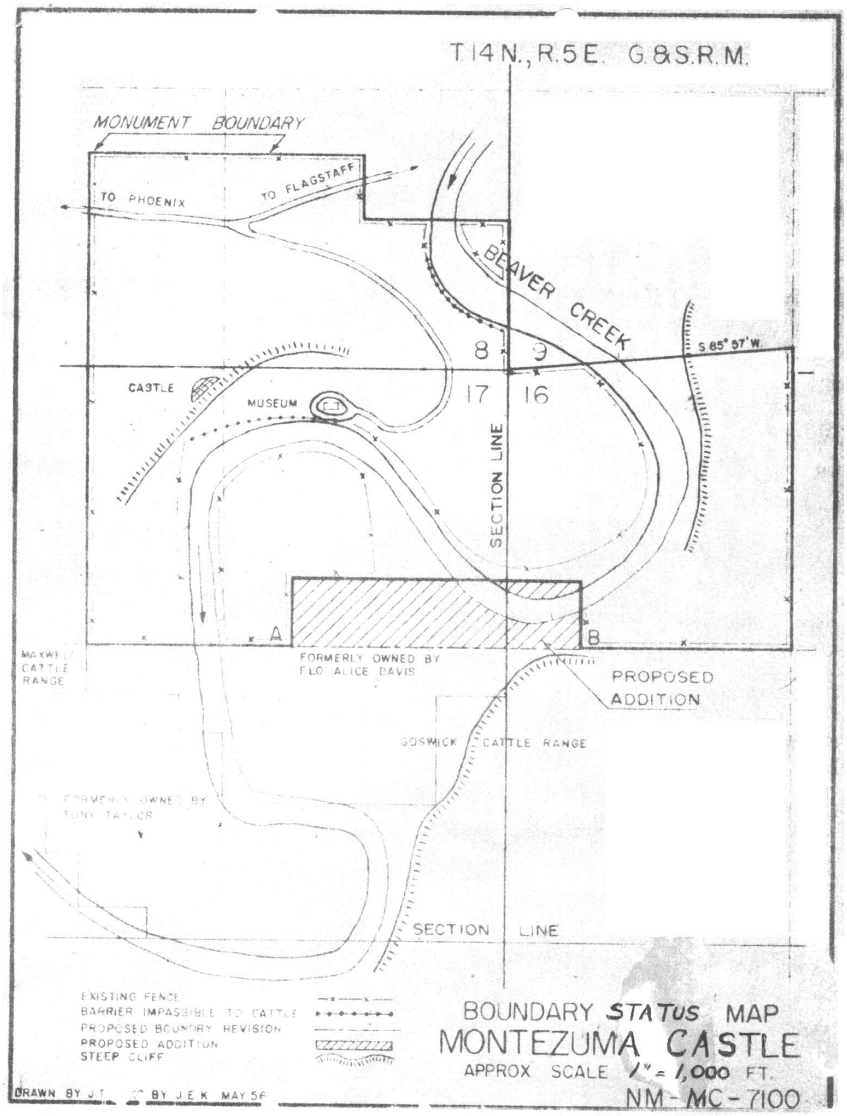
A question arises as to whether the owners of the former Davis property will retain any water rights in Beaver Creek if we purchase from them the 40-acre tract, which is only a portion of their entire property. If they will continue to possess the right to use the waters of Beaver Creek along with the right to cross our property in obtaining that water, we may need to negotiate with them for the relinquishment of that water right.

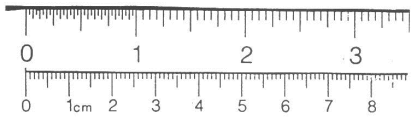
We would appreciate having your analysis of the water rights question and any comments or suggestions you may wish to offer concerning the draft of bill.

Leo J. Diederich, Chief
Branch of National Park System Planning

Attachments2

00-00-0000: boundary status map: montezuma castle





A B I L L

To facilitate the administration of the Montezuma Castle National Monument, in the State of Arizona, by authorizing the acquisition of additional land therefor, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of providing a more efficient boundary for the Montezuma Castle National Monument, Arizona, the Secretary of the Interior is authorized to procure, in such manner as he shall find to be in the public interest, for addition to the Monument, approximately 40 acres of land and interests in such land lying adjacent to said Monument, using therefor any land acquisition funds available for purposes of the National Park System.

SEC. 2 The Secretary of the Interior is authorized to accept gifts of land, interests in lands, funds and other property for use in carrying out the purposes of this Act.

SEC. 3. When acquired pursuant to this Act lands and interest therein shall become a part of the Montezuma Castle National Monument upon the publication by the Secretary of the Interior of a description thereof in the Federal Register. Lands and interests therein so added shall thereafter be subject to all the laws and regulations applicable to the Monument.

00-00-0000: handwritten note: deeds in chain of title to montezuma well (remaining deeds in chain of title in general file for monte

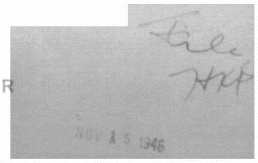
Deeds in Chain
of Title
to Montezuma Well

(Remaining deeds in
Chain of title in
General File for
Montezuma Castle)

00-00-0000: letter to nps from office of the solicitor regarding examination of the title data for land that will become a detached unit

M. 34714.

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON 25, D. C.



The Director,
National Park Service.

In accordance with your request of October 2, 1946, an examination has been made of the title data relating to 180 acres of land, more or less, in Yavapai County, Arizona. This land is to be acquired for a consideration of $25,000, in accordance with contract approved July 27, 1946, by authority of the act of October 19, 1943 (57 Stat. 572), with funds made available by the Interior Department Appropriation Act, 1947 (Public Law 478, 79th Cong.). When the property has been acquired it will become a detached unit of the Montezuma Castle National Monument. Act of October 19, 1943, supra.

The land is described in the enclosed copy of the contract between the vendors and the United States of America.

The abstracts were last certified on September 4, 1946, by the Guarantee Title and Trust Co.

The certificates must be amended to show that they were prepared for the use and benefit of the United States.

The abstracts and accompanying data disclose the title to be vested in Fred Back, Mildred Fain, William L. Back, Esther Lee Cherry and Basil Back, subject to:

1. All real and personal property taxes and assessments which are liens at the time of recording of deed. If the taxes are liens by State statute but are not ascertainable, adequate provision should be made for the payment of such taxes by withholding from the purchase price a sufficient sum to secure the payment of such taxes.

2. Rights, if any, that may be ascertained by an inspection of the premises. The customary departmental report on possessory rights based on an inspection of the premises and inquiry as of the date of the recording of the deed to the United States must be submitted. Special attention should be given in this report to persons in possession, roads, easements, or rights-of-way that may affect the land, and any improvements or repairs made on the premises for which mechanics' liens may be claimed, although not of record. Any claims or rights adversely affecting the land should be submitted to me for further consideration.

3. Reservations of rights in Federal patents. The patent from the United States at page 1 of Abstract No. 8175-A contains the usual reservations by the United States of rights-of-way for ditches, canals and easements in third persons of vested and accrued water rights. It should be ascertained by the National Park Service whether there are any outstanding easements in connection with vested and accrued water rights from an inspection of the land. Should such easements exist it should be administratively determined that they will not adversely affect the administration or use of the land and are acceptable.

4. Easements for an electric power transmission line and highway. It should be administratively determined that such easements will not adversely affect the administration, value or use of the land. Abstracts Nos. 8175, p. 62; 8175-A, pp. 43, 49.

5. Obtaining an engineer's or surveyor's certificate. An engineer's or surveyor's certificate should be obtained showing that the lands described in abstract No. 8175, at pages 18, 21, 31, 39, 48, 61, 67, 69 and 74, and abstract No. 8175-A, at pages 26, 33 and 37 are not included within the boundaries of the land described in the contract of purchase.

6. Satisfaction and release of mortgage. The mortgage dated July 25, 1933, from W. L. Back to Jessie Lee Cherry et al., to secure the payment of $1,080.77, should be satisfied and released of record. Abstract No. 8175-A, p. 48.

7. Insertion of the proper description in the deed. An engineer or surveyor should furnish a proper description of the property to be inserted in the deed. This is considered necessary because of the off conveyances referred to in requirement No. 5 of this opinion.

8. Establishing identity of Esther Henderson. It must be shown by a recital in the deed or by affidavit that Esther Henderson, one of the grantors in the deed, is the same person as Esther Lee Cherry, one of the record owners. Abstracts Nos. 8175, p. 41; 8175-A, p. 38.

When the foregoing requirements and objections have been met, the enclosed warranty deed from Mildred Fain, W. L. Back, Esther Henderson, Fred Back and Basil F. Back, to the United States, duly executed and properly stamped, has been recorded, the abstracts have been continued and certified to a date subsequent to the recordation of the deed, disclosing that nothing has occurred since the date of the present certificate to affect the title adversely, and showing the vesting of a valid title in the United States of America, the title will be approved and the deed accepted.

Should it be ascertained that there are any outstanding rights or claims adversely affecting the land, not referred to in this opinion and which have not been properly met, this opinion and the related data should be referred to me for further consideration.

The deed, abstracts and related papers are returned for further action in accordance with this opinion.

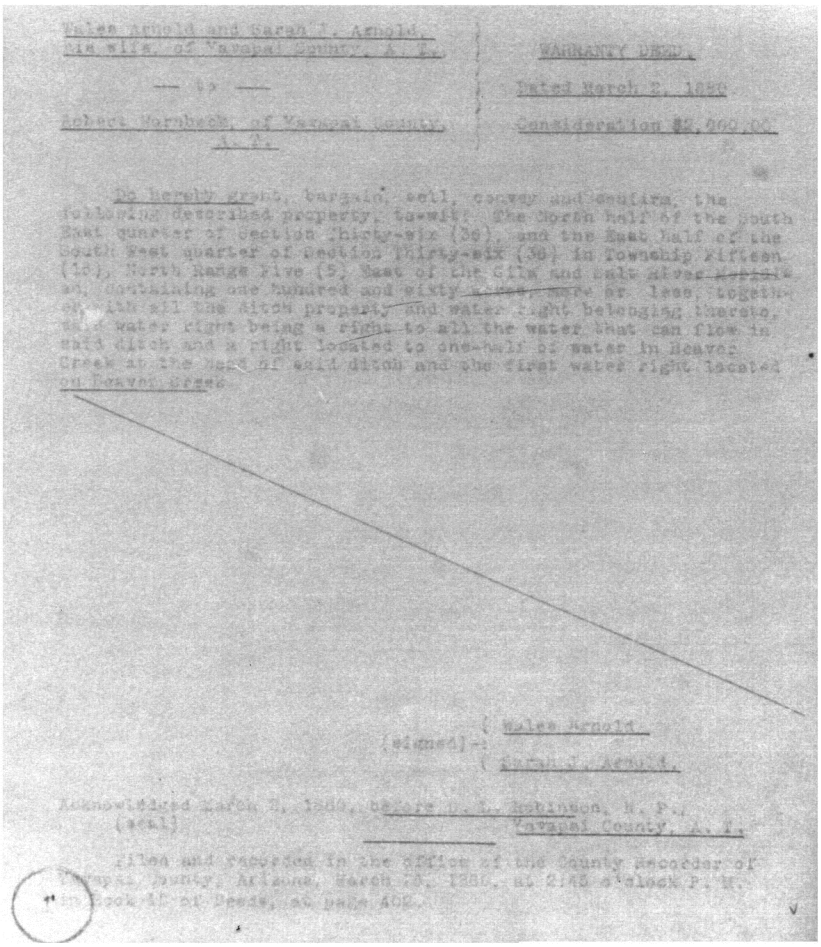
Theodore Spector

Abstract Examined by U.S.A.G.
Date JUN 30 1948

Theodore Spector,
For the Solicitor.

Enclosure 682.

BMH:k



Wales Arnold and Sarah J. Arnold, his wife, of Yavapai County, A. T.

— to —

Robert Vornbach, of Yavapai County, A. T.

WARRANTY DEED.

Dated March 2, 1880

Consideration $2,000.00

Do hereby grant, bargain, sell, convey and confirm, the following described property, to-wit: The North half of the South East quarter of Section Thirty-six (36), and the East half of the South West quarter of Section Thirty-six (36) in Township fifteen (15), North Range five (5) East of the Gila and Salt River ~~Meridia~~ an, containing one hundred and sixty ~~(160)~~ acres or less, together with all the Aitch property and water right belonging thereto, the water right being a right to all the water that can flow in said ditch and a right located to one-half of water in Beaver Creek at the head of said ditch and the first water right located on Beaver Creek.

[signed]- { Wales Arnold
{ Sarah J. Arnold.

Acknowledged March 2, 1880, before me, L. Robinson, N. P.,
(seal) Yavapai County, A. T.

Filed and recorded in the Office of the County Recorder of Yavapai County, Arizona, March 10, 1880, at 2:45 o'clock P. M.
in Book "F" of Deeds, at page 402.

11-20-1882: patent: certificate no. 155

The United States of America.) PATENT.

— to —) Dated Nov. 20, 1882.

Wales Arnold,) Certificate No.155.
of Yavapai County, A. T.

RECITES:- That it appears that full payment has been made by the said Wales Arnold, according to the provisions of the Act of Congress of April 24, 1820, entitled "An Act making further provision for the sale of the Public Lands" and the acts supplemental thereto for the North half of South East quarter and East half of South West quarter of Section 36, in Township 15 North of Range 5 East of Gila and Salt River Meridian in Arizona Territory, containing 160 acres according to the official plat of the survey of the said lands returned to the General Land Office by the Surveyor General, which said tract has been purchased by the said Wales Arnold.

THEREFORE, the United States of America does hereby give and grant unto the said Wales Arnold and to his heirs the said tract; to have and to hold the same unto himself and his heirs and assigns forever.

In Testimony Whereof, these letters are hereby caused to be made patent.

By the President: Chester A. Arthur.

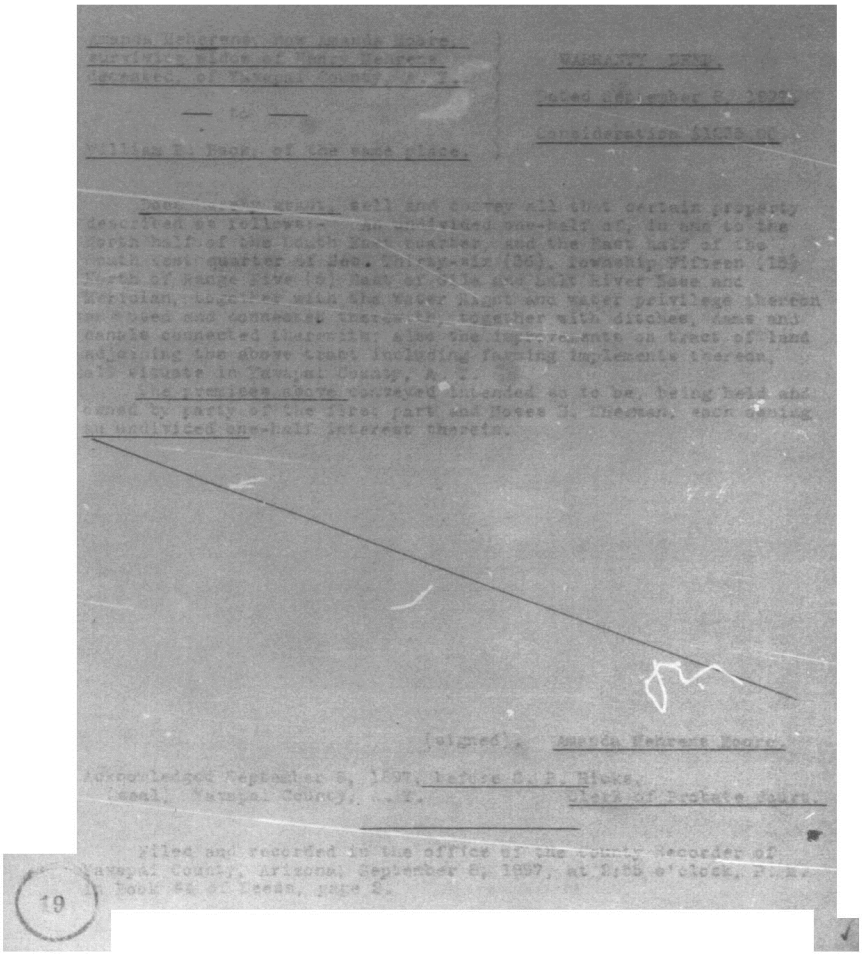
(SEAL). By O. L. Judd, Asst. Secretary.

S. W. Clark, Recorder of General Land Office.

= = = = = =

Certificate attached Dec. 14. 1915, by L. Q. C. Lamar, Recorder of General Land Office, Washington, shows the annexed copy of patent to be a true and literal exemplification from the records in his office.

Filed and recorded in the office of the County Recorder of Yavapai County, Arizona, December 20, 1915, at 8:00 o'clock A. M. in Book 102 of Deeds, at page 582-584



WARRANTY DEED

[illegible] September 6, 1897

[illegible] Dollars ($1000.00)

[illegible] Page, of the same place,

[illegible] sell and convey all that certain property described as follows, [illegible] undivided one-half of, in and to the North half of the South East quarter, and the East half of the South West quarter of Sec. Thirty-six (36), Township Fifteen (15) North of Range Five (5) East of the Gila and Salt River Base and Meridian, together with the Water Right and water privilege thereon appurtenant and connected therewith, together with ditches, dams and canals connected therewith. Also the improvements on tract of land adjoining the above tract including farming implements thereon, all situate in Navajo County, A.T.

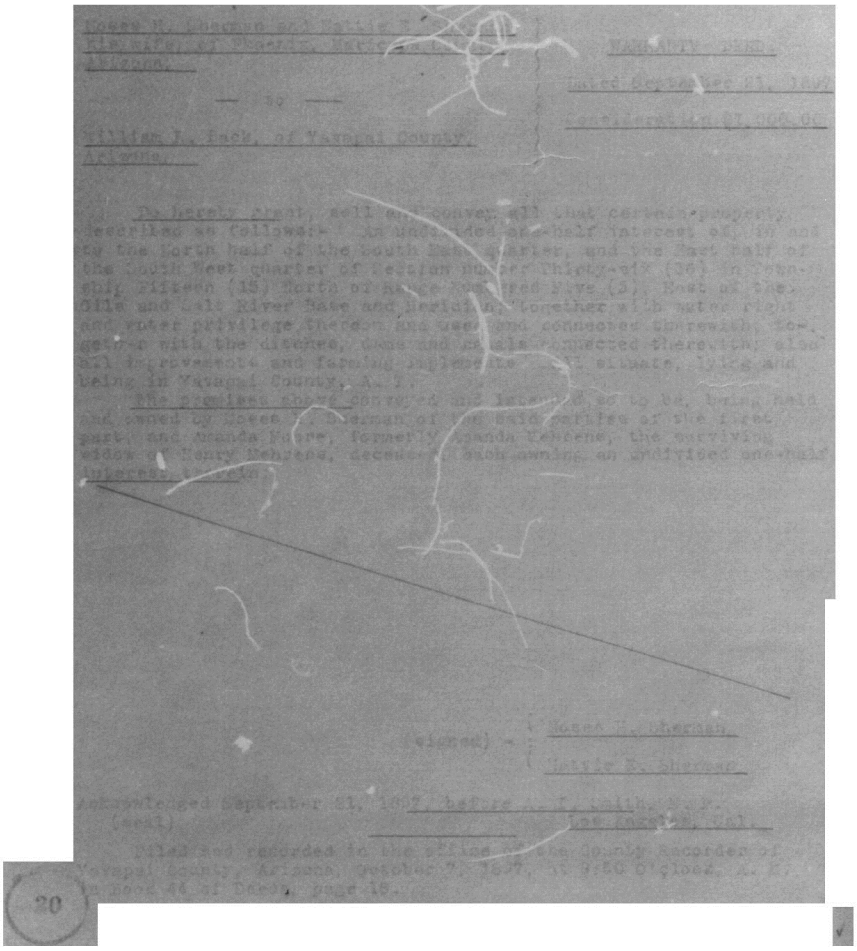
The premises above conveyed intended so to be, being held and owned by party of the first part and Moses T. Sheehan, each owning undivided one-half interest therein.

[illegible] [signed] Amanda Wehrens Moore.

Acknowledged September 6, 1897 before C. P. Hicks,
[illegible] Seal, Navajo County, A.T. Clerk of Probate Court.

Filed and recorded in the office of the County Recorder of Navajo County, Arizona, September 6, 1897, at 2:55 o'clock, P.M. Book 2A of Deeds, page 2.

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Abstract # 8175-A

THE UNITED STATES OF AMERICA

to

WILLIAM B. BACK

PATENT

Dated: July 18, 1907
Homestead Certificate No. 51
Application 253

WHEREAS . . . it appears that . . . the claim of WILLIAM B. BACK has been established and duly consummated in conformity to law, for

The South West quarter of the North East quarter and the Lots four, five and six of Section thirty-one, in Township fifteen North of Range six East of Gila and Salt River Meridian in Arizona, containing one hundred and fifty-six acres and forty-seven hundredths of an acre according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said WILLIAM B. BACK, the tract of Land above described:

. . . subject to any vested and accrued water rights . . . and rights to ditches and reservoirs used in connection with such water rights . . . and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom . . . And there is reserved from the lands hereby granted, the right of way thereon for ditches or canals constructed by the authority of the United States.

(U.S.GEN'L LAND OFFICE SEAL)

By the President: THEODORE ROOSEVELT
By F. M. McKean, Secretary
H. W. Sanford, Recorder of the General Land Office

Recorded Miscellaneous, Vol. 642, Page 196

Filed and recorded in the office of the County Recorder of Yavapai County, Arizona, Dec. 18, 1907, at 9:00 o'clock A.M., in Book 80 of Deeds, Pages 576-577.

1

William B. Back and Marganna Back, his wife, of Camp Verde, Ariz.

— to —

Charles R. Chestnut, of the same place.

WARRANTY DEED.

Dated April 5, 1912.

Consideration $7,000.00

Do hereby grant, sell and convey all that certain premises described as follows:- The East half of South West quarter of Section Thirty-six (36), also the part or portion of the North West quarter of South East quarter laying West of the natural wash running through said land; said tract of land in all situated in Section Thirty-six (36) in Township Fifteen (15) North of Range Five (5) East of the Gila and Salt River Base and Meridian, in Arizona, containing 110 acres, more or less.

The dividing line between the said party of the first part and th party of the second part shall be the center of the main wash above described and referred to in this conveyance.

Also an undivided one-half interest of, in and to the irrigating ditch known as the Wales Arnold ditch taking water from Beaver Creek and conveying same to and upon said land, said water right is to be divided equally by each using the water three days and nights alternately, and each party is to bear their expense of all the repairs of said ditch from the head or place of diversion to the main wash and each to pay an equal part of the expense of the water commission.

It is also intended by these presents and conveyance to sell all the improvements on that part or portion farming land in Section 36 and used in connection with said above conveyed and described premises. Said parties of first part hereby relinquish all right, title and interest to said school land.

(signed) - - { William B. Back, Marganna Back.

Acknowledged April 5, 1912, before Geo. W. Hance, N. P., (seal). Yavapai County, Arizona

Filed and recorded in the office of the County Recorder of Yavapai County, Arizona, July 1, 1912, at 9:00 o'clock A. M. in Book 97 of Deeds, at page 142.

04-05-1912: mortgage

Charles R. Chestnut and)
Stella Chestnut, his wife,)
of Camp Verde, Arizona.)
) MORTGAGE.
—— to ——)
) Dated April 5, 1912.
)
) Consideration $7,000.00
William P. Back,) Due in various installments,
of the same place.) Interest 10% per annum.

Do hereby mortgage all that certain premises described as follows:- All of the East half of South West quarter of Section 36, containing 80 acres, more or less: also all of that part or portion of the North half of the South East quarter of Section 36 that lies West of the center of the natural wash or drain that passes through what is known as the Arnold Ranch, and supposed to contain about 30 acres, more or less.

All of the above and foregoing described tract of land lays West of the center of the main wash herein described, and is situated in Section 36, in Township 15 North, of Range 5 East of the G.& S.R.B.& M. in Arizona.

Also an undivided one-half interest in the Wales Arnold Irrigating Ditch, used to convey the waters of Beaver Creek to and upon said lands, according to a deed of conveyance made April 5, 1912.

MARGINAL ENDORSEMENT:-

For value received I hereby certify that this mortgage from Charles R. Chestnut to -- has been fully paid, satisfied and discharged, and hereby fully release the same.

Done before me this Dec. 13, 1915. (signed) Wm. B. Back.
L. S. Colwell, County Recorder,
By E. A. McSwiggin, Deputy.

(signed) - - (Charles R. Chestnut.
(Stella Chestnut.

Acknowledged April 5, 1912, before Geo. W. Hance, N. P., (seal). Yavapai County, Ariz.

Filed and recorded in the office of the County Recorder of Yavapai County, Arizona, July 1, 1912, at 9:00 o'clock A. M. in Book 32 of Mortgages, at page 600.

06-02-1921: in the united states district court for the district of arizona: william b. back vs. burks traylor, d.e. collins, pauline collins

IN THE SUPERIOR COURT OF YAVAPAI COUNTY, STATE OF ARIZONA

WILLIAM B. BACK, Plaintiff, vs. BURKS TRAYLOR, D. E. COLLINS, PAULINE COLLINS, and THE ARIZONA CENTRAL BANK, a corporation, Defendants.) Cause No. 8062

COMPLAINT - Filed January 6, 1921 - Alleging, among other things, that plaintiff is . . . a resident of Yavapai County, Arizona; that Burks Traylor, at the time of incurring the indebtedness hereinafter set out, was a resident of said Yavapai County, Arizona, and his residence at the present time is to plaintiff unknown. That D. E. Collins and his wife Pauline Collins are residents of Yavapai County, Arizona; that The Arizona Central Bank is a corporation existing under and by virtue of the laws of the State of Arizona, and doing business as a corporation in the State of Arizona, having its principal place of business at the Town of Flagstaff, Coconino County, Arizona. That on December 4, 1915, defendant Burks Traylor . . . made his promissory note in the sum of $6000.00, payable to plaintiff herein, due on or before fifteen days after date, with interest thereon at 10% per annum until paid, interest payable annually. That on said December 4, 1915, said defendant Burks Traylor, to secure payment of the principal sum and the interest, and as a part of the same transaction, did execute and deliver to plaintiff, a certain mortgage, covering the East Half of the South West Quarter of Section Thirty-six (36), also that part or portion of the North West Quarter of the South East Quarter lying West of the natural wash running through said land, all situate in said Section Thirty-six (36), in Township Fifteen (15) North of Range Five (5) East of the G. & S. R. B. & M., situated in Yavapai County, Arizona, and containing 110 acres more or less; also an undivided one-half interest in and to the ditch and water right known as the Wales Arnold Water Right, belonging to and used in connection with the said land; together with other property; dated December 4, 1915, which said mortgage was . . . on December 13, 1915, recorded in the office of the County Recorder of Yavapai County, Arizona, in Book 31 of Mortgages, Pages 450 and 451. That the interest on said principal sum . . . has been paid to December 4, 1919, but nothing more has been paid and the principal sum . . . together with interest from December 4, 1919, has not been paid by said defendant . . . That the taxes assessed against said real property remaining unpaid and now delinquent for the year 1920, together with the penalty and interest thereon, amounts to $18.50 . . . That plaintiff has incurred a liability to pay the sum of $330.00 as attorneys fee in the prosecution of this action . . . That defendants D. E. Collins and his wife Pauline Collins, and The Arizona Central Bank have, or claim to have, some interest or claim upon said premises or some part

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thereof . . . Wherefore, plaintiff prays judgment against defendant Burks Traylor . . . for the sum of $6000.00, with interest thereon at 10% per annum from December 4, 1920, and for costs of suit; for the further sum equal to 5% of principal and interest now due . . . as attorney's fee; for the sum of $18.50, being the amount of taxes now due and owing to the County of Yavapai . . . That the usual decree may be made for the sale of said real property by the Sheriff of Yavapai County . . . Verified by Neil C. Clark, one of the attorneys for plaintiff on December 23, 1920.

AFFIDAVIT - Filed January 6, 1921 - Made by Neil C. Clark, one of the attorneys for plaintiff, to the effect that the residences of Burks Traylor, D. E. Collins and Pauline Collins, is unknown to plaintiff.

SUMMONS - Issued January 6, 1921.

PUBLISHER'S AFFIDAVIT - Filed February 28, 1921 - Showing publication of Summons in the Arizona Journal-Miner for the period of five consecutive weeks, in the weekly issue of said newspaper, the first publication being dated January 12, 1921, and the final publicationbeing dated February 9, 1921 - Clipping attached.

ANSWER AND CROSS-COMPLAINT - Filed March 18, 1921 - By the Arizona Central Bank - Alleging, among other things, that on April 26, 1918, defendant D. E. Collins and Pauline Collins, made, executed and delivered to said The Arizona Central Bank, seven promissory notes, of which six were for $10,000.00 each, and one for $2500.00, due two years after date . . . That on April 26, 1918, said D. E. Collins and Pauline Collins, in order to further secure the payment of said promissory notes, made, executed and delivered to The Arizona Central Bank, their realty mortgage, covering the East Half of the Southwest Quarter of Section Thirty-six (36); also that part or portion of the Northwest Quarter of the Southeast Quarter of Section Thirty-six (36), lying West of the natural wash running through said land - Township Fifteen (15) North, Range Five (5) East, of Gila and Salt River Meridian, Yavapai County, Arizona, containing One Hundred and Ten Acres (110) more or less. (The dividing line between the said lands along said natural wash shall be the center of the main wash above described and referred to in this conveyance.); together with water rights on property not included in this abstract; together with other property; which said mortgage was on May 15, 1918, recorded in the office of the County Recorder of Yavapai County, Arizona, in Book 41 of Realty Mortgages, at Pages 462 to 466, inclusive . . . That there is now due and owing . . . the sum of $50,000.00, together with interest thereon at 10% per annum from April 26, 1919; the principal sum of $655.00, together with interest . . . and the principal sum of $2500.00, together with interest thereon at the rate of 10% per annum from April 26, 1919, to date. That said D. E. Collins and Pauline Collins have defaulted in the payment of their notes and the interest thereon . . . and The Arizona Central Bank has placed them for collection in the hands of an attorney, and has incurred a liability for attorneys' fees . . . of 10% of the total amount of principal and interest due . . . That said defendant, The Arizona Central Bank, has instituted suit to recover for the amount due as principal and interest on said notes . . . in the Superior Court of the State of Arizona, in and for the County of Coconino, Case No. 1612, of said Court. That

said suit is still pending and undetermined . . . That the property covered by said real estate hereinabove described, and chattel mortgage given to secure the notes hereinabove described, which said Chattel Mortgage is not involved in this suit, is not of sufficient value to pay the indebtedness covered by said note, interest, attorneys fees and costs. Wherefore, defendant Arizona Central Bank prays that in the event of the entry of judgment and decree of foreclosure in this cause, in favor of William B. Back . . . and the proceeds of the sale of said property shall be in excess of the judgment, interest, attorneys fees, Court costs, and costs and expenses of sale herein, that in that event, an order be entered by the Court directing that the said excess be transmitted by the Clerk of this Court to the Clerk of the Superior Court of the State of Arizona, in and for the County of Coconino, to be held by said Clerk pending the determination of the said action . . . Case No. 1612 . . . Verified by J. P. Wilson, Cashier of The Arizona Central Bank, on March 17, 1921.

DEFAULT OF DEFENDANTS, BURKS TRAYLOR, D. E. COLLINS AND PAULINE COLLINS - Entered on March 18, 1921.

VARIOUS DOCUMENTS - Admitted as evidence, March 21, 1921.

JUDGMENT AND DECREE - Entered March 21, 1921 - It is ordered, adjudged and decreed that plaintiff have judgment against the defendants Burks Traylor, D. E. Collins and Pauline Collins, for the sum of $6850.87, principal and interest; and for the further sum of $342.50 for attorneys fees; and $18.50 money expended in payment of taxes; and $36.60 for costs of suit; and that said last named defendants are personally liable for the whole thereof, and the same is a valid lien upon the land and premises described in the complaint, and as secured by the terms of said mortgage. That said mortgage is a valid and subsisting first, prior and paramount lien on said premises . . . It is further ordered, adjudged and decreed that the mortgaged premises . . . be sold at public auction by the Sheriff of Yavapai County . . . and that the said Sheriff after the time allowed by law for redemption has expired, execute and deliver a deed to the purchaser or purchasers of the said mortgaged premises at said sale . . . That the defendants . . . be forever barred and foreclosed of and from any equity of redemption and claim of any kind to said mortgaged premises and every part and parcel thereof, from and after the delivery of said Sheriff's Deed . . . It is further ordered, adjudged and decreed that if the moneys received from said sale shall be insufficient to pay the amount so found due, the plaintiff with interest and costs . . . said Sheriff shall specify the amount of such deficiency and the balance due plaintiff in his return of said sale; whereupon the Clerk of this Court shall docket a judgment for such balance against Burks Traylor, D. E. Collins and Pauline Collins; that said last named defendants pay the plaintiff the amount of such deficiency and judgment with interest thereon . . . and that plaintiff have execution therefor. . . . Signed by John J. Sweeney, Judge of said Superior Court.

TRANSCRIPT OF TESTIMONY - Filed April 15, 1921.

CERTIFICATE JUDGMENT ROLL - April 16, 1921.

SPECIAL EXECUTION - Issued April _, 1921 - Commanding Sheriff to seize and sell the above described property and make return within 90 days.

NOTICE OF SHERIFF'S SALE ON SPECIAL EXECUTION - Dated May 6, 1921 - Setting June 2, 1921, as date of sale.
SHERIFF'S CERTIFICATE OF SALE - Dated June 2, 1921 - Showing that the Sheriff levied on the above described property and, after giving due and legal notice of sale, did on June 2, 1921, sell the above described property to Rowena VanDeren, for the sum of $7483.72 . . .

- - - - -

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06-02-1921: in the united states district court for the district of arizona: william b. back vs. burks traylor, d.e. collins, pauline collins

IN THE SUPERIOR COURT OF YAVAPAI COUNTY, STATE OF ARIZONA

WILLIAM B. BACK, Plaintiff,
vs.
BURKS TRAYLOR, D. E. COLLINS, PAULINE COLLINS & THE ARIZONA CENTRAL BANK, a corporation, Defendants.

No. 8062

SHERIFF'S CERTIFICATE OF SALE

I, Warren G. Davis, Sheriff of Yavapai County, State of Arizona, do hereby certify that under and by virtue of a special execution issued out of the Superior Court of Yavapai County, Arizona, in the above entitled action, wherein William B. Back, the above named plaintiff recovered a judgment on the 31st day of March, A. D., 1921, duly entered and attested, and to me as Sheriff, directed and delivered, whereby I was commanded to make the sum of $3857.87, together with interest, costs and accrued costs, and satisfy said judgment out of the property of Burks Traylor, D. E. Collins, Pauline Collins & The Arizona Central Bank, a corporation, subject to execution.

WHEREAS, under and by virtue of the said special execution I did levy upon all the right, title and interest of the above named defendants in and to the property hereinafter described, and after giving due and legal notice of sale in the manner and form required by law,

I did on Thursday, the 2nd day of June, 1921, . . . duly offer for sale in separate parcels and no bids being received did sell in one parcel at public auction to Rowena VanDeren for the sum of $7483.72, all of the following described property. belonging to Burks Traylor, D. E. Collins, Pauline Collins & The Arizona Central Bank, a corporation, situate in Yavapai County, Arizona, to-wit:

The East half of the South-west Quarter of Section thirty-six (36), also that part or portion of Northwest Quarter of the Southeast Quarter, lying West of the natural wash running through said land, all situate in said Section thirty-six (36), in Township Fifteen (15) North, Range five (5) East of the Gila and Salt River Base and Meridian, situate in Yavapai County, Arizona, and containing 110 more or less also an undivided one half interest in and to the ditch and water right known as the "Wales Arnold water right, belonging to and used in connection with the said land. . . . "

And I do further certify that the above described property is subject to redemption by the said judgment debtor within six (6) months from the date of said sale, and by any redemptioner thereafter who has given legal notice of his intentions to redeem the said property within the six (6) months, pursuant to the statute in such case made and provided.

15

Dated at Prescott, Arizona, this the 2nd day of June, A. D., 1921.

WARREN G. DAVIS,
Sheriff of Yavapai County, State of Arizona.
By Ed F. Bowers, Deputy

GUARANTEE TITLE AND TRUST CO. Seal PRESCOTT, ARIZONA

Filed and recorded in the office of the County Recorder of Yavapai County, Arizona, June 2nd, 1921, at 4:00 o'clock P.M., in Book 5 of Attachments, Pages 178-179.

(U.S.I.R. STPS $7.50
12/5/21 R. V D)

WARREN G. DAVIS, Sheriff of the County of Yavapai, State of Arizona,

to

ROWENA VAN DEREN

SHERIFF'S DEED

Dated: December 5th, 1921
Consideration: $7483.72

WHEREAS, under and by virtue of a certain judgment and decree rendered by the Superior Court of Yavapai County, Arizona, on the 21st day of March, A. D., 1921, in a certain action then pending in said court, being cause No. 8062, wherein William B. Back was plaintiff, and Burke Traylor, D. E. Collins, Pauline Collins and The Arizona Central Bank, a corporation, were defendants, it was among other things ordered and adjudged that the said plaintiff, William B. Back, do have and recover of and from the said defendants above mentioned, the sum of $6857.87, together with interest, costs and accruing costs, and satisfy said judgment out of the property of the said defendants, and

WHEREAS, a writ of special execution was issued out of and under the seal of said court in said action, duly directed and delivered to me as Sheriff aforesaid, party of the first part, commanding me as such Sheriff to make the said amount with interest, costs and accruing costs out of the property in Yavapai County, Arizona, belonging to the said defendants as hereinafter described, and being the same property and real estate ordered sold in said judgment and decree, and

WHEREAS, said party of the first part, Sheriff as aforesaid, did, on June 2, 1921 . . . after due and legal notice to the public had been given according to law, and by the practice of said court, in accordance with said judgment and decree, offer and expose for sale at public auction, and did fairly strike off and sell to Rowena VanDeren for the sum of $7483.72 . . . she, the said Rowena VanDeren, being the highest and best bidder and the said amount being the highest and best sum bidden therefor at said sale, all the property hereinafter described, and

WHEREAS, the said Rowena VanDeren thereupon paid to first party as Sheriff as aforesaid, the said sum of money as bidden by her, and

WHEREAS, first party as Sheriff as aforesaid, thereupon made and issued the usual certificate of sale in duplicate, in due form of law, and delivered one thereof to the said purchaser, and caused the other to be filed and recorded in the office of the Recorder of Yavapai County, Arizona, and

WHEREAS, more than six months have elapsed since the date of sale, and no redemption has been made of the said property so sold as aforesaid, by or on behalf of the said judgment debtors, the said defendants, or any of them,

or by or on behalf of any other person, and after the expiration of the six months period of redemption after said sale, no notice of intention to redeem having been given by any lien holder or creditor or other person,

NOW, THIS INDENTURE WITNESSETH: That the said party of the first part . . . in pursuance of said judgment and decree, and writ of special execution issued therein, and in conformity to the statutes in such case made and provided, . . . has granted, bargained, sold and conveyed to the said party of the second part, and to her heirs and assigns, all right, title and interest of the defendants, Burks Traylor, D. E. Collins, Pauline Collins and The Arizona Central Bank, a corporation, in and to the property, real estate and premises set out and described in said certificate of sale, to wit:

The east half of the Southwest Quarter of Section Thirty Six (36); also that part or portion of the Northwest Quarter of the Southeast Quarter, lying west of the natural wash running through said land, all situate in said Section Thirty-six (36) in Township Fifteen (15) North, Range Five (5) East of the Gila and Salt River Base and Meridian, situate in Yavapai County, Arizona, and containing One Hundred Ten (110) acres, more or less;

also an undivided one half interest in and to the ditch and a water right known as the "Wales-Arnold Water Right", belonging to and used in connection with the said land.

Also all interest in and to the school land adjoining the above described tract and all the improvements of every kind and character situate thereon; . . .

WARREN G. DAVIS
Sheriff in and for Yavapai
County, State of Arizona.

Acknowledged by Warren G. Davis, Sheriff of Yavapai County, Arizona, before Jos. C. Furst, N.P., Yavapai County, Arizona, December 5th, 1921. (NOTARIAL SEAL - Commission expires April 6th, 1922.)

Filed and recorded in the office of the County Recorder of Yavapai County, Arizona, Jany. 7th, 1922, at 10:15 o'clock A.M., in Book 125 of Deeds, Pages 373-375.

18

JAMES G. VAN DEREN and ROWENA VAN DEREN, his wife

to

RIMROCK RANCH COMPANY

WARRANTY DEED

Dated: August 24, 1927
Consideration: $10.00 and other good and valuable considerations

Do grant, sell and convey all that certain land and real property described as follows; to-wit:

Beginning at the center of Section 36, Township 15 North, Range 5 East, Gila and Salt River Base and Meridian, thence West 330 feet to a certain wash; thence South fourteen degrees East a distance of four hundred (400) feet; thence South thirteen degrees East along said wash a distance of two hundred fifty (250) feet; thence South thirty-six degrees East along said wash a distance of Two Hundred Twenty-six (226) feet; thence South sixteen degrees East along said wash a distance of three hundred (300) feet; thence South nine degrees East along said wash a distance of four hundred fifty (450) feet to the north bank of Bever Creek; thence along and up to the North bank of Bever Creek in an easterly direction to the first natural wash entering Bever Creek on the north side thereof, said wash being the east boundary of the land belonging to the grantors herein; thence up and along said wash in a north-easterly direction to the north line of the Southeast Quarter of said Section 36; thence West along north line of the Southeast Quarter of Section 36 to the place of beginning; containing about twenty-one acres of irrigable land and fifteen acres of upland, all situate in Yavapai County, Arizona.

Also an undivided one sixth (1/6) interest in and to that certain ditch and water right heretofore wholly owned by W. B. Back and the grantors herein, an undivided one-half interest each, and used by said grantors in the irrigation of the land hereby conveyed.

JAMES G. VAN DEREN
ROWENA VAN DEREN

Acknowledged by James G. VanDeren and Rowena VanDeren, his wife, before R. L. Linton, N.P., Yavapai County, Arizona, August 24th, 1927. (NOTARIAL SEAL - Commission expires Jan. 28, 1931.)

Filed and recorded in the office of the County Recorder of Yavapai County, Arizona, Nov. 22, 1927, at 2:05 o'clock P.M., in Book 145 of Deeds, Pages 110-111.

21

(U.S.I.R. STP. $1.00, Cancelled
A. G. D. 12/11/35)

J. G. VanDEREN, and ROWENA VanDEREN, his wife

to

A. G. DICKISON

WARRANTY DEED

Dated: December 7, 1935
Consideration: $100.00

Do grant, sell and convey all that certain premises described as follows, viz:

All right, title, and interest in and to the following described real estate, namely:

In Order to locate the point of beginning of Boundary of land herein conveyed, Begin at Jackson's Quarter Corner where Sections 35 and 36 Join and run East along Section line 2520 feet to a point marked by a mesquite tree in bottom of wash; thence S 15° East 158 feet to a corner in bottom of wash which is the Point of beginning of land herein described. From this point run W. 10° N 93 feet to a point; thence W 15° N 270 feet to a point; thence S 10° W to a point; thence S 20° E 1246 feet to a point; this point marked by buried rocks in fence line met at rock; thence E 10° S 151 feet; thence E 20° S 125 feet to a point; thence E 0° S 219 feet to a point being a corner in bottom of wash; thence N 15° W 783 feet; thence N 54° W 106 feet; thence N 36° W 87 feet; thence N 15° W 462 feet to the point of beginning, all being in Section 36 T 15 North R 5 East, G. & S. R. B. M. in Yavapai County, and State of Arizona, and being 16.06 Acres; together with all improvments thereon and including One sixth interest in water and ditch of Montezuma Well Irrigation Ditch.

.J G VanDEREN
ROWENA VanDEREN

Acknowledged by J. G. VanDeren and Rowena Van Deren, his wife, before Charles C. Stemmer, N.P., Yavapai County, Arizona, December 7th, 1935.
(NOTARIAL SEAL - Commission expires May 29th, 1937.)

Filed and recorded in the office of the County Recorder of Yavapai County, Arizona, Dec. 11, 1935, at 11:12 o'clock A.M., in Book 162 of Deeds, Pages 235.

61

12-29-1938: quit-claim deed

(Consideration nominal - no stamps required A H Favour)

JAMES G. VAN DEREN and ROWENA VAN DEREN, his wife,

to

RALPH C. SCHLEGEL and HONORA WOOD SCHLEGEL, husband and wife

QUIT-CLAIM DEED

Dated: December 29, 1938
Consideration: $10.00

Do remise, release and quit-claim to said parties of the second part, as joint owners with the right of survivorship, and not as owners in common or owners of a community, all the right, title, interest, claim and demand which the said parties of the first part have in and to the following described real estate and property situated in the County of Yavapai, State of Arizona, to-wit:

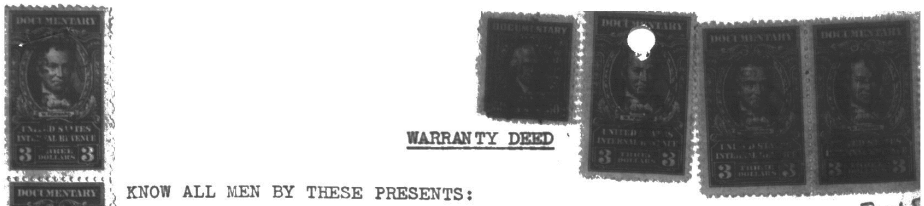
Beginning at the center of Section 36, Township 15 North, Range 5 East, Gila and Salt River Base and Meridian, thence West 330 feet to a certain wash; thence South fourteen degrees East a distance of four hundred (400) feet; thence South thirteen degrees East along said wash a distance of two hundred fifty (250) feet; thence South thirty-six degrees East along said wash a distance of Two Hundred Twenty-six (226) feet; thence South sixteen degrees East along said wash a distance of three hundred (300) feet; thence South nine degrees East along said wash a distance of four hundred fifty (450) feet to the north bank of Beaver Creek; thence along and up to the North bank of Beaver Creek in an Easterly direction to the first natural wash entering Beaver Creek on the north side thereof, said wash being the east boundary of the land belonging to the grantors herein; thence up and along said wash in a northeasterly direction to the north line of the Southeast Quarter of said Section 36; thence West along north line of the Southeast Quarter of Section 36 to the place of beginning; containing about twenty-one acres of irrigable land and fifteen acres of upland, all situate in Yavapai County, Arizona.

Also, an undivided one-sixth (1/6) interest in and to that certain ditch and water right heretofore wholly owned by W. B. Back and the grantors herein, an undivided one-half interest each, and used by said grantors in the irrigation of the land hereby quitclaimed.

This deed is given to correct the deed, in regard to proper designation of the grantees, made August 24, 1927, and recorded in Book 145 of Deeds, at page 110, records in the office of the County Recorder of Yavapai County, Arizona.

JAMES G VAN DEREN
ROWENA VAN DEREN

Acknowledged by James G. VanDeren and Rowena VanDeren, his wife, before Jessie M. Chick, N.P., Yavapai County, Arizona, December 29th, 1938. (NOTARIAL SEAL - Commission expires Jan. 6, 1940.)



Deed 5

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That MILDRED FAIN, W. L. BACK, FRED BACK, BASIL P. BACK and ESTHER HENDERSON, formerly Esther Lee Cherry, dealing with their separate property, for and in consideration of the sum of TWENTY-FIVE THOUSAND AND 00/100 DOLLARS, to them in hand paid by THE UNITED STATES OF AMERICA, have granted, sold and conveyed, and by these presents do grant, sell and convey unto the said THE UNITED STATES OF AMERICA, and its assigns, all that certain premises situated in Yavapai County, State of Arizona, described as follows, viz:

Beginning at the ¼ corner common to Section 31, Township 15 North, Range 6 East, and Section 36, Township 15 North, Range 5 East, Gila and Salt River Base Meridian,

Thence South	89°	56' E.	2568.15 ft.
Thence North	0°	04' W.	1322.23 ft.
Thence South	89°	53' E.	1321.50 ft.
Thence South	0°	04' E.	1417.20 ft.
Thence South	65°	31' W.	116.00 ft.
Thence South	49°	02' W.	291.20 ft.
Thence South	33°	43' W.	425.00 ft.
Thence South	33°	06' W.	350.00 ft.
Thence South	49°	38' W.	424.62 ft.
Thence South	72°	35' W.	255.77 ft.
Thence South	89°	45' W.	2490.00 ft.

Montezuma Castle Deed 5 description

to a pointon the township line which bears South 3° 23' E. 1351.00 ft. from the above mentioned ¼ corner;

Thence West			1858.99 ft.
Thence North	10°	13' E.	83.69 ft.
Thence North	19°	20' E.	280.70 ft.
Thence North	21°	02' E.	116.74 ft.
Thence North	67°	20' E.	826.10 ft.
Thence North	32°	42' W.	528.56 ft.
Thence North	14°	18' W.	133.45 ft.
Thence E.			1185.80 ft.

to the point of beginning containing 183.6 acres more or less.

TO HAVE AND TO HOLD, the above described premises, together with all and singular the rights and appurtenances thereto in any wise belonging unto the said THE UNITED STATES OF AMERICA and its assigns forever.

And we hereby bind ourselves, our heirs, executors and administrators, to warrant and forever defend, all and singular, the premises unto the said THE UNITED STATES OF AMERICA and its assigns against every person whomsoever, lawfully claiming or to claim the same or any part thereof.

WITNESS our hands this 30th day of December, A. D. 1946.

W. L. Back (SEAL)

Mildred Fain (SEAL)

Fred Back (SEAL)

Basil P. Back (SEAL)

Esther Henderson (SEAL)

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

On this the 31st day of December, 1946, before me, the undersigned, a Notary Public, personally appeared MILDRED FAIN, W. L. BACK and ESTHER HENDERSON, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Jean Graham
Notary Public

(SEAL)

My Commission Expires:
May 2, 1948

Abstract Examined by [illegible]
Date JUN 30 1948

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this the 30th day of December, 1946, before me, the undersigned, a Notary Public, personally appeared FRED BACK, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Isabel Lindsay (Davidson)
Notary Public

(SEAL)

My Commission Expires:
9-30-48

STATE OF CALIFORNIA)
) ss.
COUNTY OF Los Angeles)

On this the 2 day of ~~December~~ Jan', 1947, before me, the undersigned, a Notary Public, personally appeared BASIL P. BACK, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary Public

(SEAL)

My Commission Expires:
My Commission Expires Nov. 23, 1948.

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON

APR -4 1947

The within deed is hereby accepted on behalf of the United States pursuant to the act of October 19, 1943 (57 Stat. 572).

C. Girard Davidson
Assistant Secretary of the Interior.

103

Recorded and recorded at request of
Jan 7 A. D. 19 47
at 10:05 o'clock A.M.
Book 187 of Deeds
Pages 574-575
Records of Yavapai County, Arizona
Craig Sherman
By Edna Mae Baker

-4-

09-29-1950: memorandum to regional director, region three from acting assistant director regarding proposed stock watering lane,

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D. C.

In reply refer to:
L3027 MONT

Memorandum

SEP 29 1950

To: Regional Director, Region Three

From: Acting Assistant Director

Subject: Proposed Stock Watering Lane, Montezuma Castle National Monument

Mr. Dunn has offered the following comments in connection with the proposed stock watering lane discussed in the memorandum of August 11 from Mr. Patraw:

"On the sketch with the memorandum of August 11 from Mr. Patraw I have added the approximate locations of the existing and proposed wells which serve the Monument, at 2,220 and 1,740 feet below the proposed stock watering lane.

"The idea of ceding 40 feet along the Monument boundary for such a lane does not seem objectionable, but one may wonder why it has to be carved out of the Monument instead of the adjacent private land. The Regional Director has previously stated that the private landowner would not grant such access, but he is probably one of the stockmen who want such access.

"Aside from the matter of policy I do not agree with Mr. Patraw's idea of the effect on pollution. Water polluted some miles upstream will be largely purified by the time it reaches the Monument because of the sedimentation and aeration in the intervening reaches of the stream. On the other hand, the stock watering at the proposed lane will create a concentrated pollution too close to the domestic diversions to permit natural purification. In addition, the wells take water, or will take water, from the underground stream flow, but we do not know what portion percolates as indicated by the little arrows I have drawn.

"Consequently, if the stock lane is to be granted, it should be granted only after the National Park Service installs proper chlorination facilities on its system. It should also prepare for public criticism when the dung begins to accumulate just above the picnic area. I suggest that the Public Health Service should also be consulted before the permit is granted. I think that all needless pollution should be prevented along this source of domestic water supply."

If the Public Health Service agrees to the watering of stock so close to the diversions for domestic purposes within the Monument with certain provisions for pollution control, the permit for the watering lane should then be approved to include provision for such conditions, and should be granted only when we are able to comply with them.

/s/ PAUL R. FRANKE

Acting Assistant Director

In duplicate

Copy to: Mr. Dunn

AvanVDunn:sh

09-12-1950: memorandum to chief of land planning from chief, water resources branch regarding proposed stock watering lane, m

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D. C.

In reply refer to:
L3027 MONT

September 12, 1950

Memorandum

To: Chief of Land Planning

From: Chief, Water Resources Branch

Subject: Proposed Stock Watering Lane, Montezuma Castle National Monument

On the sketch with the memorandum of August 11 from Mr. Patraw I have added the approximate locations of the existing and proposed wells which serve the Monument, at 2,220 and 1,740 feet below the proposed stock watering lane.

The idea of ceding 40 feet along the Monument boundary for such a lane does not seem objectionable, but one may wonder why it has to be carved out of the Monument instead of the adjacent private land. The Regional Director has previously stated that the private landowner would not grant such access, but he is probably one of the stockmen who want such access.

Aside from the matter of policy I do not agree with Mr. Patraw's idea of the effect on pollution. Water polluted some miles upstream will be largely purified by the time it reaches the Monument because of the sedimentation and aeration in the intervening reaches of the stream. On the other hand, the stock watering at the proposed lane will create a concentrated pollution too close to the domestic diversions to permit natural purification. In addition, the wells take water, or will take water, from the underground stream flow, but we do not know what portion percolates as indicated by the little arrows I have drawn.

Consequently, if the stock lane is to be granted, it should be granted only after the National Park Service installs proper chlorination facilities on its system. It should also prepare for public criticism when the dung begins to accumulate just above the picnic area. I suggest that the Public Health Service should also be consulted before the permit is granted. I think that all needless pollution should be prevented along this source of domestic water supply.

(SGD.) A. VAN V. DUNN.
A. van V. Dunn
Chief, Water Resources Branch

AvanVDunn:sh

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D. C.

In reply refer to:
D5039 MONT

JUN 13 1950

Memorandum

To: Regional Director, Region Three

From: Associate Director

Subject: Agreement Between U. S. Forest Service and the National Park Service Regarding Maintenance of Stock Driveway to Beaver Creek in SW¼ NW¼ Sec. 16, T. 14 N., R. 5 E., in Montezuma Castle National Monument

The driveway above-mentioned will give the stock access to Beaver Creek within a quarter of a mile above the wells which supply the potable water for the Monument, and it has been our contention, in connection with Water Right Application No. A-1744 (Deed 3), that the source of supply for the wells is the underground flow of Beaver Creek. The maps in said deed assembly also indicate that the distance to Beaver Creek from the top of the cliffs, below the Monument, in the E½ of Section 17, is no greater. We do not know how many passes, suitable for stock lanes, there are down the cliffside in Sections 16 and 17.

Accordingly, we request that you reconsider the agreement, and the possibilities for the stock to water at Beaver Creek below the Monument water system, and give us a report. In addition to the pollution problem, a fenced stock lane across the Monument will needlessly divide two areas of the Monument.

We hope that suitable stock watering facilities can be worked out for the future, which will eliminate these undesirable features.

(SGD) A. E. DEMARAY
Associate Director

In duplicate

Copy to: Mr. Dunn

AvanVDunn:sh

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Messrs. Kittredge and ~~Price~~ Barton DATE: June 1, 1950

FROM : Mr. Dunn

SUBJECT: Agreement of May 18, 1950, between National Park Service and Forest Service, to authorize stock driveway to Beaver Creek at Montezuma Castle National Monument

From maps in attached Deed 3, I fail to see why stock cannot get water from same creek above or below monument, although the number of passes down the cliffs which are shown by feathering at creek banks may be few. It also seems to me that the driveway cannot be authorized indefinitely. Therefore, the agreement should specify that permittee shall not establish any claims to water under the appropriative code of Arizona.

Legal opinion wanted.

A. van V. Dunn
Chief, Water Resources Branch

Attachment

12-22-1947: special use permit: #i-53np-118

No. I-53np-118

YEAR, 19 47-48 fy

10—114
(November 1937)

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
MONTEZUMA CASTLE NATIONAL MONUMENT

(to Mr Dunn for water Rights file)

C45 1/21/48

SPECIAL USE PERMIT

Montezuma Dairy,
By Frank J. Ravis, of Camp Verde, Arizona, is hereby authorized during the term of one year from December 1, 19 47, to November 30, 19 48, to use the following-described land in the above-named park:

41.22 acres of cultivated meador land under irrigation, a portion of the Montezuma Well property, Montezuma Castle National Monument, in Section 31, Township 15 North, Range 6 East, and Section 36, Township 15 North, Range 5 East, G&SR BM.

for the purpose of land and crop conditioning, harvesting and removal of hay crop.

subject to the conditions on the reverse hereof and to the payment to the Government of the United States of the sum of One hundred dollars ($100.00), in advance, or as follows: .....

....., payment to be made through the Superintendent of the Park by express or postal money order, certified check, or draft payable to Treasurer, United States.

Signed at Santa Fe, New Mexico, this 22 day of December, 19 47

/S/ J. McDavis
Assistant Regional Director ~~Superintendent~~

The undersigned hereby accepts the above permit and the right to exercise the privileges granted, subject to the terms, covenants, obligations, and reservations, expressed or implied, therein.

Two witnesses to signatures:

(sgd) E. I. Stewart

Address Camp Verde, Ariz.

(sgd) Homer F. Hastings

Address Camp Verde, Ariz.

Montezuma Dairy
* (sgd) By Frank J. Ravis

Address Camp Verde, Arizona.

Address .....

APPROVED: Dec. 22, 1947

(sgd) P. P. Patraw
Acting Regional ~~Director~~ *Associate Director, National Park Service.*

[In ~~quintuple~~ sextuple]

*Sign name or names as written in body of permit; for copartnership, permittees should sign as "Members of firm"; for corporation, the officer authorized to execute contracts, etc., should sign, with title, the sufficiency of such signature being attested by the secretary, with corporate seal, in lieu of witnesses.

16—35968-1

Director's Office

SPECIAL CONDITIONS OF THIS PERMIT

1. Permittee shall exercise this privilege subject to the supervision of the Superintendent of the Park and shall comply with the regulations of the Secretary of the Interior governing the park.

2. Use by the permittee of the land covered hereby is subject to the right of the Director, National Park Service, to establish trails, roads, and other improvements and betterments over, upon, or through said premises, and further to the use by travelers and others of such roads and trails as well as of those already existing.

3. No building or other structure shall be erected under this permit except upon plans and specifications approved by the Director, National Park Service, and the premises and all appurtenances thereto shall be kept in a safe, sanitary, and sightly condition.

4. Permittee shall dispose of brush and other refuse as required by the Superintendent.

5. Permittee shall pay the United States for any damage resulting from this use.

6. Permittee and his employees shall take all reasonable precautions to prevent forest fires and also shall assist the Superintendent to extinguish forest fires in the vicinity of any tract which may be used hereunder, and in the preservation of good order within the metes and bounds of the park.

7. No timber may be cut or destroyed without first obtaining permit therefor from the Director, National Park Service, in writing.

8. This permit may not be transferred or assigned without the consent of the Director, National Park Service, in writing.

9. This permit shall terminate upon the violation of any of the conditions hereof or of any Act of Congress or regulation of the Secretary of the Interior governing the park or anything in it, or at the discretion of the Director, National Park Service.

10. Neither Members of, nor Delegates to Congress, or Resident Commissioners, officers, agents, or employees of the Government shall be admitted to any share or part of this permit or derive, either directly or indirectly, any pecuniary benefit to arise therefrom.

11. The permittee will maintain all fences around the entire lease acreage, and upon termination of the permit any fence construction performed by him is to remain in place, and becomes the property of the United States.

12. Ditches for irrigation use are to be maintained by the permittee, and the use of water is limited to such quantity and regulations of water rights as held by the United States on the Montezuma Well property.

13. Raising of poultry or pigs at any time is prohibited. Pasturing of cattle or horses is permitted.

14. This permit is renewable annually for a period of ~~five~~ three years, unless for just cause expressed in writing not later than September 1, the permittee desires to terminate the permit.

15. The permittee is to maintain the fertility and stability of the land in as good or better condition as of December 1, 1947; and only alfalfa nurse crops and alfalfa hay is to be grown.

16. The permittee will not maintain living quarters on the property.

17. The term "Superintendent" shall mean the authorized field employee of the National Park Service in charge of Montezuma Castle National Monument.

18. The assignment of land hereunder is subject to a reservation to the United States of any uranium, thorium or other materials which are or may be determined to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, together with the right through the authorized agents or representatives to enter upon the land and prospect for, mine and remove the same.

U. S. GOVERNMENT PRINTING OFFICE 16—35968-1

Supporting Hydro Data

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
Water Resources Division
P. O. Box 4369
Albuquerque, N. Mex. - 87106

RECEIVED
NPS SOUTHWEST REGIONAL OFFICE
MAY 22 1970
Actior | Infor | Initial | Dat
RD
ARD
MA
OE
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A
Files

May 21, 1970

Mr. Ronald E. Cotten
Regional Engineer
National Park Service
Southwest Region
P. O. Box 728
Santa Fe, N. Mex.

Dear Mr. Cotten:

copies sent Supt. Moca + Fisher, Stag mcb 5/26

Attached is a copy of the analysis you requested for Montezuma Castle Well Section near Camp Verde, Arizona - Arsenic and dissolved solids. We did not detect any arsenic in duplicate determinations run on the sample. The sample has an unusually high alkalinity (HCO_3 content) as the Arizona Public Health Laboratory and our report show. We found the dissolved solids content to be 446 mg/liter.

In the interest of interagency cooperation we will not charge you for this analysis.

Sincerely yours,

Kim Ong
For: W. E. Hale
District Chief

Encl.
Anal.067572

L54 Moca

05-11-1978: usgs chemical analysis

SPECIAL ANALYSIS

G.W. Frequency _____ Account 00

Type Analysis K x 10⁵, pH, HCO_3, D.S., As USGS CHEM .L ANALYSIS Project _____

State _____ County _____ Well No. (T.R.S.) _____ Date ~~Collected~~ Received May 11, 1978 Time 1300

Latitude-Longitude _____ Location or other identification Montezuma Castle National Monument

Owner NATIONAL PARK SERVICE SOUTHWEST REGIONAL OFFICE P.O. Box 728, SANTA FE, N.M. Date Drilled _____ Source (Type) _____ Depth (ft) _____ Diam. (in) _____

pH 7.5 Temp.(°C) _____

Hardness as $CaCO_3$: Vol _____ Total _____

T _____ NCH _____

Color _____ S.A.R. _____

%Na _____ T/af _____

Density (g/ml at 20°C) _____

Geologic Source (WDF) _____

Producing Intervals _____

Water Level _____

Sampled after Pumping(Time) _____

Yield _____

Point of Collection _____

Appearance _____

Use _____

Collected by _____

Remarks:

Analyst EJ Checked By KO

Date Completed _____

Date Transmitted _____

Laboratory No. 067572

Specific Conductance (micromhos at 25°C): T _____ R KCl _____ R Sample _____ 787

	mg/L	me/L		mg/L	me/L
Silica(SiO_2) f _____ vol _____ o.d. _____			Bicarbonate (HCO_3) T _____ vol _____ T _____	492	
Calcium (Ca) me/L TH _____ vol _____ T _____			Carbonate (CO_3) Net _____	0	
Magnesium (Mg) vol _____ range _____ reading _____			Sulfate (SO_4) vol _____ f _____ T _____		
Sodium (Na) vol _____ range _____ reading _____			Chloride (Cl) vol _____ T _____ $AgNO_3$ or $Hg(NO_3)_2$ _____		
Potassium (K) vol _____ range _____ reading _____			Fluoride (F) vol _____ f _____ o.d. 1.500 – _____ = _____		
Na+K (Calculated)			Nitrate (NO_3) f _____ vol _____ o.d. _____		
Iron (Fe) f _____ vol _____ dissolved: o.d. _____ Total: o.d. _____			Boron (B) f _____ vol _____ o.d. _____		
Arsenic (As)	0.00	mg/L	Dissolved solids: Sum of Constituents Residue on Evaporation at 180°C vol _____ dish _____	446	
TOTAL CATIONS			TOTAL ANIONS		

(14)

S.W. Type Analysis A-1, no Fe sol'n. USGS CHEMICAL ANALYSIS Account 20NP Project 34

River Basin _____ Station Ident. No. _____ Date Collected Feb. 25, 1968

Station Name Montezuma Well - Irrigation Ditch 15N.6E.31.100 County Yavapai, Arizona Time _____

Source: Natural spring WBF: Verde limestone

Appearance Clear Gage Height (ft) _____ Discharge (cfs) _____ Collector Jack R. Clark

pH..... 7.7 Temp. (°C) 24

Hardness as $CaCO_3$: Total, mg/L 442

Noncarbonate, mg/L. 0

r.. 3 Sodium-adsorption ratio..... 1.1

%Na.... 20 Tons per acre ft...

Density, g/ml at 20°C.

Owner: Montezuma Castle Nat'l.Mon.
Yield: 1252 GM flow
PC: Ditch at outlet
Use: Irr.
Rmks: Water is used only for irrigation purposes.

Composite Period _____

Mean Daily Discharge (cfs) _____

Field Conductance _____

Field pH _____

Dissolved Oxygen (mg/L) _____

B. O. D. (mg/L) _____

Coliform (counts/100 ml) _____

Chemist RLL, BR, SWM, EP Checked By EFW

Date Completed 3-21-68

Date Transmitted _____

Laboratory No. C63332

Specific Conductance, micromhos at 25°C 975

Concentrations in milligrams per liter (mg/L)

Silica (SiO_2).....	16	Bicarbonate (HCO_3).....	600
		Carbonate (CO_3).....	0
Calcium (Ca).....	116		
		Sulfate (SO_4).....	12
Magnesium (Mg).....	37		
		Chloride (Cl).....	36
Sodium (Na).....	52		
		Fluoride (F).....	0.1
Potassium (K).....	5.7		
		Nitrate (NO_3).....	0.0
Na+K (Calculated).....			
Dissolved Iron (Fe)....		Boron (B).....	0.74
Total Iron (Fe).....	0.05	Dissolved Solids: Sum of Constituents.....	571
		Residue on Evaporation at 180°C.....	559

Provisional records, subject to revision.

Geological Sur. — Experimental — qw-gw (1966)

UNITED STATES DEPARTMENT OF THE INTERIOR — Ground Water analysis

Water Resources Division

State Ariz. (02) County Yavapai — Latitude ° ' " N, S — Longitude ° ' " — Seq. No. — Date coll. 04 21 6 (D Y)

Montezuma Well nr Rimrock postoffice

Local well No.[a] 15.5.31.400 — Owner[b] NPS - Montezuma — Collected by N.J.Eason, Park Ranger — Lab. Anal. A-1 no fe soln. — Project No. 20 NPS - C

WBF Limestone — Appearance Wc Clear — Wa — Lab. No. C61494 — Sampling depth — Type[c]

Kx10⁶ 22.8 T 353 R — KCl 366 (964) — 964

pH 7.9 — 7.9 — Temperature °F 78° at inlet spring — 78

f 5.1 — 10 ml — 16

Abs 0.309 (16) — 16

	ml	ppm	epm
Ca 4.00 / 1.64 / 2.36	10	(118) 118	5.89
Mg	(35)	35	2.87
Subtotal cations (Ca, Mg)			
Na 0-50 25-50 (27.7×2) 27.7×2	(55)	55	2.39
K 2.10	(5.5)	55	0.14
Subtotal cations (Ca, Mg, Na, K)			11.29
HCO_3 29.80 / 0.00 / 29.80	50	(596) 596	9.77
CO_3	(0)	0	0.00

	ml	ppm	epm
SO_4 0-1.0	(13)	13	0.27
f	0.70 / 8.00		
f	0.70 / 1.07 / 0.63		
Cl 25	(38)	38	1.07
mg	2.10		
$Mg \cdot AgNO_3$ 2.5	1.40 / 2.00 / 1.90		
Source of data d	Card Q	Q	
F 10	Abs 1.35 (0.4)	0.4	0.02
NO_3 10	Abs 0.006 (0.1)	0.1	0.00
PO_4 f	Abs		
Abs %			
HPO_4 %	H_2PO_4		
Total anions			11.13
B 1.40 f	(0.84)	84	
Abs 0.602			
Al			
Abs (Al + Fe)			

Remarks and explanation on other side

	ppm	epm
Fe f 0.02	(0.05) 0.05	
Total 2.5 ml Abs 0.028		
Dissol. ml Abs		
Mn f ml		
Total ml Abs		
Dissol. ml Abs		
Cu ml		
Pb ml		
Zn ml		
Subtotal cations (Al, Fe, Mn, Cu, Pb, Zn)		
Subtotal cations (Ca, Mg, Na, K)		
Total cations		
Dissolved solids	(546) 546	
Residue at 180° ml		
Dish No.	(575) 575	
Calculated		
SEE REMARKS		
Hardness 17.05	(438) 438	
Ca, Mg 8.75	20 ml	
Noncarbonate	(0) 0	
Color	(1) 78-79 1 Card R	

Provisional records, subject to

C61494

State | County | Lat. | Long. | Seq. No. | Date | Samp. depth | c

Remarks:

Source: Natural limestone sink, spring fed.
Depth: 55'
Sampled after pumping: Constant yearly flow.
Yield: ± 1,000 GM flow meas.
PC: Weir No. 3
Use: Stock, Irr.

THE D.S. WAS RERUN AND THE RESULTS INDICATE THE CHEMICAL CONSTITUENTS HAVE CHANGED DURING A TIME ELAPSE

Chemist LEWIS ALARY Checked by E. F. WILLIAMS
Date began MAY 1 1967 Date transmitted
Punched by Verified

Br ml (26–28)
I ml (29–31)
Alk. as $CaCO_3$ (32–35)
Free CO_2 (36–38)
SAR (1.1) 1.1 (39–41)
RSC (42–44)

Organics
MBAS (ABS) ml (45–47)
(48–50)
(51–54)

a Master card A (21-34)
b Master card A (52-66)
c Type:
1. Pumped 4. Spigot
2. Bucket 5. Bailer
3. Forest 6. Special
d Source of data:
1. USGS 5. Industrial
2. UPHS 6. Private
3. State Health 7. Educational
4. State

Radiochemical
Alpha (pc/l) (55–57)
Beta (pc/l) (58–60)
Ra (pc/l) (61–63)
U (ug/l) (64–66)

Other data (67-79)e

100 ml glass #1
Dissolved Solids---
49.1766
49.1220
0.0546 (546)

100 pt
44.9860
44.9409
0.0451 (451)

100
44.7309
44.6860
0.0449 (449)

e Indicate constituent and card colu
Card S (80)

Provisional records, subject to revision.

11-21-1965: ground water analysis - local well no. 15.06.31, lab no. 058817

ological Survey
Experimental form: qw-gw (1966)

UNITED STATES DEPARTMENT OF THE INTERIOR
Ground Water Analysis

Water Resources Division

State Ariz. 02 County Yavapai Latitude ° ' " N, S Longitude ° ' " Seq. No. Date coll. M D Y 11 21 65

sec.31 T15N R6E

Local well No.[a] 15.06.31.CC Owner[b] NPS, Box 218 Camp Verde, Ariz. Collected by N.J.Eason Park Ranger Lab. Anal. A-1 -Fe soln. + Tot. Fe Project No. NPS

Montezuma Well, Ariz.

WBF Limestone Appearance Wc Clear, some plant material Wa Lab. No. 58817 Sampling depth Type[c]

Kx10⁶ 22.9 T 353 R KCl 423 (835) 835

pH 7.6 7.6

Temperature °F

SiO_2 f 51.2 10 ml (17) 17. Abs .327

	ppm	epm
Ca 1.60 0.00 1.60 — 10 ml	(80) 80.	3.99
Mg — ml	(37) 37.	3.05
Subtotal cations (Ca, Mg)		7.04
Na 0-100 62.7 52.6 x1 — odil ml	(53) 53.	2.31
53.2 ppm = 60.1		
K 0-10 — odil 56.1 ml	(5.6) 5.6	0.14
Subtotal cations (Ca, Mg, Na, K)		9.49
HCO_3 — 50 ml 41.25 16.70 24.55 24	(491) 491	8.05
CO_3 — 50 ml	(0) 0	0.00

	ppm	epm
SO_4 odil — ml	(13) 13.	0.27
f — ml 0.71 0.00 0.71 -.07 0.64		
Cl 25 ml — .5 mg 1.95	(37) 37.	1.04
Mg · $AgNO_3$ — 0.00 1.93 -.10 1.83		
Source of data d 79	Card Q 80 Q	
F 10 ml Abs 1.446 10018	(0.2) 0.2	0.01
NO_3 f 11.6 10 ml Abs .005	(0.1) 0.1	0.00
PO_4 f Abs — Abs %		
HPO_4 % H_2PO_4		
Total anions		9.37
B 1.40 f — l ml Abs .552	(0.77) 0.77	
Al — ml Abs (Al + Fe)		

Remarks and explanation on other side

Provisional records, subject to revision.

	ppm	epm
Fe f 1.92 — ml	(0.00) 0.00	
Total 25 ml Abs .002		
Dissol. ml Abs		
Mn f — ml		
Total ml Abs		
Dissol. ml Abs		
Cu ml		
Pb ml		
Zn ml		
Subtotal cations (Al, Fe, Mn, Cu, Pb, Zn)		
Subtotal cations (Ca, Mg, Na, K)		
Total cations		

Dissolved solids 474.585 (474) 474

Residue at 180° 474.111 / 100 ml 0.0474

Dish No. N-12

Calculated (485) 485

Hardness 18.00 Ca, Mg 9.20 8.80 25 ml (352) 352

Noncarbonate 0

Color (5) 5 Card R R

Long. | Seq. No. | Date | Samp. depth | c

Remarks:
Source: Natural springs
Sampled after pumping: coll. at 1450
continuous flow.
PC: Ditch by Weir No. 3
Use: Irr.
Remarks: Water flows at approx. 1,000
gal/min. from limestone sinkhole.

Provisional records, subject to revision.

APR 13 1966
JOE O'NEILL
Chemist · _____ Checked by 5/4/66 KO
Date began _____ Date transmitted _____
Punched by 5887 Verified _____
58817

Br _____ ml	.	26 28
I _____ ml	.	29 31
Alk. as $CaCO_3$		32 35
Free CO_2	.	36 38
SAR	(1.3) 1.2	39 41
RSC		42 44
Organics		
MBAS (ABS) _____ ml	.	45 47
	.	48 50
		51 54

a Master card A (21-34)
b Master card A (52-66)
c Type:
1. Pumped 4. Spigot
2. Bucket 5. Bailer
3. Forest 6. Special
d Source of data:
1. USGS 5. Industrial
2. UPHS 6. Private
3. State Health 7. Educational
4. State

Radiochemical	
Alpha (pc/l)	55 57
Beta (pc/l)	58 60
Ra (pc/l)	. 61 63
U (ug/l)	. 64 66
Other data (67-79)[e]	

e Indicate constituent and card columns.

Card S 80 S

(15)

G.W. Type Analysis A-I no Fe sol. **U.S. GEOLOGICAL SURVEY ANALYTICAL NOTES** Project N.P.S. Collector Thomas Gibson

State Arizona County Yavapai City (at or near) Montezuma Well, Arizona NE1/4sec. 31 T15N R6E

Latitude-Longitude _____ Well No. Natural limestone sink Date Collected 3-22-65

Owner National Park Service Box 218 Camp Verde, Arizona Date Drilled _____ Cased to _____ Depth (ft) 135+ Diam. (in) _____

pH 7.2 — 7.2 Temp. (°F) — 78°

Hardness as $CaCO_3$ Total — (440) 440

Noncarbonate — 0' — 0

Color — 2 — 2 S.A.R. 1.1' — 1.1

%Na 21' — 21 T/af 0.73' — 0.73

Density (g/ml) — _____

W.B.F. Verde Limestone ?

Producing Intervals All year

W.L. 55-+ below rim

Sampled after Pumping (Time) _____

Yield 1,000+ G.M. flow meas.

Point of Collection irrigation ditch near well No

Appearance Clear

Use Irrigation

Remarks: Source - is sink

LEWIS ALARY Chemist _____ Checked By DWW

Date Completed MAY -4 1965

Date Transmitted _____

Laboratory No. 56695

Spec. Cond. (micromhos at 25°C): T 24.1 R KCl 344' R Sample 352 (977)' — 977

	PPM	EPM
Silica f 49.6' vol 10 o.d. 0.320	(16) 16	
Calcium EPM TH 8.80' vol 10 2.42 / 0.00 / 2.42'	(121) 121	6.04'
Magnesium 287 vol 25 20.70 / 9.70 / 11.00'	(34) 34	2.76'
Sodium vol 25-50 0-10 range 38.2 / 38.2 27.2'X2 50ppm = 60.5	(54) 54	2.35'
Potassium vol 0 0-10 range 56.3 / 56.1	(5.6) 5.6	0.14'
Na+K (Calculated)		
Iron f 1.84' vol 25 In sol.: o.d. —		
Total: o.d. 0.027	(0.05) 0.05	
TOTAL CATIONS		11.29'

	PPM	EPM
Bicarbonate 40.70 / 10.80 / 29.90' vol 50	(598)' 598	9.80'
Carbonate 0'	0	0.00'
Sulfate 0.72 / 0.00 / 0.72' / .07 / 0.65' vol 10	(13) 13	0.27'
Chloride 1.95 / 0.00 / 1.95' / .10 / 1.85' vol 25 AgNO3 0.5	(37) 37	1.04'
Fluoride vol 10 (0.0047' ppm) o.d. 1.382	(0.4)' 0.4	0.02'
Nitrate f 11.3' vol 10 o.d. 0.000	(0.0) 0.0	0.00'
Boron f 1.30' vol 1.0 o.d. 0.661	(0.86) 0.86	
Sum of Constituents	(576) 576	
Residue on Evaporation at 180°C vol 100 56.7298 / 56.6764 dish A-11 / 0.0534'	(569)' 569	
TOTAL ANIONS		11.13'

Provisional records, subject to revision.

FORM 9-1367 (9-1960)
U. S. DEPT. OF INTERIOR
GEOLOGICAL SURVEY

ANALYTICAL STATEMENT - GW

NPS

COUNTY Yavapai (Ariz)

LAB NO. 54099

Location 11 miles N & E of Camp Verde, Ariz. NE¼ sec.31 T15N R6E

Source (type of well) Natural spring

Owner USDI, NPS, Montezuma Castle Nat.Mon.,Camp Verde

Date drld _____ Cased to _____ ft

Depth _____ Diam _____

WBR Verde limestone

Water level _____ ft

Sampled after pumping _____ hrs

Yield 1,252 GPM (meas or est)

Pt of coll Ditch at outlet spring

Appearance Clear

Temp (°F) 72 Use Irr.

Collector E.Lehnert, Supvry.Ranger

Chemist LJA

Date completed May 12, 1964

Checked by RLL

Date transmitted _____

NPS & AGW

Date of collection Apr. 12, 1964

Ignition Loss _____ Color 1

Dissolved Solids:

Residue at 180°C 564

Calculated (Sum) 573

Tons per Acre Foot 0.77

Hardness as $CaCO_3$ 435

Non-carbonate Hardness 0

% Na 21 SAR 1.1 pH 7.1

Specific Conductance (micromhos at 25°C) 969

Producing intervals: constant

	epm	ppm
SiO_2		16
Fe (total)		0.02
Ca	6.04	121
Mg	2.66	32
Na	2.31	53
K	0.14	5.4
	11.15	
Na+K		
HCO_3	9.82	599
CO_3	0.00	0
SO_4	0.25	12
Cl	1.04	37
F	0.02	0.3
NO_3	0.00	0.2
	11.13	B 0.61

Provisional records, subject to revision.

WR copy
10/6/63 Eyr

October 4, 1963

L54-RLW

Memorandum

To: Regional Director, Southwest Region

From: Chief, Branch of Water Resources

Subject: Copies of U. S. Geological Survey Water-Supply Papers 829 and 1313, Webb Riparian Claim, Montezuma Castle

As requested in your memorandum of September 23, regarding the Webb riparian claim, enclosed are copies of Water-Supply Papers 829 and 1313. The copy of Water-Supply Papers 1313 has a torn cover but otherwise appears to be in good shape.

E. W. Reed

Enclosures 2

cc:
Mr. Reed

EWReed:ljc

Return to:
INTERIOR LIBRARY
STOP 43

USGS WSP 829

Verde River near Camp Verde, Ariz.

Location.- Water-stage recorder, lat. 34°27'00", long. 111°47'15", in sec. 1, T. 12 N., R. 5 E., unsurveyed, a short distance below Camp Verde dam site, about 750 feet above Chasm Creek and 9 miles southeast of Camp Verde. Zero of gage is 2,874.8 feet above mean sea level (from Bureau of Reclamation benchmark).

Drainage area.- 5,010 square miles.

Records available.- April 1934 to September 1937. December 1912 to March 1920, at station on Verde River at Camp Verde, Ariz., 15 miles upstream.

Extremes.- Maximum discharge during year, 41,700 second-feet Feb. 7 (gage height, 19.9 feet), from rating curve extended above 25,000 second-feet by velocity-area method; minimum, 83 second-feet July 25.
1912-20, 1934-37: Maximum discharge, that of Feb. 7, 1937; minimum [illegible] second-feet July 28 and 29, 1914.

Remarks.- Records excellent. Minor diversions for irrigation above station.

Discharge, in second-feet, water year October 1936 to September 1937

Day	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.
1	147	318	209	288	225	930	1,450	152	120	196	90	126
2	150	638	206	270	222	1,040	2,260	141	120	179	76	180
3	147	607	203	255	225	1,540	2,460	137	126	163	83	226
4	147	374	209	238	238	1,460	1,840	133	126	156	83	167
5	150	290	215	234	288	1,290	1,340	126	126	159	83	163
6	145	252	218	248	451	1,600	1,500	116	130	281	75	159
7	150	241	215	288	24,700	2,240	2,250	116	126	311	83	152
8	147	232	215	292	20,100	2,800	2,100	110	126	385	91	141
9	147	218	212	273	6,080	2,010	2,030	107	116	257	86	137
10	145	218	212	262	3,020	2,940	2,100	107	113	235	91	130
11	145	212	206	248	2,000	3,350	2,250	100	110	239	91	126
12	147	206	206	241	1,490	3,360	2,140	100	107	230	281	123
13	145	200	206	255	1,160	3,220	1,850	97	97	213	104	120
14	137	203	203	259	4,590	7,210	1,550	97	94	192	86	113
15	132	203	203	259	19,100	3,310	1,340	94	91	159	94	116
16	132	203	209	252	10,500	3,360	1,320	94	89	137	59	104
17	134	203	209	248	6,470	13,700	1,160	94	86	123	132	100
18	142	203	209	252	4,470	9,170	875	89	83	110	213	107
19	164	196	206	248	3,860	4,220	686	89	89	100	159	110
20	200	196	209	252	2,530	3,360	554	94	83	89	152	110
21	218	196	206	245	1,870	1,950	443	94	83	78	137	219
22	206	203	200	232	1,240	1,640	344	104	80	70	141	280
23	200	206	200	228	1,240	1,790	295	107	83	97	130	217
24	200	203	196	225	1,640	1,750	272	104	86	75	123	184
25	203	206	203	228	2,150	1,480	235	107	91	65	272	156
26	193	203	225	232	1,700	1,180	204	104	89	80	200	133
27	196	206	218	228	1,080	1,210	175	104	91	78	171	123
28	190	200	232	225	862	1,180	163	107	97	70	148	126
29	181	206	292	228	-	1,180	159	116	190	70	133	130
30	280	206	284	228	-	1,460	156	123	244	72	133	156
31	391	-	262	228	-	1,230	-	120	-	75	130	-

Month	Second-foot-days	Maximum	Minimum	Mean	Run-off in acre-feet
October	5,411	391	132	175	10,730
November	7,439	638	196	248	14,760
December	6,698	292	195	216	13,290
Calendar year 1936	105,591	3,310	56	296	209,400
January	7,689	292	225	248	15,250
February	123,201	24,700	222	4,400	244,400
March	89,060	13,700	930	2,873	176,600
April	35,561	2,460	156	1,186	70,570
May	3,383	152	89	109	6,710
June	3,286	244	80	110	6,520
July	4,744	385	65	153	9,410
August	3,952	281	75	127	7,840
September	4,434	290	100	148	8,790
Water year 1936-37	294,878	24,700	65	808	584,900

WSP829

Miscellaneous discharge measurements in the Colorado River Basin during the water year October 1936 to September 1937 - Continued

Date	Stream	Tributary to or diverting from-	Locality	Discharge (sec.-ft.)
June 13	Clear Creek Canal.	Clear Creek.....	1 mile below diversion dam that is control for station on Clear Creek near Winslow, Ariz.	4.3
Mar. 1	Beaver Creek.....	Verde River.....	1 mile above mouth of creek at Camp Verde, Ariz., and below all diversions.	371
Mar. 8	....do.....	....do.....	....do.....	1,210
26	....do.....	....do.....	....do.....	234
Apr. 2	....do.....	....do.....	....do.....	672
10	....do.....	....do.....	....do.....	800
16	....do.....	....do.....	....do.....	681
23	....do.....	....do.....	....do.....	59.4
30	....do.....	....do.....	....do.....	3.1
May 7	....do.....	....do.....	....do.....	1.0
15	....do.....	....do.....	....do.....	.05
22	....do.....	....do.....	....do.....	.08
25	....do.....	....do.....	At mouth of creek near Camp Verde, Ariz.	9.0
29	....do.....	....do.....	....do.....	8.6
June 5	....do.....	....do.....	....do.....	7.7
12	....do.....	....do.....	....do.....	0
July 10	....do.....	....do.....	....do.....	0
Mar. 1	West Clear Creek..	....do.....	About 1,000 feet above bridge on road from Camp Verde to Payson, Ariz., 2½ miles above mouth of creek.	130
9	....do.....	....do.....	....do.....	583
26	....do.....	....do.....	....do.....	160
Apr. 2	....do.....	....do.....	....do.....	182
9	....do.....	....do.....	....do.....	222
16	....do.....	....do.....	....do.....	136
23	....do.....	....do.....	....do.....	47.7
30	....do.....	....do.....	....do.....	25.8
May 8	....do.....	....do.....	....do.....	14.7
15	....do.....	....do.....	....do.....	14.2
22	....do.....	....do.....	....do.....	14.1
29	....do.....	....do.....	....do.....	16.8
June 5	....do.....	....do.....	....do.....	13.5
12	....do.....	....do.....	....do.....	11.2
18	....do.....	....do.....	....do.....	9.7
26	....do.....	....do.....	....do.....	10.6
July 7	....do.....	....do.....	....do.....	15.9
10	....do.....	....do.....	....do.....	24.3
17	....do.....	....do.....	....do.....	12.3
Mar. 1	....do.....	....do.....	At mouth of creek, 5 miles from Camp Verde, Ariz.	117

00-00-0000: discharge information chart for the gila river basin, verde river at camp verde, az

USGS WSP 1313

777. Verde River at Camp Verde, Ariz.

Location.--Lat 34°34'25", long. 111°51'25", in SE¼ sec. 30, T. 14 N., R. 5 E., at highway bridge just upstream from Beaver Creek and 1 mile north of Camp Verde.
Drainage area.--4,220 sq mi, approximately (includes 344 sq mi in Aubrey Valley Playa, a closed basin).
Gage.--Chain gage after Nov. 12, 1915. Altitude of gage is 3,070 ft (from topographic map). Prior to Nov. 12, 1915, staff gage at same site at datum 1.80 ft lower.
Average discharge.--6 years (1913-19), 435 cfs.
Extremes.--1913-20: Maximum discharge not determined, probably exceeded 60,000 cfs Feb. 21, 1920, from comparison with related stations; minimum observed, 31 cfs June 28, 29, 1914.
Remarks.--Diversions for irrigation of about 12,300 acres above station in 1947, a large portion of which was supplied from ground water; irrigated acreage was smaller during period of these records.

Monthly and yearly mean discharge, in second-feet

Water year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	The year
1913	-	-	-	145	186	671	649	49.3	48.7	80.0	76.8	173	-
1914	*112	*149	140	552	*1,216	*326	*81.8	54.9	41.7	116	157	*101	*249
1915	238	159	207	409	1,032	1,675	1,084	980	88.6	*223	194	87.0	*530
1916	124	161	182	3,063	1,713	2,398	194	105	108	138	270	196	724
1917	*550	*143	*161	*446	*394	*865	*2,572	*150	102	*203	*351	*164	*523
1918	*126	*126	*130	*140	*362	*2,070	*143	*69.5	*57.2	*106	*170	*84.4	*300
1919	*83.8	*122	*149	*127	*155	*723	482	45.5	43.5	877	*330	*248	*284
1920	*376	*1,121	*575	*756	*3,810	*578	-	-	-	-	-	-	-

* Revised.

Monthly and yearly runoff, in thousands of acre-feet

Water year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	The year
1913	-	-	-	8.92	10.34	41.23	38.64	3.03	2.90	4.92	4.72	10.27	-
1914	*6.88	*8.85	8.64	33.93	*61.56	*20.03	*4.87	3.69	2.66	7.16	9.65	*6.01	*179.9
1915	14.63	9.47	12.72	25.13	57.29	103.0	64.81	60.28	5.27	*13.72	11.92	5.18	*383.4
1916	7.61	9.58	11.19	188.3	98.64	147.5	11.60	6.46	6.41	8.50	16.58	11.69	523.9
1917	*33.80	*8.49	*9.88	*27.41	*21.88	*52.55	*153.1	*21.54	*6.10	*12.16	*21.60	*9.73	*178.4
1918	*7.73	*7.47	*7.98	*8.58	*20.08	*127.3	*8.48	*4.28	*3.41	*6.53	*10.45	*5.02	*217.4
1919	*5.16	*7.25	*9.14	*7.83	*8.62	*44.43	28.68	2.80	2.59	53.90	*20.36	*14.78	*205.5
1920	*23.11	*66.70	*35.30	*46.47	*219.2	*35.54	-	-	-	-	-	-	-

* Revised.

Yearly discharge, in second-feet

Year	W.S.P. no.	Water year ending Sept. 30					Calendar year	
		Momentary maximum		Minimum day	Mean	Runoff in acre-feet	Mean	Runoff in acre-feet
		Discharge	Date					
1913	359	-	-	-	-	-	*206	*149,300
1914	389,1213	-	-	21	*249	*179,900	*266	*192,300
1915	409,1213	a4,000	Mar. 26, 1915	42	*530	*383,400	*518	*375,000
1916	439	(b)	Jan. 18, 1916	40	724	523,900	*754	*547,700
1917	459,1213	-	-	*80	*523	*378,400	*483	*349,400
1918	479,1213	-	-	*37	*300	*217,100	*298	*215,700
1919	509,1213	4,750	July 18, 1919	42	*284	*205,500	*427	*309,100
1920	509,1213	(c)	†Feb. 21, 1920	-	-	-	-	-

* Revised.
† Corrected.
a Maximum discharge observed.
b Gage height, 17.0 ft; discharge not determined.
c Discharge observed at 8 a. m. Feb. 22, 1920, was 32,000 cfs, but the peak, probably greater than 60,000 cfs, probably occurred late Feb. 21, 1920.

778. Beaver Creek at Camp Verde, Ariz.

Location.--Lat 34°34'30", long. 111°51'30", in E½ sec. 30, T. 14 N., R. 5 E., a quarter of a mile upstream from mouth and 1 mile north of Camp Verde.
Drainage area.--413 sq mi.
Gage.--Staff gages, all within 600 ft of each other. Altitude of gage is 3,090 ft (from topographic map). Datum raised 0.9 ft Feb. 23, 1920, but gage heights were converted to former datum.
Average discharge.--6 years (1913-1919), 122 cfs.
Extremes.--1912-20: Maximum discharge observed, about 17,000 cfs (revised) Feb. 22, 1920 (gage height, 16.7 ft, affected by backwater from Verde River), from rating curve extended above 1,300 cfs by logarithmic plotting and comparison with related stations; minimum observed, 4 cfs (revised) on several days in 1915 and 1919.
Remarks.--Several small diversions for irrigation above station. A small amount of water was sometimes discharged into creek above gage by irrigation ditch which diverted from Verde River above Beaver Creek.

USGS WSP 1313

Monthly and yearly mean discharge, in second-feet, of Beaver Creek at Camp Verde, Ariz.

Water year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	The year
1913	- -	-	12.0	12.0	13.9	*125	198	*9.4	10.3	9.3	12.6	†5.9	-
1914	10.4	21.1	14.5	186	*556	*144	†23.9	6.6	7.0	9.5	24.4	10.8	*77.9
1915	*14.6	5.2	30.0	*105	350	*752	491	362	15.5	47.2	36.2	10.0	*104
1916	13.5	12.9	15.1	141	*650	712	41.7	†8.8	8.8	17.1	36.4	17.8	‡223
1917	71.0	10.6	15.7	54.5	161	220	725	81.5	9.5	14.3	18.7	21.8	‡116
1918	10.6	12.2	14.7	17.8	69.7	*676	9.78	8.94	9.85	12.8	35.2	12.2	*78.8
1919	7.9	10.4	10.9	14.3	17.9	132	*99.2	*9.8	7.3	210	47.7	35.2	*31.0
1920	59.6	429	119	120	*1,361	*358	-	-	-	-	-	-	-

* Revised.
† Corrected.
‡ Not previously published; estimated on basis of records at other stations in Verde River basin.

Monthly and yearly runoff, in acre-feet

Water year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	The year
1913	-	-	738	738	774	*7,710	11,800	*579	611	571	774	†349	-
1914	639	1,260	893	8,960	*30,890	*6,820	†1,420	405	417	561	1,500	623	*56,410
1915	*897	309	1,850	*6,430	19,480	*46,250	29,280	22,220	920	2,900	2,230	593	*133,300
1916	833	768	926	*70,160	*37,390	43,770	2,480	541	524	1,050	2,240	1,060	*161,700
1917	4,370	631	968	3,350	8,930	13,550	43,120	5,010	565	877	1,150	1,300	83,800
1918	651	729	906	1,090	3,870	*41,540	582	549	586	784	2,160	728	*54,180
1919	486	617	918	879	996	8,130	*5,900	*605	432	12,940	2,930	2,090	*54,980
1920	3,670	25,550	7,330	7,410	*78,300	*22,000	-	-	-	-	-	-	-

* Revised.
† Corrected.
‡ Not previously published; estimated on basis of records at other stations in Verde River basin.

Yearly discharge, in second-feet

Year	W.S.P. no.	Water year ending Sept. 30					Calendar year	
		Momentary maximum		Minimum day	Mean	Runoff in acre-feet	Mean	Runoff in acre-feet
		Discharge	Date					
1913	359,1213	-	-	-	-	-	-	-
1914	389,1213	-	-	5	*77.9	*56,410	*78.2	*56,620
1915	409,1213	-	-	46	*184	*133,300	*183	*132,600
1916	439,1213	-	-	7	*223	*161,700	*228	*165,100
1917	459	-	-	16	‡116	83,820	‡111	80,140
1918	479,1213	-	-	7.0	*74.8	*54,180	*74.5	*53,910
1919	509,1213	a6,000	July 18, 1919	4	*51.0	*36,920	*98.7	*71,460
1920	509,1213	*a17,000	Feb. 22, 1920	-	-	-	-	-

* Revised.
‡ Not previously published.
a Maximum discharge observed.

X

779. Verde River near Camp Verde, Ariz.

Location.--Lat 34°27', long. 111°47', in sec. 1, T. 12 N., R. 5 E., unsurveyed, 760 ft upstream from Chasm Creek, 800 ft downstream from Camp Verde dam site, and 9 miles southeast of Camp Verde.
Drainage area.--5,000 sq mi, approximately (includes 344 sq mi in Aubrey Valley Playa, a closed basin).
Gage.--Water-stage recorder. Datum of gage is 2,874.1 ft above mean sea level, datum of 1929.
Average discharge.--11 years (1934-45), 465 cfs.
Extremes.--1934-45: Maximum discharge, 97,000 cfs Mar. 3, 1938 (gage height, 28.1 ft), from rating curve extended above 32,000 cfs on basis of slope-area determination of peak flow, verified by comparison with records for other stations on Verde River; minimum, 41 cfs July 17, 1940.
Remarks.--Diversions for irrigation of above 12,300 acres above station in 1947, including about 3,000 acres supplied from ground water. Records not comparable with those for station at Camp Verde, 15 miles upstream.

Monthly and yearly mean discharge, in second-feet

Water year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	The year
1934	-	-	-	-	-	-	200	97.4	82.5	108	116	145	-
1935	138	192	233	648	1,335	1,292	737	110	79.7	106	414	389	446
1936	190	198	212	198	526	725	458	106	71.9	209	277	84	288
1937	175	248	216	248	4,400	2,873	1,184	109	110	153	127	114	588
1938	173	174	211	200	552	4,028	1[illegible]	[illegible]	80.3	112	234	135	611
1939	143	149	243	222	221	807	2[illegible]	[illegible]	67.4	72.9	201	1,150	388
1940	152	173	199	257	805	280	224	101	90.7	44.7	276	288	279
1941	551	338	1,350	819	2,720	2,987	3,050	327	114	163	155	878	1,220
1942	448	285	277	343	283	833	522	144	88.3	102	118	113	348
1943	158	179	219	247	579	1,468	190	103	82.0	84.2	288	147	310
1944	182	185	256	233	306	1,737	1,443	217	84.7	87.5	114	144	519
1945	172	222	227	230	374	1,545	1,445	149	81.0	121	264	107	413

USGS WSP 1313

Monthly and yearly runoff, in acre-feet, of Verde River near Camp Verde, Ariz.

Water year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	The year
1934	-	-	-	-	-	-	11,880	5,990	4,910	6,300	19,440	8,630	-
1935	8,480	11,440	14,340	39,820	74,130	79,450	43,850	6,750	4,740	6,540	25,550	19,560	334,700
1936	11,700	11,770	13,050	12,180	30,260	44,550	27,270	6,530	4,280	12,820	18,410	14,340	207,200
1937	10,730	14,760	13,290	15,250	44,400	76,600	70,570	6,710	6,520	9,410	7,840	8,790	584,900
1938	10,660	10,450	12,960	12,770	30,780	47,700	8,870	5,480	4,780	6,870	14,240	8,020	373,600
1939	8,790	10,050	14,950	13,660	12,270	49,610	14,250	5,240	4,010	4,480	12,370	68,520	218,200
1940	9,340	10,270	12,220	15,790	46,290	17,190	12,840	6,230	5,400	3,980	16,950	16,880	173,400
1941	13,900	20,140	83,010	50,380	151,000	183,600	81,500	20,700	6,770	10,000	9,550	16,350	766,900
1942	28,430	16,940	17,040	22,310	15,730	51,190	31,070	10,310	5,260	6,300	7,580	6,650	218,800
1943	9,700	10,640	13,440	15,180	31,640	90,290	11,300	6,350	4,880	5,180	17,450	8,740	224,800
1944	11,190	11,010	15,730	14,300	17,590	106,800	87,080	13,370	5,040	5,380	7,020	9,740	304,200
1945	10,580	13,230	13,980	14,120	20,760	94,970	85,960	9,140	4,820	7,450	16,280	6,380	297,700

Yearly discharge, in second-feet

Year	W.S.F. no.	Water year ending Sept. 30					Calendar year	
		Momentary maximum		Minimum day	Mean	Runoff in acre-feet	Mean	Runoff in acre-feet
		Discharge	Date					
1934	764	a5,500	July 17, 1934	b57	-	-	-	-
1935	789	11,500	Apr. 9, 1935	62	462	334,700	465	336,900
1936	809	6,820	Feb. 24, 1936	56	285	207,200	288	209,400
1937	829	41,700	Feb. 7, 1937	65	808	584,900	801	580,200
1938	859	97,000	Mar. 3 1938	65	516	373,600	516	373,300
1939	879	16,100	Sept.13, 1939	50	301	218,200	299	216,200
1940	899	7,560	Aug. 4, 1940	43	239	173,400	384	278,600
1941	929	30,000	Mar. 14, 1941	91	1,059	766,900	954	692,300
1942	959	6,080	Oct. 13, 1941	76	302	218,800	263	190,100
1943	979	11,600	Mar. 5, 1943	56	310	224,800	316	228,900
1944	1009	5,160	Mar. 14, 1944	62	419	304,200	419	304,100
1945	1039	8,380	Mar. 16, 1945	59	413	297,700	-	-

a Maximum for water year.
b Minimum day for water year.

780. Verde River at Childs, near Camp Verde, Ariz.1/

Location.--Lat 34°21', long. 111°42', in sec. 36, T. 11½ N., R. 6 E., unsurveyed, 200 ft downstream from Childs power plant, 3 3/4 miles upstream from Fossil Creek, and 18 miles southeast of Camp Verde.
Drainage area.--5,090 sq mi, approximately (includes 344 sq mi in Aubrey Valley Playa, a closed basin).
Supplemental records available.--February 1911 to December 1912, gage heights and discharge measurements; October 1914 to September 1917, gage heights only.
Gage.--Staff gage. Altitude of gage is 2,610 ft (from topographic map).
Extremes.--1913-14: Maximum discharge not determined; maximum daily discharge, 10,200 cfs (revised) Feb. 22, 1914 (gage height, 13.75 ft), from rating extended above 600 cfs on basis of comparison with high-water records at other Verde River stations; minimum daily, 100 cfs (revised) on several days in 1914.
Remarks.--Water diverted from Fossil Creek for development of power enters river above station and is included in records herewith. These diversions consist largely of spring flow of about 48 cfs. Diversions for irrigation of about 12,300 acres above station in 1947, a large portion by pumping from ground water; irrigated acreage was less during period of these records.

Monthly and yearly mean discharge, in second-feet

Water year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	The year
1913	-	-	-	238	312	e1,275	e1,038	144	137	162	169	e283	-
1914	209	261	257	e801	e2,047	e491	e149	116	110	168	e234	131	e404

e Revised.

Monthly and yearly runoff, in acre-feet

Water year	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	The year
1913	-	-	-	14,640	17,350	e78,410	e61,750	8,850	8,120	9,970	10,390	e16,850	-
1914	12,830	15,540	15,770	e49,250	e113,700	e30,200	e8,890	7,150	6,560	10,300	e14,360	7,820	e290,400

e Revised.

Yearly discharge, in second-feet

Year	W.S.F. no.	Water year ending Sept. 30					Calendar year	
		Momentary maximum		Minimum day	Mean	Runoff in acre-feet	Mean	Runoff in acre-feet
		Discharge	Date					
1913	359,1213	-	-	-	-	-	e374	e270,500
1914	389,1213	-	-	e100	e404	e290,400	-	-

e Revised.

1/ Published as Verde River near Camp Verde, 1911-13.

00-00-1937: handwritten note: monthly summary of weather avg. 1937

Monthly summary of weather Ariz 1937

Jan. Second heaviest snowfall of record - precip 39% above normal

Feb Very heavy rain & snow in n-central Ariz. Flood conditions in central Ariz. streams as result of heavy rains on 6 & 7 Virtually dry streambeds were rapidly filled, 27000 loss at Bartlett dam site on Verde river

Mar Prec mod to heavy 12-19 more than much on 13, 16, 17

Apr: Dry

May Heavy downpours in a few high loc. at end of mo

June Thunderstorms

July Cloudburst at Bright Angel Rgr Sta

Montezuma

WRLop

Region Three
Santa Fe, New Mexico

L54

JUN 6 1961

Memorandum

To: Director

From: Assistant Regional Director

Subject: Water Analyses, Domestic Water Wells, Montezuma Castle National Monument

Attached are copies of water analyses made on the domestic well at Montezuma Castle and the domestic well at Montezuma Well, prepared by Arizona State Health Laboratory. The Laboratory Numbers are: 31624 and 31625.

We have placed copies of these in our water rights dockets - No. 31624 in Docket No. 1 and No. 31625 in Docket No. 2. By copies of this memorandum we are sending these to WODC for insertion in their dockets.

[SIGNED]
James M. Carpenter
Acting Regional Director

In duplicate

Attachments

Copy to: Chief, WODC

03-30-1961: arizona state health laboratory, report of chemical examination of water, lab. no. 31624

ARIZONA STATE HEALTH LABORATORY
REPORT OF CHEMICAL EXAMINATION OF WATER

March 30, 1961, 2:58 p.m.
Date Received

Laboratory Number: 31624

Municipality or Franchise Name: Montezuma Castle National Monument

Address: Mr. Al Henson, Superintendent. City: Camp Verde County: Yavapai

Source of Sample: Well

Well Number or Identifying Name: (A-14-5)17-1 Domestic Well at Castle Area

Purpose for which specimen was taken: Group: 1

Specimen Collected by: W. C. Gilbert Specimen not treated

RESULTS

Test Group No. 1	mg/L
Total Solids	334
Total Hardness	280
Calcium	62
Magnesium	30
Sodium	21
Total Iron	.05
Manganese	.05
Alkalinity Phenolphthalein	10
Methyl Purple	305
Chlorides	17
Florides	0.16
Nitrates	1
Sulfates	6
pH	-

Chemists Remarks: Clear, colorless, odorless

Date Reported: May 12, 1961 Analyst: C.S.

Interpretation of Results by Bureau of Sanitation, State Department of Health:
This is a satisfactory source of supply for domestic use.

By: Wilfred C. Gilbert Date: 5/22/61

NOTE: All analyses made in accordance with standard methods.

W46/3

L-58
~~D-5077~~

Region Three
Santa Fe, New Mexico

APR 20 1960

Memorandum

To: Chief, Western Office of Design and Construction

From: Acting Regional Chief of Operations

Subject: Water Analysis, Arizona State Health Laboratory Water Well and Irrigation Ditch Well Area, Montezuma Castle

Attached is a chemical analysis made by the Arizona State Health Laboratory of the water at the Montezuma Well area, Montezuma Castle National Monument. The analysis from the well was made May 13, 1957, and the analysis from the irrigation ditch was dated March 1, 1960.

This information was supplied by Superintendent Hanson with his memorandum of March 16. There is no indication that it has previously been supplied to your office, and copies have been transmitted to the Director.

You will note the quality of both sources is similar and we can assume the well to be drilled will produce water that will be similar in quality to the water from the irrigation ditch.

(SIGNED)

Arvel H. Koehler
Acting Regional Chief of Operations

Attachment

In duplicate

Copy to: Director (2) w/attachment
Supt., Montezuma Castle w/o attachment

ARIZONA STATE HEALTH LABORATORY

REPORT OF CHEMICAL EXAMINATION OF WATER at Montezuma Well area of Montezuma Castle National Monument

date of results - Domestic Well - 5/13/57
" " " - Irrigation Ditch - 3/1/60

	#1 Domestic Well	#2 Irrigation Ditch
Total Solids	532	556
Total Hardness	364	370
Calcium	90	92
Magnesium	34	34
Sodium	51	51
Iron	0.3	< .05
Manganese	< .05	< .05
Alkalinity P	10	30
MO	448	420
Chlorides	41	34
Fluorides	0.15	0.15
Nitrates	2	<1
Sulfates	8	11

Chemists Remarks and Interpretation of Results by Bureau of Sanitation:

#1 Colorless, clear, slight sediment, odorless.
From the above analysis, this is a satisfactory source of supply for domestic use.

#2 White precipitate - clear, colorless, odorless,
Hardness is mostly in form of calcium and magnesium bicarbonate.
White precipitate is probably due to precipitation of calcium carbonate which would occur when the temperature of the water is increased.
Water source is satisfactory in chemical quality for domestic use.

REC'D JUL 28 1937

OFFICE OF
THE DISTRICT ENGINEER
INTERSTATE SANITARY DISTRICT
5-6

TREASURY DEPARTMENT
UNITED STATES
PUBLIC HEALTH SERVICE
210 FEDERAL OFFICE BUILDING
SAN FRANCISCO, CALIF.

July 27, 1937

Joseph E. Taylor, Attorney
Branch of Land Acquisition & Regulations
National ParkService
110 Sutter St.,
San Francisco, Cal.

Dear Mr. Taylor:

The results of partial chemical analyses of samples of water from the well and creek at Montezuma Castle National Monument are as follows:

	Well	Creek
Phenolphthalein alkalinity	0	0
Alkalinity as CACO3	258 p.p.m.	216 p.p.m.
Chlorides as Cl	18 " " "	24 " " "
Sulphates as SO4	8.0 " " "	8.0 " " "
Iron as Fe	0	Faint trace

In view of the fact that the sulphates are the same in both samples, that the iron is practically the same, that there is only a very slight difference between the chlorides, and the alkalinity results are so nearly alike, we are of the opinion that the water from the well and the creek originates from the same source. It is possible that samples of water from two entirely different sources might be as nearly alike as those given in the table above, but the chances are rather remote. It appears more likely that the water from the creek is passing through the underground formations to the well and en route is picking up salts which increase the alkalinity. The time required for water to pass from the creek to the well, would prevent getting identical samples from the water flowing in the creek and the well at any particular time.

Very truly yours,

H. B. Hommon

H. B. Hommon
Senior Sanitary Engineer
In Charge

HBH:R

Copies mailed Supt. Pinkley and Acting Regional Director Maier - Sept. 27, 1937.

Other Supporting Information

1983

To: [redacted] File

From: Legal Clerk

Subject: Amount of Water the NPS has rights to, re: MOCA
Montezuma Castel WR #3 (Wales Arnold Ditch)

As per your inquiry, regarding the above subject, the answer at this time would be that according to the 1906 Court Decree the NPS is entitled to the amount prescribed by the court to be equitable to all users of Beaver Creek; therefore, the NPS can claim a 101/473 portion of water necessary for beneficial use, (21.3 % of water from Beaver Creek)

The background information enclosed within the docket would tend to suggest that previous administrators and solicitors have also wrestled with the problem of how much of the water is ours. Interestingly enough some diverse ideas emerged, that is, one idea was to arrange some agreement with the other users whereby the U.S. would own ½ of the water and accordingly share that proportion of any expenses in common-user related maintenance, this idea was later tabled with the "let sleeping dogs lay" approach.

Legally the issue as presented in correspondence recognized that the US is also a user of the ditch and that both as a user and a servient tenant (estate) it becomes a tenant-in-common with the other holders of easements for water. Presumably under this status the US and the other users are obligated to share in the upkeep of the water delivery system.

One problem area, issue, is that somewhere along the way the diversion of water from Beaver Creek was changed to Montezuma Well by Wm. B. Back or his successors. Arizona law and the Court of Equity, 1906, would probably assign the same rights and responsibilities to this change in diversion. This is especially true since the 1906 Court retained jurisdiction over this matter, and according to J. Burke, the court can maintain jurisdiction over this matter as long as they want.

Another problem area is that the Warranty Deed from Wm. Back to the U.S. does not specifically address how much water right it is entitled to... it does forever assign all its appurtenant rights to the land but the question of how much water it owned is not contained.

An area of concern raised in the background information was whether the rights of the other users that have since failed to use the water has lapsed. Arizona statute at the time the question was asked, 1950's, held that it did not. As to whether the downstream users can initiate an action against the U.S. for negligence in the deterioating state of the 'ditch' within the park, the answer would be in the negative. The reason for this is that there is no statutory provision allowing such actionable neglignece under Federal Torts ~~Calims~~ claims Act.

Recommendations

For the sake of documentation it would be to our benefit if it was ascertained;

1. whether there exists any records allowing the change in diversion point from Beaver Creek to Montezuma Well.
   a. if so was there an order modifying the 1906 Court decree.
2. determine whether the Arizona lapse statutes have changed from the 1950's which held that one's rights do not lapse.
   a. if so, does it apply to the holders of rights under the decree
   b. does it affect the protion of water not used
3. whether any new maps of the area exist which depict the route of the ditch
4. whether to maintain our 101/473 portion of the water right under the 1906 decree we can change our irrigation practices to include maintenance of the vegatation along the ditch
5. what the state of Arizona considers beneficial uses
   a. does it include permittees on federal lands
6. whether Arizona changed its Water Code to allow liens imposed upon those tenants-in-common who have not, or do not share in the expenses
7. whether any filings with any city, county or territory and/or state entity re: this issue are availabe
8. Whether the courts would allow an agreement with the present holders (T-C's)

L54(WR)PSSW
MOCA/DOCKET #3
Water Rights Gen.

August 31, 1973

WITUCKI
MURRARY WNM
ADAMS
COOK

Memorandum

To: General Superintendent, Southern Arizona Group

From: Acting Regional Director, Western Region

Subject: Water Rights for water from Montezuma Well, Montezuma Castle National Monument

This is in response to your memorandum of August 7, 1973, concerning the above subject. We have reviewed our files regarding rights over the water produced from Montezuma Well, and have found that historically this water has been distributed proportionally or fractionally among the various users. No user has ever been guaranteed the use of a specific number of gallons of water; thus it would appear that the Park Service has no obligation to convey to any downstream user any given number of gallons of water through the ditch which crosses the Monument.

Our Montezuma Castle Water Right Docket #3 contains a memorandum by A. van V. Dunn dated August 1, 1957, (which reviews this water right) and a copy of Decree #3583 of the District Court of Yavapai County dated August 25, 1906. These documents, as well as past practice at the Monument, have established that the Park Service has the right to the principal use of the water from Montezuma Well which flows through the ditch across the Monument. Downstream users would be entitled to the use of the remainder of the water.

If we can be of further assistance, please advise.

(Sgd.) John E. Cook

cc:
Supt., Montezuma Castle National Monument
WASO(PNW)

WNMurrary:GSWitucki:aep

08-07-1973: memorandum to regional director, western region, attn: chief, office of regional scientist from general superintendent,

United States Department of the Interior

NATIONAL PARK SERVICE
Southern Arizona Group
1115 N. 1st Street
Phoenix, Arizona 85004

IN REPLY REFER TO:
L54 SOAR WH

602-261-3289

August 7, 1973

Memorandum

To: Regional Director, Western Region
Attn: Chief, Office of Regional Scientist

From: General Superintendent, Southern Arizona Group

Subject: Water Rights for water from Montezuma Well,
Montezuma Castle National Monument.

We recieved a telephone inquiry from a landowner south of the Montezuma Well section of Montezuma Castle National Monument on this subject.

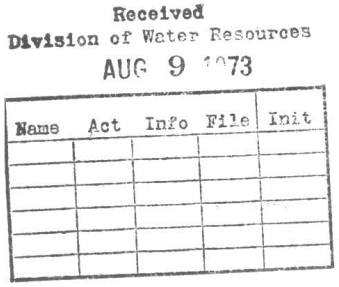
He owns a portion of the former Winnerman Ranch. Evidently in years past he has recieved irrigation water from the ditch which flows from the well. His specific question is: "How much water is the Park Service required to release in this ditch?" It is his impression that ½ the water is to be used by the Service with the remaing ½ for downstream users. He did not know the amount involved however. We suggested that he check with the State Land Office to see what their records show on this question.

For our information we would like a review of our water rights pertaining to Montezuma Well so that we can ascertain what our responsibilities are in this matter. The laws of Arizona are such that all surface waters belong to the state and ground waters belong to the land owner.

John H. Clay

cc: Montezuma Castle NM

08-09-1973: received stamp - division of water resources



02-18-1970: memorandum to vic berte, waso from gerry witucki, wsc regarding justification for flow measuring program at moca

OPTIONAL FORM NO. 10
5010-104
UNITED STATES GOVERNMENT

Memorandum

BLUE ENVELOPE

TO : Vic Berté, WASO

DATE: February 18, 1970

FROM : Gerry Witucki, WSC

SUBJECT: Justification for flow measuring program at Montezuma Castle

As requested during our telephone conversation of February 13, 1969, regarding justification for the flow measuring program at Montezuma Castle, the following is presented:

As reflected in the Montezuma Castle files, the program was originally initiated to determine if water was being lost in transit across the park area. This program was agitated into existence by three ranchers getting their "share" of the water after leaving the park. In conversations with the Superintendent, it appears that the concern is not nearly as acute as in the past. However, we have approximately seven to eight years of recording and probably should continue for at least a 10-year period, inasmuch as 10 years is generally considered a suitable period to be conclusive of water flow. Therefore, consideration probably should be given to continue the flow measurements for a full 10-year period and leave the project in the program for FY 1971.

Gerry

11-08-1966: memorandum to superintendent, moca from hydraulic engineer, sante fe regarding chemical water analysis, various,

SAN FRANCISCO PLANNING AND SERVICE CENTER
Office of Land and Water Rights
P. O. Box 728
Santa Fe, New Mexico
87501

L54-SSCLW

NOV 8 1966

Memorandum

To: Superintendent, Montezuma Castle

From: Hydraulic Engineer, SSC, Santa Fe

Subject: Chemical Water Analysis, Various, Montezuma Castle

We have enclosed the following USGS Ground Water Analysis for your area:

Docket No. 1	Well No. (A-14-5)17-1
Docket No. 2	Well No. (A-15-6)31-1
Docket No. 3	Spring

Please place this information in the appropriate Water Right docket.

By copies of this memorandum we are sending this information to the Chief, Branch of Water Resources, WASO, and the Supervisory Hydraulic Engineer, SSC, requesting that they do the same.

WILLIAM E. FIELDS

William E. Fields

Enclosures

cc: Chief, Branch of Water Resources, WASO, w/encs.
Supervisory Hydraulic Engineer, SSC, w/encs.

jfd:11/8/66

WR 61 (2) 77

Montezuma Castle

Region Three
Santa Fe, New Mexico

L54
MOCA

MAR 1 - 1962

Memorandum

To: Director

From: Acting Regional Director

Subject: Numbering of Flumes, Montezuma Well Area, Montezuma Castle National Monument

On February 6 we made distribution of Drawing NM-MC-7107A which showed the location of the six Parshall flumes which were installed in the ditch at the Montezuma Well area last year.

Correspondence from the Superintendent indicates that we were in error in numbering the flumes. It was decided that the flumes at each end would be numbered 1 and 2, then all intermediate flumes would be numbered consecutively 3-6. This will enable us to add flumes in the ditch without changing the numbering system for the end flume.

— in Docket 3

Attached are prints of revised Drawing NM-MC-7107B which shows the proper numbering of the six installed flumes and the proposed location of flume no. 7 which we plan to install during the fiscal year 1963.

(SIGNED)

George W. Miller
Acting Regional Director

In duplicate

Attachment

Copy to: Chief, WODC (2) w/1 attachment
Supt., Montezuma Castle w/attachment

WK Copy
Cor 2/12/62
E.

Region Three
Santa Fe, New Mexico

L54

FEB 6 1962

Memorandum

To: Director

From: Assistant Regional Director

Subject: Flow Records in Six Parshall Flumes at Montezuma Well Area, Montezuma Castle National Monument

Attached is a print of Drawing NM-MC-7107A, Revised February 2, 1962, showing the location of all six Parshall flumes which were installed at Montezuma Well last year.

The revision of the print NM-MC-7107A shows the location of flumes Nos. 1 through 6 as requested by Mr. Robertson in his memorandum of January 23.

Flow records showing water used and especially the amount of water entering the property through Flume No. 1 and leaving the property through Flume No. 6 will be submitted as they are received from the field.

[SIGNED]

George W. Miller
Assistant Regional Director

In duplicate

Attachment

Copy to: Supt., Montezuma Castle w/attachment
Chief, WODC (2) w/attachment

See map in D.3 for revised numbering

01-23-1962: memorandum to regional director, region three from assistant chief, wrb regarding flow records in six parshall flumes

WR Copy

January 23, 1962

L54-ALW

Memorandum

To: Regional Director, Region Three

From: Assistant Chief, Water Resources Branch

Subject: Flow Records in Six Parshall Flumes at Montezuma Well Area, Montezuma Castle

There was transmitted to us by memorandum of December 7, 1960, preliminary Drawing NM-MC-7107 showing the upper and lower 9" Parshall Flumes and four irrigation outlets along the ditch. Interim correspondence advises us of installation of four new Parshall Flumes, presumably at these same outlet locations, and of forms supplied to the Superintendent for recording readings at six Parshall Flumes. By memorandum of January 3, 1962, we received record coverage from mid-July to mid-December on two forms with upper and lower changed to #1 and #6 on the older and the latter columned to provide for flumes 1 through 6.

From all this we could probably show the added flume locations on our map but a revised copy of the above-mentioned drawing with the four flumes added and labeled with size and any other new information might better serve this purpose.

SIGNED

Gordon W. Robertson
Assistant Chief, Water Resources Branch

Copy to: Superintendent, Montezuma Castle
Chief, WODC (2)
Mr. Dunn

GWRobertson:lct

Region Three
Santa Fe, New Mexico

L54
MOCA

JAN 1 8 1962

Memorandum

To: Superintendent, Montezuma Castle

From: Regional Chief of Operations

Subject: Flow Records, Montezuma Well, Montezuma Castle National Monument

We recently received copies of your flow records at Montezuma Well area numbered Sheet 28 and Sheet 29, both sheets combined covering the period from July 10, 1961 to December 20, 1961.

The information contained is very valuable and was forwarded to the Washington Office and WODC. However, there is a different method of measuring which we would like for you to use.

The records would be much more valuable if all flumes were read at each time of measurement. If there is no water in one of the flumes this should be denoted as "0". Spot readings at different flumes from time to time will give us records of flow but unless all six flumes are read on the same day and as close to the same hour as possible and logged it will be difficult to analyze water losses and water use.

It is also important to maintain a written record of the reading of flume no. 6 showing the amount of water delivered at our west boundary.

(SIGNED)

Jerome C. Miller
Regional Chief of Operations

Copy to: Chief, WODC (2)
Director (2)

06-12-1961: memorandum to regional chief of operations from civil engineer regarding field trip to moca

JUN 15 1 10 PM '61

Region Three
Santa Fe, New Mexico

~~1-35~~ A5427
MOCA

JUN 12 1961

Memorandum

To: Regional Chief of Operations

From: Civil Engineer

Subject: Field Trip to Montezuma Castle National Monument

I left Santa Fe the morning of May 22 at 8:10 a.m. en route to Montezuma Castle National Monument. The purpose of this trip was to install four 9-inch Parshall measuring flumes, to survey a portion of the Montezuma Well property boundary, and to give technical assistance to Superintendent Henson on seal coating of the entrance road at Montezuma Castle. I was accompanied by Clyde Arquero. We arrived at Cottonwood, Arizona at 8:15 p.m. and spent the night.

The following morning we left Cottonwood at 6:45 a.m., arrived at Montezuma Castle Headquarters at 7:30 a.m. At 7:55 I met Superintendent Henson and we discussed the various phases of work to be performed during that week. He had an appointment with the county road maintenance supervisor at 10:00 a.m. that morning and wanted me to be present. He loaned two men, Manuel Valencia and Charlie Jordan, his maintenance crew, to help in the installation of the Parshall flumes and I took these two men along with Clyde Arquero over to Montezuma Well and they started the installation of the flumes. I returned to Montezuma Castle Headquarters at 9:55 a.m. and at 10:05 a.m. Dick Merritt, District Engineer for Yavapai County and Maintenance Supervisor Taylor Estes arrived. We went over the entrance road which is to have a seal coat placed in the near future and discussed the different possible materials which could be used. Regional Engineer Wohlbrandt told me that he would prefer to use MC-5 asphalt material for the seal coat; Engineer Merritt stated that they had better luck in that area utilizing an emulsion. The overall price is approximately the same and the emulsion with the chips seems to penetrate better and lasts longer than the heavier asphalt. He stated that he could bring a crew to that area and seal coat the entrance road at a cost of about $350 per 1,000 feet. Superintendent Henson thought this would be acceptable but that he had to check the possibility of doing the work by day labor and would

let them know at a later date whether they would be asked to do the job for us. I left for Montezuma Well at 11:30 a.m. and the three-man crew had almost completed the installation of the first of the flumes. Because of the summer heat the maintenance crew in that area works from 5:00 a.m. to 1:00 p.m. daily, so at 1:00 p.m. they quit for the day. Clyde Arquero and I then spent until 5:15 p.m. locating corners in the general area. Since we had an appointment with Mr. Paul Webb on Wednesday morning, May 24, to discuss the boundary situation I wanted to know the exact location of as many corners as possible prior to that appointment. We left Montezuma Well area at 5:15 p.m., arrived at Cottonwood, Arizona at 6:00 p.m., where we spent the night.

May 24 we left Cottonwood at 7:30 a.m. and arrived at the Well area at 8:00 a.m. Mr. Webb and Superintendent Henson were waiting for us and we spent all of that morning discussing the boundary situation. In 1946 Engineer Bradley from this Office surveyed the Well property boundary as the centerline of Beaver Creek as it existed at that time. There is evidence in the files that Mrs. Webb was contacted and gave verbal approval that she considered the Creek as their boundary line. Mr. Webb contends that Mrs. Webb misunderstood and did not realize that she was giving approval to the establishment of a boundary line. The 1927 deed given for the property to the family of Mrs. Webb was described as all that property in Lot 4, Sec. 31, T. 15 N., R. 6 E., G&SRB&M, which is south and east of Beaver Creek. Mr. Webb contends that in 1927 when the property was conveyed to his wife by court decree that the Creek was in a different location than it was in 1946 when Mr. Bradley made the survey. He also contends that the survey line should have followed the upper fork near the northeast corner of Lot 4 and not the lower fork because he says that the upper fork was Beaver Creek and not "Red Wash" as Engineer Bradley shows on his map. Superintendent Henson and I stated that we did not want land that did not rightfully belong to us, that there were many legal aspects which we could not discuss because of a lack of knowledge. However, we would agree to survey the line as Mr. Webb says it existed in 1927, and show this description to our superiors with the recommendation that it be considered. Any further action would be up to our Regional or Washington Office. We visited the area and mutually agreed on a line which could well have been the centerline of Beaver Creek in 1927.

There is definite evidence that the old channel ran through there. As soon as Mr. Webb left, Clyde and I began our survey. As soon as the field notes of this survey are completed and

a map is drawn, I will submit the proposed revised boundary to you for study. At 6:15 p.m. that evening we departed and went to Camp Verde, Arizona where we spent the night. On Thursday we left Camp Verde at 6:30 a.m. and arrived at the Well at 6:55 a.m., checked the flume installations and proceeded with the re-establishment of the boundary along the river. That morning they were working on the third flume and by 1:00 p.m. had finished the installation of the third and fourth flumes with the exception of some reinforcing which cannot be done until the concrete has set. In addition to surveying the line through Lot 4 which Mr. Webb states is the boundary, I also ran centerline from the N¼ corner of Sec. 31 down through the center of the section, and relocated the witness corner which Mr. Bradley had set north of the southwest corner of Lot 4. It was a steel fence post placed just as Mr. Bradley stated in his field notes. Mr. Webb came back to the area Thursday afternoon and walked with us around the area. I showed him each stake and reference point along the new line. By the time he left he was in complete agreement with us on the location of the new line. We left Montezuma Well at 6:20 p.m. that evening and arrived at Camp Verde at 6:45 p.m. The following morning we left Camp Verde at 5:30 a.m. and arrived at Montezuma Castle at 5:55 a.m. Superintendent Henson had requested that I relocate the 1/16 corner which was the southwest corner of Lot 6 in the same Sec. 31. I ran from the west ¼ corner of Sec. 31, relocated a three-inch pipe and brass elevation cap on the line and found the southwest corner of Lot 6. It was an old stone in place marked with an "X" on top. I showed Ranger Naturalist Bohannon this point. Superintendent Henson intends to place iron fence posts at these corners in the near future. We had carried brass caps with us but did not set them. This can be done when the final boundary has been agreed on.

We left Montezuma Well at 9:30 a.m. and arrived in Santa Fe, New Mexico at 9:30 p.m. that evening.

(SIGNED)

W. E. Fields
Civil Engineer

Copy to: Director (2)
Chief, WODC (2)
Supt., Montezuma Castle

Approved for distribution:

(SIGNED)

JUN 5 1961

Regional Director — Date

Montezuma

WRG, Ed B.

JUN 9 8 30 AM '61

L54
MOCA

Region Three
Santa Fe, New Mexico

JUN 6 1961

Memorandum

To: Superintendent, Montezuma Castle National Monument

From: Acting Regional Director

Subject: Measurements to be Taken in New Parshall Flumes, Montezuma Well, Montezuma Castle National Monument

During the week of May 22 - 26 Civil Engineer Fields supervised the installation for new Parshall flumes along the ditch outlets at the Montezuma Well area. Prior to his departure from there he promised he would set up a definite procedure for taking and recording these measurements and send it to you.

Following is the designation and procedure to be used for measurements in the Montezuma Well ditch:

1. The upper and lower flumes will be read and recorded as before and will be designated as Flume #1, the upper end, and Flume #2 at the lower end.

2. The other four Flumes will be designated Flumes #3, #4, #5 and #6; beginning at the upstream end with Flume #3. The flume farthest downstream will be Flume #6. Flumes #4 and #5 will be consecutively numbered between the two.

3. One recording book will be sufficient for all six flumes but there will be a separate column for each flume. Sub-columns will be used to give date, time and gage height for each flume as shown on attached form.

4. When it becomes necessary to use any of the outlet flumes the time when the water is turned into that flume will be recorded and a reading taken after the water has levelled off. During the time the water is in that outlet ditch intermittent readings will be taken each hour and the time and reading recorded. When the water is shut off this time will be recorded.

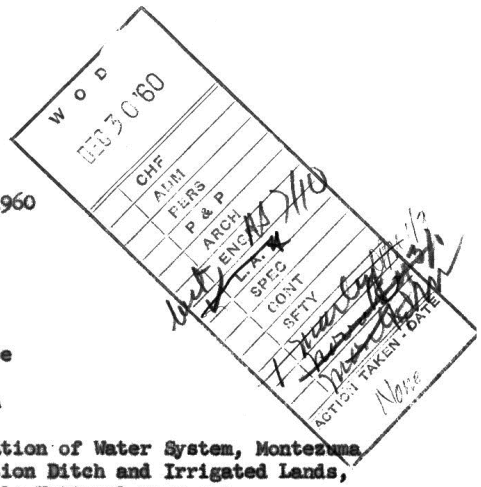
5. These readings will be sent to the Regional Office for study at regular intervals. (Each month during the irrigation season and every three months during off season).

In order that this procedure will work, it will be necessary to coordinate with Mr. McCarrell. It may be that the man who works for Mr. McCarrell can log this time of irrigation and take periodic readings, then submit the data to you at the end of each irrigation day. Until he becomes proficient it would be wise to have someone check his readings at first.

(SIGNED)

James M. Carpenter
Acting Regional Director

Copy to: Director (2)
Chief, WODC (2)



December 28, 1960

L54-OBL

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Preliminary Maps Entitled Location of Water System, Montezuma Castle and Location of Irrigation Ditch and Irrigated Lands, Montezuma Well, Montezuma Castle National Monument

Drawings NM-MC-7107 and 7108 were received with Mr. Miller's memorandum of December 7 in which I was invited to offer comments before they are completed. The name of the State might be shown on both drawings. The need for further comments depend on the purpose for which the maps are being prepared.

Drawing 7107 is apparently only intended to show the irrigation ditch of the Castle Area. The name of the ditch is not given. There are legal aspects to be considered, but it seems to me that this, the Wales Arnold, and William B. Back ditches are all changing alignments of a ditch system under which the same rights have been exercised since about 1870 or 1880, as partially documented in Docket 3. If so, the ditch should bear the proper name with information concerning realignment or the advice the earlier alignments were only approximate. I assume that the present alignment is the only possible on the ditch because of topography, and the fact that the headgate is practically the same as the original Back Ditch.

The next question is whether the indicated areas of irrigation should be supplemented with fallow areas which are only temporarily unirrigated, to bring the total area as nearly as possible to that for which rights were decreed on May 29, 1906 (Docket 3).

If Drawing 7107 is fundamentally for master plan records there is also the question of whether it should show only the one ditch. We still lack a suitable map of the water well system (Well B in Docket 2) which may provide irrigation at elevations above the ditch. All irrigated areas from all sources, should be shown on some map, to indicate that there is no overlap. This leads to the further question of whether the drawing should not show the complete water system for domestic and irrigation purposes on the Well Area of the Monument.

If the drawing is for water right purposes, the State seems to require that the title should be "Beaver Creek (or well outlet, tributary to Beaver Creek) Diversion for Well Area, Montezuma Castle National Monument, Coconino County Arizona". I am not sure whether the Water Division, State Land Department, has jurisdiction over this early, decreed, territorial right. There is also some question as to whether the claim and decree were really for a diversion from Beaver Creek itself, or for the Well Outlet tributary. If the former is true, the right should be amended to change the point of diversion, by further decree or application to the State Land Department.

Drawing 7108 shows a well at the Castle Area, which differs in location from the proposed well at Diversion 2, in cancelled Application A-1744 by about two degrees in bearing, and five feet in distance, and is presumably the well drilled between October and December 1958, for which records are in Docket 1. The tie to the "abandoned well" should be computed from the notes for this drawing to be sure the variation is not just due to different azimuths used by two surveyors. As a matter of record, I should also show the site claimed in the application, and indicate whether there has been a replacement of an earlier well, or whether one site is as proposed, and the other as constructed. The "original well", in the parking area, should probably be so labeled, and indicated as diversion 1 which has been replaced by diversion 2. The dates of use of each well should be shown with reference to the cancelled application, in order that the priority can be established from Well 1, if they both intercept the same artesian aquifer.

Application A-1744 provided for the irrigation of 22 acres of the Castle Area. If there has been, or is to be irrigation, the small irrigated tracts should be shown with acreage.

SIGNED

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Montezuma Castle
Chief, WODC (2)

12-07-1960: memorandum to director from assistant regional director regarding preliminary maps entitled location of water system

WR Copy

Region Three
Santa Fe, New Mexico

L-54

DEC7 1960

D. E. Lee 12/20

Memorandum

To: Director

From: Assistant Regional Director

Subject: Preliminary Maps Entitled Location of Water System, Montezuma Castle and Location of Irrigation Ditch and Irrigated Lands, Montezuma Well, Montezuma Castle National Monument

Attached are two copies each of maps marked "preliminary subject to revision" and numbered NM-MC-7107 and NM-MC-7108 prepared by Civil Engineer Fields as a result of his studies and survey made in September 1960. Before a final map is prepared, Mr. Fields requests that Chief of Water Resources Section, Mr. A.V. van Dunn study these preliminary maps and offer suggestions and additions. There are two copies of each of the maps in order that Mr. Dunn may correct one if necessary and return it to this office so that the final map can be drawn.

(SIGNED)
George W. Miller
Assistant Regional Director

In duplicate

Attachments

WR Copy

Region Three
Santa Fe, New Mexico

L-54

Memorandum

SEP 19 1960

To: Superintendent, Montezuma Castle

From: Regional Chief of Operations

Subject: Installing and Cleaning of Measuring Devices Montezuma Well, Montezuma Castle National Monument

When Mr. Fields of this office was in your area August 30 - September 2, he made certain verbal recommendations to you concerning the cleaning and rehabilitation of the measuring devices and installation of additional measuring devices at Montezuma Well. At that time, Mr. Fields stated that he would follow-up with the recommendations in writing and in more detail, since because of your shortage of help and the pending Visitor Center Dedication, you did not have sufficient time to go over the area.

Following are the recommendations and the detailed instructions for the irrigation ditch at Montezuma Well:

1. Clean the ditch of all moss and weeds for 50' both upstream and downstream from the upper flume, and clean both flumes of all travertine deposits. It would pay off in more accurate water measurements if this could be done at least once a month.

2. Install a downstream gage in the flume and take both readings each time. The installation of this gage must be done with care. In the first place making sure that the gage height of the second gage is the same as the gage height of the first, elevation wise. Secondly, the gage must be perpendicular to the top of the flume (which is level) and thirdly, it must be in a particular place. The flume has three basic parts - an upstream converging part, narrow constricted throat (in this case 9" wide and 1' long) and a downstream diverging part. The gage number two must be placed 10" downstream from the beginning of the narrow constricted throat. (Drawing accompanies memorandum)

3. Widen the ditch at the channel bottleneck 50' downstream from the flume so that the velocity will not have such an abrupt change. The mechanics of this job were not clear to Mr. Fields when he left your area. It is his opinion that a portion of the large rock which juts into the stream needs to be broken off and the ditch downstream from the rock

should be dug deeper and wider forcing the abrupt change in gradient further downstream. If possible, the curve in the ditch at this point should be straightened. When the work is actually started it is possible that some easier solution will present itself, but primarily it must be remembered that because of the abrupt change in velocity there is an abnormal hydraulic jump and consequently a back water condition in the area near the flume. In order to get accurate measurements we must try to eliminate this condition.

4. Install 9" Parshall flumes at all irrigation outlets within the confines of the Well property. This will require three or perhaps four flumes the same size as the present. The estimated cost of these is $60.00 each and can be purchased by the Regional Office out of funds in Work Order 3-WR-61 or Regional Office Account 128.2. Technical assistance for the installation can be supplied by Mr. Fields of this office. A log book should be kept with each flume showing: (a) time water was turned in (b) gage height at that time (c) periodic readings during the time of irrigation showing time and height (d) time and height when water is turned off. This should apply both to your outlets and to the outlets of the holders of special use-permits.

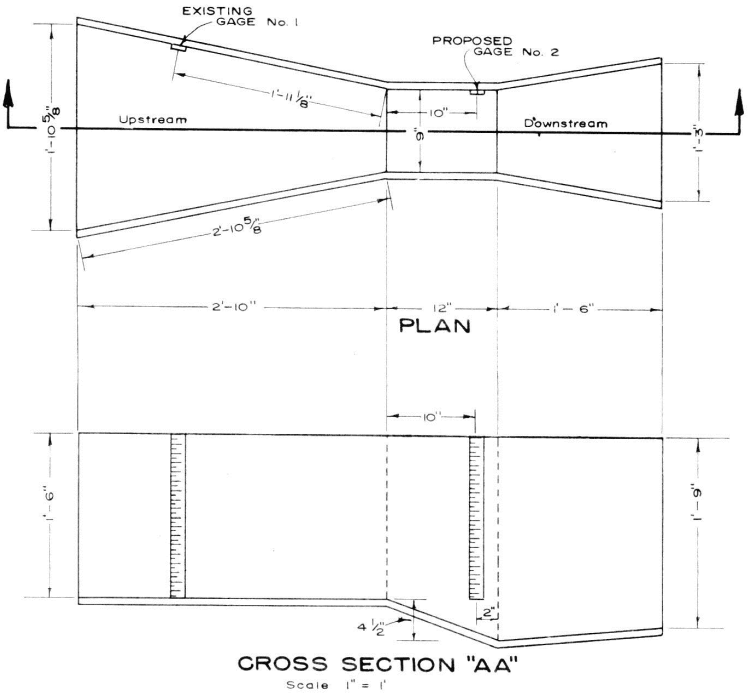
We realize that you have been very short of personnel and that all of your efforts have been in preparing for the Visitor Center Dedication on September 18, consequently, when you are able to start on this project, don't hesitate to call on this office for help if necessary.

(SIGNED)

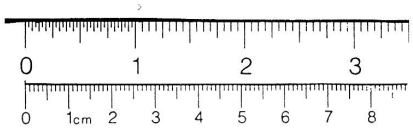
Jerome C. Miller
Regional Chief of Operations

Attachment

Copy to: Director (2)
WODC (2)



SKETCH SHOWING LOCATION OF
GAGE No. 2 IN' 9" PARSHALL
FLUME AT MONTEZUMA WELL
MONTEZUMA CASTLE NATIONAL MONUMENT



00-00-0000: memorandum to regional chief of operations from civil engineer regarding trip to montezuma castle to survey ditch an

Montezuma Castle

WRG/jy

Region Three
Santa Fe, New Mexico

194 - NCCA

Memorandum

SEP

To: Regional Chief of Operations

From: Civil Engineer

Subject: Trip to Montezuma Castle to Survey Ditch and Water Systems

I left Santa Fe at 9:15 a.m. on August 29, 1960 enroute to Montezuma Castle National Monument. My purpose for making the trip was to survey the new water system, and also run a traverse on the irrigation ditch at Montezuma Well, tie to existing monuments and check the Parshall flumes for accuracy. I arrived in Cottonwood, Arizona at 10:30 p.m. where I spent the night. The next morning I left Cottonwood at 7:10 a.m. and arrived at the Monument at 7:55 a.m. Superintendent Hensen and I spent a while going over the various maps of the area and planning the stages of work. There was a survey crew from WCDC at the Monument, and they were planning to survey the water system for "as-built" plans so it was decided that I would survey the irrigation ditch and irrigated land and measuring devices at Montezuma Well and get the location of the Castle water system from WCDC.

Superintendent Hensen, at the present time, is extremely short handed because two permanent Rangers had just been transferred and one of the seasonal help was ill in the hospital. He loaned me a "rodman" from the maintenance crew. I spent all of Tuesday and Wednesday running the traverse from the ditch outlet near the well to where the ditch leaves our property. I tied this ditch to existing corners and ran a survey of all lands under irrigation. Each evening while I was in the vicinity, I stayed in Cottonwood, Arizona but was in the Castle or Well area prior to 8:00 a.m. each morning.

On Thursday morning, September 1, 1960, I began a study of the measuring devices which measure the water in the irrigation ditch both as it comes from the outlet and as it leaves the property. For sometime the upper flume has read considerably higher than the lower flume which would indicate a sizeable water loss somewhere in the Monument. This apparent water loss has been from 150-400 g.p.m. during recent months. The first step was to check for submergence in the upper flume and I discovered 90% submergence at 8:45 a.m., September 1, 1960. The upper gage reading was .96' which indicates a flow of 2.88 c.f.s. or 1,293 g.p.m. Placing a gage on the downstream side I got a reading of .86. This is a submerged reading and

applying the correction we see that the actual flow was 2 c.f.s. or 890 g.p.m. Actual reading at the wier on the lower end of the ditch was .75 or 1.98 c.f.s. which is 881 g.p.m. actually flowing out of the Monument. Indications are that there is a negligible water loss within the Monument. Knowing that there is submergence in the flume, I then set out to find why. The flume itself was dirty on the bottom, and there was a large amount of moss both upstream and downstream but cleaning out the flume and most of the moss helped none. I then started taking elevations to determine grade and discovered a rare situation some 50' downstream from the flume. At that point, the ditch is narrowed because of a large rock jutting into it and the channel curves just beyond this point. At the same time the slope of the ditch changes radically. This combination of natural obstacles slows the velocity of the water and causes a condition upstream called hydraulic jump. This jump at the present time is 22 feet downstream from the flume and is about .2' in elevation. This condition causes back water into the flume and submergence is the direct result. Prior to my departure I discussed this situation with Superintendent Hensen and made the following recommendations:

1. Clean the ditch of all moss and weeds for 50' both upstream and downstream from the flume.

2. Widen the ditch at the bottleneck so that velocity of the water will be the same downstream.

3. Install a downstream gage in the flume and read both gages each time. If submergence is still present then it can be corrected.

4. Add Parshall flumes at all outlet ditches so that when lands are irrigated a record can be kept of the water used.

I left Montezuma Castle at 3:30 p.m., September 1, 1960 and drove to Holbrook, Arizona arriving there at 7:50 p.m. the same evening. The following morning, September 2, 1960, I left Holbrook at 8:10 a.m. and arrived in Santa Fe at 4:30 p.m.

(Signed)

William R. Fields
Civil Engineer

Copy to: Director (2) ✓
Chief, WODC (2)
Superintendent, Montezuma Castle

Approved for Distribution:

SEP 8 1960

Date:

Thomas J. Allen, Regional Director

07-29-1960: memorandum to director from assistant regional director regarding well pump data chart, moca

WR Copy
L-54

RECEIVED
NATIONAL PARK SERVICE
SANTA FE, NEW MEXICO
AUG 1 8 27 AM '60

Region Three
Santa Fe, New Mexico

JUL 29 1960

Memorandum

To: Director

From: Assistant Regional Director

Subject: Well Pump Data Chart, Montezuma Castle National Monument

Attached for your records is the well pump data chart for the new pump at Montezuma Castle National Monument.

We have sent Chief, WCDC and Superintendent, Montezuma Castle copies for their files.

(SIGNED)
George W. Miller
Assistant Regional Director

In duplicate ✓

Attachment

Copy to: Chief, WCDC (2) with attachment
Superintendent, Montezuma Castle with attachment

W R Leff
L54 @ 1/1

Price
Tyler
Pet
Gr.

February 3, 1960

Memorandum

To: Regional Director, Region Three

From: Supervisory Engineer, WODC

Subject: Contract 14-10-333-445, Water Well - Montezuma Castle

This refers to memorandum dated September 9, 1959, from Mr. G. W. Robertson, Acting Chief, Water Resources Section, same subject.

Our student survey crew ran a horizontal control traverse from the northeast corner of Sec. 17, to the new well, last summer. Their notes were computed in WODC this week and the bearing found to be N 49° 54' 43" E, 1341.53 feet.

According to this survey and the coordinates set up on Drawing No. 4936 (Topographical), the coordinates of the well are 9136.10 N and 8973.66 E. Coordinates of the brass cap control Pt. 2, established by Mr. Novak in 1957, are 9460.48 N and 8844.67 E.

This information will be shown on the "As built" drawing upon completion of the current utility contracts. At this time, however, we should like to know how closely your engineer's surveys of last summer agree with the students' survey, and would appreciate having your report on this matter at your convenience.

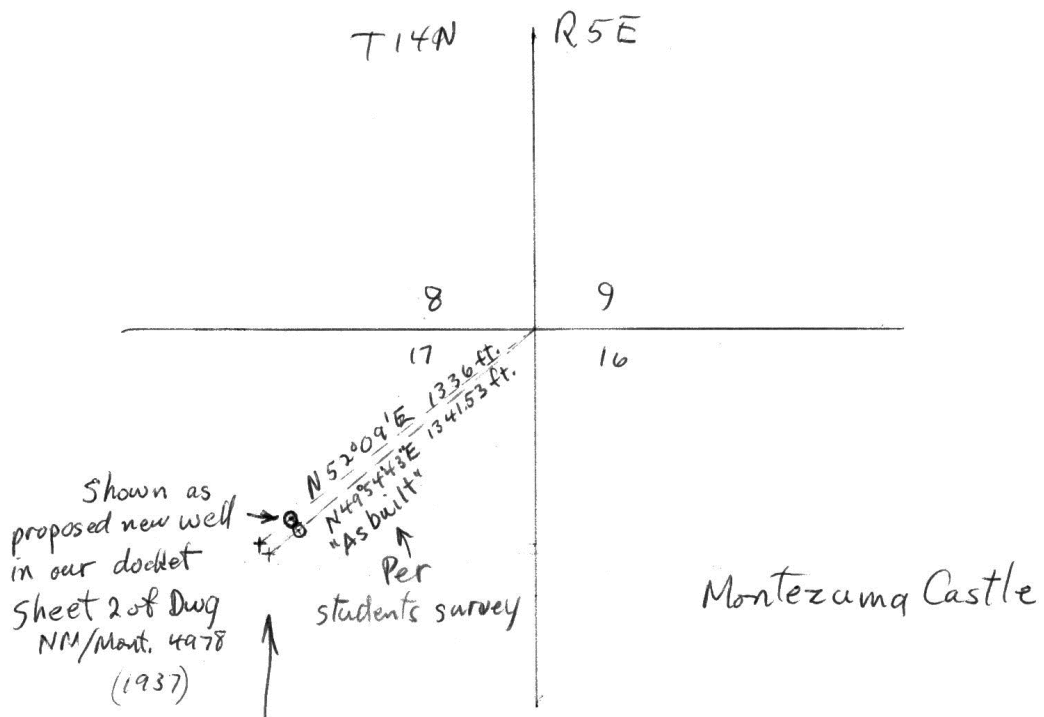
(Sgd.) P. E. Smith

P. E. Smith
Supervisory Engineer

In duplicate
Chief, Water Resources Section
Copy to: Superintendent, Montezuma Castle
Constr. Rep. Willard Hall

MOCA

06-22-1951: sketch showing the proposed new well, however this permit was cancelled



Memo of 6/22/51 from Reg Engr. Lassiter (deceased) states the well locations are 25 ft apart. Since this permit has been cancelled as unnecessary it is sufficient to simply spot it as as constructed" on the dwg. when the ~~field~~ region answers the memo attached

RWR 2/25

L-54

Region Three
Santa Fe, New Mexico

November 19, 1959

Memorandum

To: Regional Director
Through: Regional Chief of Operations

From: Regional Chief of Lands and Civil Engineer

Subject: Elevation of Wells, Docket No. 1, Montezuma Castle

WESTERN OFFICE
DESIGN & CONSTRUCTION
NOV 25 1959 A.M.
CHIEF
ADMIN. ASSIST.
PERSONNEL
PLANS & PROG.
SAFETY
ARCHITECT
2 ENGINEER 11/27
3 LAND. ARCH.
ACTION TAKEN—DATE
None

After departing from Grand Canyon at 3:15 p.m. on October 23, we spent the night at Sedonia, Arizona. We left there at 8:50 a.m. October 24 and arrived at Montezuma Castle National Monument at 10:00 a.m. the same day. We then contacted Superintendent Henton and he showed us a 40-acre inholding at the Castle area and also the location of some of the proposed pipe lines, sewer lines and visitor center.

That afternoon we visited Montezuma Well in the company of Supervisory Ranger Wayne Horton with the intention of running a survey of the ditch line and improvements in the well area for our water rights docket #2, Montezuma Castle. We "walked out" the entire ditch system from the well which is its origin to a point where it leaves the property. It was noted with some concern that there is a 200-300 g.p.m. loss in the ditch while we obviously were only using at that time about 30 g.p.m. through a portable pump which was irrigating the lawns. It was decided from our visit that there are several things needed at Montezuma Well for water rights purposes.

They are:

1. A detailed map of the ditch system from beginning to end showing course, bearing and size of the ditch.

2. A detailed map showing lands which we do irrigate, intend to irrigate and those lands under special use permit under irrigation by others. At the present, the person holding the special use permit is Mr. C. A. McCarvell of Rimrock, Arizona. His permit allows him land and crop conditioning and the removal of hay crops on 27 acres of Monument land for a fee of $70 per year. He uses our land and water from our ditch.

3. Analysis of the measuring system with an eye to accurate measuring of all different water uses, both where and how much.

4. Discovery and correction of water losses. These things need to be done and will require at least a week's field work so it was decided that Civil Engineer Fields would return at a later date and make this survey and studies.

We spent the night at Cottonwood, Arizona and the following morning established the boundary line of Montezuma Castle adjacent to the 40-acre inholding.

We left the Monument at 2:55 p.m. enroute to Phoenix.

(SIGNED)

John E. Kell
Regional Chief of Lands

(SIGNED)

William E. Fields
Civil Engineer

Copy to: Director (2)
Supt., Montezuma Castle
Chief, WCDC (2)

Approved for distribution

(SIGNED)

NOV 20 1959

Date

Thomas J. Allen, Regional Director

WR copy

154-CHL

WR

July 10, 1959

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Flow Measurements, Montezuma Castle National Monument--Montezuma Well

Mr. Henson's memorandum to you of June 22 is disconcerting because I do not consider that we have an adequate report on measurements, and believe it can only be made by an engineer or geologist who is a qualified hydrologist.

The measurements may or may not have been made in accordance with required standards, and I am not questioning Mr. Henson's statements as they relate to what has been done. However, we need a map of the water system with gauge sites, and ditch turnouts, measurements of water turned out above a weir as well as that flowing through both weirs in cases such as were found this last February 5 and 7, and analyses of water losses and uses. Drawing 7101 might be used, if accurate, if section lines, gauges, checks and turnouts were added.

I believe that the measurements should continue as long as water is delivered to those below the Monument, and that Mr. Fields should see that the measurements are being made in compliance with modern hydrological practice, and should make the analyses and reports.

SIGNED

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Montezuma Castle
Chief, WCRC (2)
Mr. Dunn

AvVDunn:let

MUCA

L54-L

March 6, 1958

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Irrigation Ditch, Montezuma Well, Montezuma Castle

The memorandum of February 10 from Mr. Young, which Mr. Canfield forwarded on February 21, raises a few points in my mind.

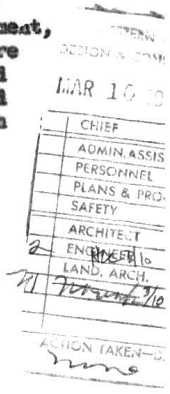
First, I question whether any tar paper lining will be effective in recovering seepage along the ditch unless this paper conduit picks the water up at the diversion itself. In addition, there is enough flucutation in flow during the day, due to changing rates of transpiration and evaporation, to account for more than the amount of water recovered by such paper lining. This may account for the fact that more water was obtained through the natural ditch than through the paper conduit. Two such measurements should be attempted, if at all, on two succeeding days with identical temperatures, humidity, and brightness of sun, and during the same hours of those days.

Second, the unlined ditch may be essential to the preservation of native vegetation which is desirable in the Monument. That portion of the transit loss should be included in the Federal beneficial use, and other use for irrigation of the agricultural lands should be reduced accordingly. We should certainly include Federal irrigation of both native vegetation and agricultural crops in our quota, and should probably determine the quantities before considering either the normal transit losses to be shared with Mr. Winnemann, or the excessive losses which might be prevented.

Third, Mr. Winnemann seems to have a responsibility for a proportionate share of the maintenance of the ditch across the Monument, and for full maintenance of the ditch on his land. He better be sure of the economic justification before considering the cost of a lined conduit. There would be no justification for lining the joint owned portion of the ditch if he continued to use a wasteful unlined ditch on his own land.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Montezuma Castle
Chief, WODC



to WRC
L54

Region Three
Santa Fe, New Mexico

FEB 21 1958

Memorandum

To: Director

From: Regional Chief of Operations

Subject: Irrigation Ditch, Montezuma Well, Montezuma Castle National Monument

Attached is a very good report of February 10 from Superintendent Young regarding possible loss of water in the ditch at Montezuma Well.

Mr. Dunn will be interested in the test and in our opinion this strengthens our decision not to line the ditch with concrete or other impervious material.

(SIGNED)

David H. Canfield
Regional Chief of Operations

In duplicate

Attachment

Copy to: Supt., Montezuma Castle

154

Montezuma Castle National Monument
Camp Verde, Arizona

February 10, 1958

Memorandum

To: Regional Director

From: Superintendent

Subject: Irrigation Ditch, Montezuma Well

This report of irrigation ditch maintenance and cooperation with other water users of the flow from Montezuma Well is intended primarily to keep you informed, however, we will be glad to have any comments or suggestions you may have.

You are aware of the complaints of Mr. C. M. Winnemann, one of the users of water from Montezuma Well. On numerous occasions he has stated that the Park Service does not fullfill its responsibilities as a cooperative user of the water in ditch maintenance. On the morning of January 11, Mr. Winnemann, accompanied by Mr. Russell Pigman of McGuireville, came to the Castle to discuss ditch maintenance with Supervisory Ranger Norton and me. Mr. Winnemann admitted that some improvement in the condition of the ditch had been made during the past year, but still contended that much water was being lost by seepage through bad spots in the portion of the irrigation ditch between the Well outlet and the upper measuring weir. He proposed that that portion of the ditch be lined with some waterproof material until the flow could be measured to determine if lining of the ditch is justified. Mr. Winnemann offered to provide the ditch lining material and we agreed to cooperate in this check the following week.

It should be noted here that the Park Service, without any help at all from the other water users, did considerable work on that portion of the ditch last year, filling and reinforcing all spots where there was any indication of loss of water. Just prior to this visit by Mr. Winnemann we had diverted the water to Beaver Creek, cleaned the portion of ditch in question, and were ready to check and improve any questionable spots. At Mr. Winnemann's suggestion further work was postponed until after the test had been made.

On January 15 Mr. Winnemann, Mr. Pigman and Supervisory Ranger Norton met at the Well to make the proposed test. With a continuous roll of 8 ft. plastic and some heavy canvas, approximately 120 ft. of ditch between the diversion point to Beaver Creek and the upper weir was carefully lined. After the flow of water had had time to return to normal the weir indicated a flow of 1153 gpm. The lining was removed from the ditch, and after a short delay the flow was again measured.

At this time the weir showed an increase in flow to 1171 gpm, which we feel was a result of not waiting until the flow returned to normal after removing the canvas. In any event there definitely was no measurable loss of water due to poor ditch conditions. Mr. Winnemann admitted that the test indicated no improvement of that section of the ditch was needed.

Between January 15 and 27, in cooperation with the other water users, the portion of the ditch through the Monument was completely cleaned and is now in what we consider to be good condition for that type of ditch.

Foy L. Young
Superintendent

In triplicate

WR Copy

L54-L

September 26, 1957

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Wales Arnold and Other Ditch Rights, Montezuma Well Area, Docket 3, Montezuma Castle National Monument

In answer to Mr. Kell's memorandum of September 20, the BLM records can be obtained either here or in the State, when there is time to review them.

The immediate problem is to determine whether there were county water right filings for what became known as the Wales Arnold Ditch, during or before 1880, and whether the court records of Decree No. 3585 include statements of claim, or testimony which describe changes in the ditch between 1880 and May 29, 1906. We have no dates for the county filing, or even assurance that there were filings, but there should not be very extensive records of 1880 and before, to search. It is also assumed that the records of the court case leading to Decree No. 3585 are in one parcel and can be scanned for the data on the Wales Arnold Ditch.

I assume that the court and county records are at the same county seat, and believe that it would be profitable for Mr. Kell to spend a half a day on the search whether he found the desired information or only determined the extent of the further study needed.

SIGNED

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Montezuma Castle
Mr. Dunn

AvVDunn:lct

L54-L

WESTERN OFFICE
DESIGN & CONSTRUCTI
SEP 26 1957A
CHIEF
ADMIN.ASSIST.
PERSONNEL
PLANS & PROG.
SAFETY
ARCHITECT
ENGINEER
LAND. ARCH.
ACTION TAKEN—DAT

September 24, 1957

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Flow Record, Montezuma Well Area, Montezuma Castle

It would be very desirable to have a print of a map of the irrigation ditch showing the locations of the two weirs for which records were forwarded with two copies of the memorandum of September 10 to the Superintendent from Mr. Kell. The locations can be shown on the property map in Docket 3 and then photostated if the ditch is properly shown on that map.

It would help if any new map, or modification of the property map, clarified the situation at and between the "Well" and intake of the ditch. My interpretation is that the "Well" is approximately represented by the Circle--the cavern being within its rim--and the ditch intake is on a stream that flows from the "Well" rim, and about 200 feet downstream from the rim.

When it comes to replacing part of the earth ditch with concrete sections, I believe that there are merits and detriments which should be weighed against each other. With a total available flow of about 1100 gpm at the upper wier, the loss in seepage and evaporation seems to be only about 75 gpm, or 7% in winter; and 188 gpm, or 11% in summer. The Federal quota of total flow seems to be about 40%.

Besides being a much more evident artificial structure, each section of concrete ditch will contribute to the death of ditch-side vegetation. In addition, the present arrangements by which the Federal irrigated land is farmed is only to preserve the water right until other Park Service uses are developed. It may be that the seepage should be maintained, and the area of irrigation within the fenced areas of the subject drawing should be reduced accordingly. For all practical purposes the seeping water irrigates the area under vegetation adjacent to the ditch. There may be 10 acres of ditch-side irrigation which this Service desires in lieu of equivalent area that is now farmed by Mr. Ravis or his successor.

I am also concerned with the report that the Parshall flumes, and perhaps the ditch headgate and "Well" outlet are exposed to damage by wandering stock. A 10-foot square including each, might be fenced.

SIGNED

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Montezuma Castle
Chief, WODC

L54-L

AUG 28 1957

Memorandum

To: Regional Director, Region Three

From: Acting Chief, Water Resources Section

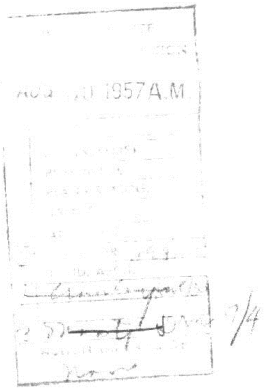
Subject: Wales Arnold Ditch, Docket 3, Montezuma Castle

With copies of this memorandum we are distributing partial assemblies of the subject docket. It contains those records which have been submitted to the Department of Justice for the Federal intervention in Arizona vs. California, among others. It will be modified as to contents, as we assemble more data.

Gordon W. Robertson
Acting Chief, Water Resources Section

Attachment

Copy to: Superintendent, Montezuma, w/c docket
Chief, WODC (2), w/c docket



4

~~L56~~
122

ORIGINAL COPY IN _____

Montezuma Castle National Monument
Camp Verde, Arizona

154

August 19, 1957

Memorandum

To: Regional Director

From: Superintendent

Subject: Flow Record - Montezuma Well

At Mr. Kell's request we are providing a complete record in duplicate of the flow of water from Montezuma Well from the time the measuring weirs were installed early in 1956 through July of this year. Also included as an attachment is a sample form which we hope to have reproduced by the Regional Office facilities.

Our readings during 1956 and the early part of this year did not follow a regular schedule but we are now taking the measurements at more frequent intervals. Late in November of 1956 a partial obstruction in the Well outlet caused a sharp decrease in flow for two days. Shortly afterwards cattle watering along the ditch pushed the lower weir out of position, resulting in abnormally high readings.

Since cleaning the ditch last winter and plugging the holes we could find near the head of the ditch the flow of water through the lower measuring weir has increased generally over that of last summer. The water loss along the ditch within the monument during July averaged about 185 gpm which I do not think excessive considering the extremely hot weather of that period. I am convinced we can improve on this when we divert the water to Beaver Creek this winter to clean and make further improvements.

On this assumption I am submitting a PCP for the ditch improvement project scheduled under MISSION 66 for fiscal year 1960 (Concrete Lining Irrigation Ditch, Well Area - $4,000), recommending that we do not line the entire ditch with concrete but instead make improvements as needed where there is excessive loss of water. I think everyone is agreed that concrete lining is not desirable unless that is the only way to cut down on water losses.

Roy L. Young
Superintendent

Copy to: WODC with PCP M-15

L54-L

NO COPY MADE IN MAIL ROOM

August 1, 1957

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Wales Arnold and Other Ditch Rights, Montezuma Well Area, Docket 3, Montezuma Castle National Monument

In making up the initial assembly for the subject Docket, I have glanced over the abstract with Deed 5 to the Back property, and note the following:

1. The patent to Sec. 36, T 15 N, R 5 E, is said to be dated November 20, 1882, and indicates that the land was conveyed to Wales Arnold in accordance with the Act of April 24, 1820.

2. Wales Arnold and his wife, of Yavapai County, A.T. conveyed said land, "together with all the ditch property and water right belonging thereto, said water right being a right to all the water that can flow in said ditch and a right located to one-half of water of Beaver Creek at the head of said ditch and the first water right located on Beaver Creek", by deed to Robert Hornbeck, of Yavapai County, A.T., dated March 2, 1880.

3. Deed of September 8, 1897, from Amanda Meherens conveyed said land and undefined water rights to William A. Back.

4. A deed of May 1, 1916, conveyed an undivided half-interest . . . in and to the irrigation ditch known as Wales-Arnold Ditch taking water from Beaver Creek . . ., together with part of Sec. 36 to David E. Collins from Burks Traylor, a single man.

5. A deed of November 13, 1928, to William A. Eaton from Romaine H. Lowdermilk conveyed part of Sec. 36 "together with water rights appurtenant to said property from Beaver Creek or from the Montezuma Well, including a one-sixth interest in that certain ditch and water right formerly wholly owned by W. B. Back and J. G. Rowena Van Deren . . .".

WESTERN OFFICE
DESIGN & CONSTRUCTION
AUG 7 1957 A.M
CHIEF
ADMIN. ASSIST.
PERSONNEL
PLANS & PROG.
SAFETY
ARCHITECT
ENGINEER
LAND/ARCH.
ACTION TAKEN—DATE

3

L54-L

August 1, 1957

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Wales Arnold and Other Ditch Rights, Montezuma Well Area, Docket 3, Montezuma Castle National Monument

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6. Patent of July 18, 1907, to Part of Sec. 31 was William B. Back under Certificate 253 ". . . subject to any vested and accrued water rights . . . and rights to ditches and reservoirs . . . ."

Considerably more of the abstract will be reviewed later, and pertinent portions will be supplied for the docket. Meantime, however, we should try to find a first county filing to waters of Beaver Creek of 1880 or before, and the other claim to the other half of the water.

It also seems evident that the original diversion of the Wales Arnold Ditch was partially changed from Beaver Creek to Montezuma Well between 1916 and 1928, and there may have been complete replacement and alignment of the Ditch. The Decree #3585, of which you have copies, and copies will be in the docket, was dated May 29, 1906. More data might be obtained from the complete records of the case leading to said decree, from which the map was obtained for submission with memorandum of October 28, 1947, from the Custodian.

It also occurs to me that the land may have been surveyed about 1882 for the patent to land in Sec. 36, and resurveyed before the 1907 patent to land in Sec. 31. This will have to be checked with BLM.

The result of this investigation is that our records for Federal intervention in Arizona vs. California seem to be weaker than they may need to be. It would be helpful if the county records could be searched for water right filings before I return from the pending trip.

A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Montezuma Castle
[redacted] Robertson (Please check BLM plats to see if Beaver Creek is in same portions of Sections 31 and 36 in all surveys from 188 - plus or minus to date.)
Mr. Dunn

AvVDunn:lct

11-20-1956: memorandum to superintendent, montezuma castle from general superintendent regarding cleaning of irrigation ditch

Mail to Director (2)
from Region Three
Santa Fe, N. M.
11/22/56

In reply refer to:
L5h

WR Copy

November 20, 1956

Memorandum

To: Superintendent, Montezuma Castle

From: General Superintendent

Subject: Cleaning of Irrigation Ditch, Montezuma Well

We have received copies of your letter of November 13 to Mr. Winneman concerning the irrigation ditch at Montezuma Well.

You have handled the situation in your usual competent manner and it appears that Mr. Winneman has no real source of complaint on the management of the ditch.

We are forwarding one copy of your letter and the letter from Mr. Winneman to the Regional Office for their information.

John M. Davis
General Superintendent

Copy to: Regional Director
w/attachments (2)

Montezuma Castle National Monument
Camp Verde, Arizona

November 13, 1956

Mr. C. M. Winnemann
Rimrock, Arizona

Dear Mr. Winnemann:

In answer to your letter of November 5, I did not intend to suggest that you go to court, but instead had in mind the fact that the Field Solicitor for the National Park Service is not authorized to determine claims against the government of more than one thousand dollars. The law makes no provision for handling such claims in any way other than through the federal courts.

I have answered in the affirmative your question as to whether the National Park Service intends to 'clean the ditch within the monument boundary in accordance with past practice' on at least three occasions, once in a conversation at your place at which time you suggested the cleaning be put off until this winter when the water will not be needed so badly. I understand the other water users are agreeable to cleaning the ditch this winter, but it has been suggested the job be postponed for at least a few days until the trees along the ditch lose the rest of their leaves and small twigs. Since we are ready to do the work any time I suggest you let us know when it would be convenient for the rest of you. I am sending a copy of this letter to all those interested so there will be no misunderstanding as to our willingness to cooperate in ditch work.

To enable us to make some much needed improvements in the ditch at the Well outlet we want to turn the water out of the ditch for perhaps four or five days later this year. Of course this will not be done without prior approval of all concerned, and we will get in touch with each one when we know when the work can be done.

Apparently our records make no mention of the practice of allowing cattle water to run down the ditch at all times, but if that has been the practice in the past it will be continued. A check of the lower measuring weir while the water was being used on monument land the past two days disclosed a flow of not less than 135 gallons per minute leaving that point. If the water does not reach your place it is due to the condition of the ditch below the monument boundary.

Your opinion as to the desirability of setting up some definite schedule of water use with a view of insureing a proper distribution of the flow will be appreciated. The thought occurred to me that it might be easier to plan use of the water if each user knew the exact days in advance when the water would be available. Any suggestions or comments you have will be welcome.

Sincerely yours,

Fay L. Young
Superintendent

Copy to: Mrs. Honora Schlegel
Mr. L. H. McSparron
Mr. C. A. McCarrell
General Superintendent (2) w/copies of incoming

11-05-1956: letter to moca, attn: mr. young from mr. winnemann regarding letter and trouble with ditch problem and our progress

C
O
P
Y

SINAGUA RANCH

Rimrock, Arizona
C. M. Winnemann
11 - 5 - '56

Montezuma Castle Nat. Mon.
Camp Verde Arizona:

Att. Mr Foy L. Young:

Gentlemen:

Thank you for your letter of Sept. 21 '56.

Have caused you some trouble with the ditch problem and we sure have made no progress.

Regret that I have not made my position clear to you. It seems that we go off at a tangent and your letters bring in factors which are irrelevant to the problem.

Was afraid that this deal would end up in court but as you suggest this is the only way left for me.

Was under the opinion that filing the claim with you was proper. If it is necessary to file with a different department will you please advise.

The next planting season is near. Do you or do you not intend to clean the ditch within the monument bounry in accordance with past practice? (This on the established custom of the other three users paying half the cost or furnishing equivalent labor.) In no case would I attempt to dictate to the U. S. when or how this job should be done. In the past the cleaning job has been done in the early spring. In so much as your dep't thru oversight or neglect have not cleaned your part of the ditch for the last four or five years the job now will throw extra expense on the other users. However if the other two interested parties wish to accept the additional cost I surely will do likewise.

By past practice it has been established that cattle water come down the entire length of the ditch at all times. I hereby serve notice that I would like to have this cattle water flow start immediately and never discontinued again.

Yours truly,

/s/ C. M. Winnemann

Water Rights - Montezuma

General Superintendent, Southwestern National Monuments — June 20, 1956

Field Solicitor, Santa Fe

Irrigation Ditch, Montezuma Well, Montezuma Castle National Monument

Unfortunately we did not get to confer on the matter involving Mr. C. M. Winnemann's letter of June 4 and the subsequent correspondence relating to the maintenance of the irrigation ditch which serves the Montezuma Well section of the monument and also the lands of Schlegel, McSparron and Winnemann.

The basic relationship is set forth in my memorandum of March 16, 1955 to the Regional Director, Region Three. That memorandum brought out that each and every user is a co-owner of the ditch rights, has the right to make his own repairs all the way up to the diversion point, and as a matter of common law and equity, is obliged to contribute his proportionate share to the maintenance of all parts of the ditch. It was implied then, and I state it now, that there is no absolute obligation to deliver any particular amount of water to the boundary of any particular lands. The obligations of each user are to refrain from using more than his share of the water (proportionate to the lands irrigated under the adjudication of 1906). He is also under an obligation not to injure the ditch, not to interfere with any ditch user who wants to make repairs on any part (doing no unnecessary damage in connection with the work). These obligations are in addition to the equitable obligation to contribute to the general ditch maintenance.

I think Supt. Foy Young's reply of June 8 to Mr. Winnemann was a good one. It brought out that the flow measurement where the ditch leaves the boundary varies between 1.2 and 1.34 second-feet. This would seem sufficient for the approximately 67 acres of land irrigated by the three lower users, as shown on Paul F. Spangle's drawing of January 17, 1955 (NM-MONT-7101). Mr. Young's letter brings out that some maintenance work is done within the monument area without requiring proportionate contributions from the other users, and reiterates the continuing offer on the part of the Government to contribute its share to any rehabilitation project.

I wish to point out that, while an obligation has been placed upon the permittee, Mr. McCarrell, the Government is not relieved by so doing; that is, the Government remains primarily responsible under such obligations as it has with relation to co-owners of ditch rights.

* It may be that Mr. Winnemann has placed more land under irrigation than he would be entitled to irrigate with his proper share of diverted water. I suggest no issue be made of this, although he would have no basis for claims as to such excesses. In any event, I have stated above that there is no absolute duty to guarantee a certain rate of water delivery to Mr. Winnemann and he would have no right of action based upon any such supposed guarantee.

for Merritt Barton

Merritt Barton
Field Solicitor, Santa Fe

In duplicate

Copy to: Regional Director, Region Three, NPS (2)

In reply refer to:
L54-L

Office of
Chief, Western Of
Div. of Design and C
JUL 8 1955
Supv. Architect
Supv. Engineer
Supv. Landscape Arch
Safety Engineer

Region Three
Santa Fe, New Mexico

Memorandum July 5, 1955

To: Director

From: Regional Chief of Operations, Region Three

Subject: Irrigation Ditch, Montezuma Well Area, Montezuma Castle National Monument

We have received Mr. Dunn's memorandum of May 24. The subject heading does not mention water rights, but the text of the memorandum is mainly concerned with them. This memorandum is written in consultation with Field Solicitor Barton, and to a large extent represents his views.

The file which you transmitted with your memorandum of January 17 is returned herewith.

While ordinarily we prefer to see Federal water rights fully clarified and supported by documents representing current status, we think this case is an exception, and that no action should be taken to clarify the water rights except to record our own conclusions.

The decree of May 29, 1906, No. 3583 in the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai, is undoubtedly the basis for considering the present water right as an adjudicated one. There is no doubt in our minds that, notwithstanding changes in ditches, and a change in the diversion from Beaver Creek to the outlet of Montezuma Well, the right now in use would be considered within the scope of the decree if any motion or petition were presented to the court to have the decree amended. In actual distance the change in diversion point is negligible, although it is from the main stream to the tributary. The amount of available water is not affected at all. Ditches are not of great importance in connection with the appropriation of water in Arizona, meaning that the law regards them merely as a means of conveyance from the diversion point to the land. Changes in ditches which injure no one may be made practically at will.

The court decreed to William Back sufficient water to irrigate 101 acres of land with a priority of 1870. This is the No. 1 priority under the decree, and we think it is to the Government's advantage to consider the present right, derived from William Back, as maintained under the decree.

The decree is not up to date, in that it makes no provision for the change in point of diversion or the other changes made after the decree. If it were brought up to date on petition for amendment and supplement it would probably contain the following provisions, among others:

1. It would recognize the change in point of diversion to the outlet from Montezuma Well, giving it a priority of 1870.

2. It would reduce the irrigated acreage under that diversion from 101 to 98 acres.

3. It would recognize the lapse of the Schroeder and Mahan water rights (and possibly others), since the Schroeder and Mahan ditches have not been used for many years and the lands formerly served are not under irrigation.

4. It would provide separate decreed rights for the United States, for the Schlegel, McSparron and Winnemann lands.

5. It might, upon the petition of the United States, provide for a part of the water formerly used for irrigating crops to be used for irrigating native trees and vegetation. There is considerable doubt as to this, for the use of water for native vegetation has not generally been considered a beneficial use under the Arizona water law. However, since the land is park land and held by the United States as such, we could probably obtain such recognition in an amended decree, as we would expect to do with reference to picnic grounds and campgrounds.

6. There would probably be restated in an amended decree a requirement that the United States box or flume the diversion ditch for a distance of about 100 yards from its head, and require the United States to maintain the same. The requirement for such construction and maintenance, placing the cost of construction on our predecessor William Back and on the Mahans, and all maintenance on William Back, was not considered presently applicable in Mr. Barton's memorandum of March 16 relating to ditch rights, since that requirement in the decree related to the diversion works existing prior to 1906 and diverting directly from Beaver Creek. However, we could expect a similar provision with relation to the poorly constructed and precariously maintained upper section of the present ditch which diverts from the Montezuma Well outlet.

7. Since the decree is not strictly confined to water right adjudication, but has general equity features for the purpose of settling

all points of dispute among all parties, we could expect the matter of rights and obligations and the maintenance of the ditch to be covered. If Schlegel, McSparron and Winnemann were to request such provisions (and they are entitled to be parties in any event), the amended decree would probably cover all such matters.

8. Parshall flumes or other accurate measuring devices would be required and a limited time given to install them.

In view of the above, we think it is better to let sleeping dogs lie. This is aside from the jurisdictional question and the question whether the Department of Justice would consent to have the rights and obligations of the United States subjected to the proceedings for an amended or supplemental decree. If other parties initiate such proceedings that is a different matter. However, the position of the United States appears to be as good or better than that of any other party under the original decree.

Our main concern should be with keeping the present water rights in good standing under a properly planned use. The present plans provide for turning some of the farm land into a campground and irrigating that. We already irrigate the picnic ground. Unfortunately, there is at present no permit in effect under which a permittee makes full use of the water for the irrigation of the permitted acreage of agricultural land. (The irrigation must be systematically resumed, since non-use for five consecutive years results in a lapse under the law of Arizona.) In this connection, decreed rights may lapse as well as others, and the State Land Commissioner is a proper party to investigate whether they have done so. It is stated in the files that the local water commissioner does not recognize any such thing as lapsed rights. We have no interest in having anyone's rights lapse, but we do not think his opinion would stand up in case of a contest. We do not anticipate any contest, of course, and there have been many cases of resumption after more than five years non-use. However, it is a risk which no holder of a valuable water right would be justified in taking.

As to a shift of water use from crop land to native vegetation, we think it would be permissible, either by means of gates in a concrete lined ditch or by natural seepage from the present ditch. The seepage from the present ditch is a natural loss which no one is obliged to prevent, provided the ditch is kept in reasonable repair. Diversion gates in the wall of a concrete ditch would be a deliberate appropriation for the purpose of watering native vegetation. As pointed out above, we think this could be done by the United States for park purposes. We do not believe Mr. Dunn is correct in stating "It does not matter how much of the Federal water is lost or used within the monument * * * ." Both the

decree and the general water law of Arizona prohibit the waste of water. They also prohibit actual use of water for a purpose which is not a beneficial use. Also, there is no statutory duty of water in Arizona; accordingly, there is no set quantity of which Schlegel, McSparron and Winnemann are entitled to a half. They are entitled to all they need and can beneficially use on the number of acres of land which they have acquired through conveyances from William Back. It therefore appears that not even as between the parties can we take such a position.

By copy of this memorandum to the General Superintendent, Southwestern National Monuments, we are requesting two things of him.

First. An estimate of the cost of furnishing and installing two Parshall flumes in the ditch -- one just below the spring outlet, and one just above the monument boundary. Upon receipt of this estimate, we will request an allotment from Mr. Dunn's water resources funds to cover the cost.

Second. We would like to have a map of the area on which is indicated the location of the ditch, the proposed location of the two Parshall flumes, and the areas irrigated including both the areas covered by surface irrigation and those indirectly irrigated by seepage, overflow or direct leakage from the ditch. (See last two paragraphs of Mr. Dunn's memorandum of May 24.) For this purpose, we are attaching to the General Superintendent's copy of this memorandum, a print of Drawing No. Mont-2102-A.

(SIGNED)

David H. Canfield
Regional Chief of Operations

In duplicate

Attachment (File No. 660-05.71)

Copy to: Gen. Supt., SWNM (2), with 1 copy of print
Western Office of Design and Construction

In reply refer to:
L54-L

Office of
Chief, Western Office
Design and Const.
MAY 31 1955 A.M.
Supv. Architect
Supv. Engineer M&H
Supv. Landscape Arch.
Safety Engineer
Courtesy to 49

May 24, 1955

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Irrigation Ditch, Montezuma Well Area, Montezuma Castle National Monument

Now that temporary agreement has been reached between the owners of interests in the subject ditch, as described in the memorandum of May 10 to the General Superintendent from Mr. Cook, we should like to have our file, which was forwarded on May 17, returned so that we may duplicate portions as a docket.

If Mr. Barton agrees, I believe that the U.S. should claim that the existing ditch is a replacement of the Wales Arnold Ditch, and that all priorities are based thereon. We then have the water rights partially defined by the decree of which our only copy is in the aforesaid file, and recent correspondence including Mr. Cook's memo of May 10. One remaining question is whether the county records include a filing on the original ditch, or a claim for the changes in point of diversion, and progressive use of different ditch locations. A search for such information can be more readily made after a docket is partially completed and distributed.

Mr. Cook's comments on proposals to line the ditch suggest an urgent need for definition of Federal rights. The following comments are based on memory, since you have our file.

First, Mr. Cook expresses the hope that lining will not be necessary because it would kill bordering vegetation. Actually, if the U.S. owns rights to half the water, and it is now recognized as appurtenant to the farm land at lower part of Monument area, the water right should probably be amended to cover less use on said farm lands and some use on land all along the ditch.

Second, if the U.S. is entitled to half the water, or enough for a specified acreage, it does not matter how much of the Federal water is lost or used within the Monument provided that the water covered by non Federal rights is delivered where ditch leaves

Monument land. On this basis there should be two Parshall flumes, or other measuring devices, at the diversion and place where ditch leaves the Monument, respectively. Ditch improvements in the Monument will only ge required to the extent necessary to deliver proper proportion of the water to lower measuring device.

Third, the Federal rights are now exercised by a permittee, on farm land in lower end of Monument. The justification for permittee use is to keep the water right active. The permit should be revoked or limited if part of water is needed for other purposes, and all water should ultimately be put to use as needed for conforming Monument purposes.

Fourth, the Federal water use can be made by seepage from the earth ditch, or by outlets from either a lined ditch or a buried pipeline. There would be beneficial use of a larger portion of Federal share of water if water were all conveyed across the Monument in lined ditch or pipe, with outlets to laterals where desired. This should be the subject of a master plan study.

Fifth, it will be desirable to have a map of the ditch and all areas irrigated therefrom within the Monument. The irrigated area should include all vegetation along ditch to limits under the spreading branches of trees (Root system usually spreads to limits of foliage above). The proposed Parshall flumes should also be shown. It should also show proposed changes in irrigated area, if any can now be defined. This map, and necessary survey, could be financed by water resources funds to extent needed for water right definition, and an estimate should be supplied for budget purposes.

Finally, copies of any measurements of spring flow, ditch diversions, and water deliveries at lower Monument boundary, should be supplied to this office.

A. van V. Dunn
Chief, Water Resources Section

In duplicate

Copy to: Superintendent, Southwestern National Monuments
Superintendent, Montezuma Castle
Western Office of Design and Construction

A. vm V. Dunn 5/24/55

check county records for
- filing of original ditch
- claim for change of diversion
- progressive use of different ditch locations

(*) 1880 - or before w/ B.L.M.

(+) - must be completed - Theory of waste

Water right should be amended to cover less use of said farm land & some use on land all along the ditch.

incorrect stance → if feds. have 1/2 water rts. - it does not matter if some is lost on Park, as long as the water covered by non-fed. rights is delivered.

? do we still have permittees on Monument?

Master plan for piped or lined water delivery system w/in Monument.

(*) NM-MC-7107, 7108

Map of ditch & all areas w/in Monument serviced & proposed Parshall flume

complicated fact -

What obligations do T.C.'s have among themselves?

How it is also use of ditch, i.e., both as servient tenant and as tenant-in-common w/ the other holders of easements.

jurisdiction issue -

How long can the 1906 Az ct. maintain jurisdiction of a case in equity?

as long as it wants . . .

authorities on T-C obligation

general principles

169 A.L.R. 1147 "Rights & Duties of Owners inter se in Respect to Upkeep & Repair of Water Easement"

since 1909

(Ill. Stat. ann. §§ 116-505)

Az water code is largely copied from Oregon

statutory obligation on co-owners of ditches to do their proportionate share of maintenance; those co-owners doing the work are entitled to a lien, & also authorized to refuse to deliver water to delinquents.

re: Oregon Stat ... p. 1

However, Or. did not copy that particular Section, ∴ no stat. authority on obligations of co-owners

- 1906 A.S. case Mahoney v. Schroeder, stat. the court decreed that re: the division of water, the expense of enlarging the ditch and its maintenance was to be borne in proportion to their rights to the water diverted. This conclusion would not be valid if Back had undertaken any K running w/ the land, to supply water to the lands which he sold in 1912 or later.

conveyance

also, an undivided one-half interest of, in & to the irrigation ditch known as the Wales Arnold Ditch, taking water from Beaver Creek
∴, grantee is a T-C of an easement for a ditch.

Since ditch was substituted (w/ apparent consent) obligations follow-

Conclusion:

the maintenance & repair of the present ditch from its intake to the last headgate (or to the last point where maintenance is required if work must be maintained to enable the return flow to reach a natural watercourse on its way to Beaver Creek below the irrigated lands) is the common obligation of all parties.

Under Az law, water rights for irrigation are appurtenant to the lands irrigated.

Easements for ditches to carry the water are also appurtenant; and the rights & obligations pass w/ the land titles, unless legally separated therefrom.

** There is statutory authority for the payment of claims for damages caused to owners of lands or other private property, arising out of the operation of Federal irrigation projects.

Actionable negligence under Federal Torts Claims Act.
(Act of Feb. 20, 1929, 45 Stat. 1252:
25 U.S.C., 1952 ed., Sec. 388

neg. isn't req'd. There is similar statutory authority for the payment of claims for damage to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation.

* There is no such authority applicable to the activities of the N.P.S.

Laws of AZ state that surface water belongs to AZ & groundwater to land owner

3/16/55

The latest reports show that the U.S. irrigates, thru this ditch, only 41 acres out of a total of 116 acres (irrigated area).

- The record shows a base for a claim of half of the water which Montezuma Well will produce.
- Reports have shown that the other three irrigators have long recognized some such claim.
- (*) It would strengthen the claim if it were agreed among the parties that the cost of maintaining, repairing, or improving the ditch will be borne by the U.S. and one half by the other three irrigators in their proper proportion.

/s/ Merritt Barton

evidence

ltr.	Mar 28, 55	Conrad L. Wirth	
Memo	" " "	A. van V. Dunn	
Memo	May 10, 55	John O. Cook (+) 5/12/55	
* Memo P.4 →	7/5/55	David Canfield tabling it	
ltr	6/20/56	Barton	
Memo	8/1/57	A. van V. Dunn	

In reply refer to:
L54

May 12, 1955

Memorandum

To: Acting Regional Director

From: General Superintendent

Subject: Irrigation Ditch - Montezuma Well

The attached is a report from Superintendent Cooke, dated May 10, 1955, on a meeting held by the users of the irrigation ditch at Montezuma Well National Monument. The discussions of this group and the decisions reached will no doubt be of value to you and for the Regional Office files.

Two extra copies are attached as you may want to forward them to the Director for the water docket files.

SIGNED

John M. Davis
General Superintendent

In triplicate
Attachment in triplicate
Copy to: Supt., Montezuma Castle

Irrigation Ditch
M W Area

In reply refer to:

May 10, 1955

Memorandum

To: General Superintendent

From: Superintendent, Montezuma Castle

Subject: Irrigation Ditch - Montezuma Well

This memorandum is written primarily for the files and demands no answer.

Users of the irrigation ditch which carries waters from Montezuma Well met this morning at the home of Mr. & Mrs. Cozy McSparron for the purpose of discussing future repairs to said ditch. Those attending this meeting were: Superintendent John O. Cook, Ranger Paul Spangle, representing the National Park Service; Mrs. Honora Schelegal, owner of Rimrock Ranch; Mr. C. M. Winneman, owner of Siniqua Ranch; Mr. Charles VanGorder and two assistants, representing the Soil Conservation Service, Cottonwood, Arizona; and Mr. and Mrs. Cozy McSparron,

The group heard a report by Soil Conservtation representatives relative to cost of lining the complete ditch with concrete. Said they, "There are 10,000 ft. of ditch of which 5,400 ft. are within the boundaries of Montezuma Well. To reline the complete ditch would cost the users about $6,000.00". Cost to the government therefore would be $3,000.00.

It was determined at this meeting that Mr. Winneman was the only water user in favor of lining the ditch. Mrs. Schelegal and Mr. McSparron did not wish to go to this expense. I stated the governments position as that of going along with the majority. If the other users of the ditch wanted to make a large expenditure to reline the surface, the government would endeavor to find funds to pay its share. If the majority of the users did not wish to reline the ditch, the government was certainly not going to push the issue. Frankly, I am glad that it was decided not to reline the irrigation ditch because of the adverse affect it would have on trees and other growth which furnish so much beauty to the Well area. Of course, should it ever be decided in the future to rework the present ditch, special consideration will be given to protection of these fine trees.

Mr. Winneman proposed and the other users concurred in installation of a Parshall flume type measuring weir near the outlet of the Well. By measuring water here and comparing readings with other measurements made at different locations along the ditch, sections where large loses are occurring may be determined, and remedial action taken.

Mont Well
Prop Ditch Docket
1

I suggested and it was agreed upon that all users make a study of conditions along the ditch, and with the aid of a Soil Conservation Engineer, determine which sections demand immediate attention and approximate cost. It is planned to do this soon so that necessary repair work can be done this fall and winter.

Mr. Barton's opinion of March 16, 1955 regarding responsibility for maintenance and repair of the Montezuma Well irrgiation ditch was discussed and all parties concerned heartily approved of his decision.

/Signed/
John O. Cook
Superintendent

2.

Mont Well
Prop Ditch Docket
2

In reply refer to:
L54

Region Three
Santa Fe, New Mexico

March 29, 1955

Memorandum

To: General Superintendent, SWNM

From: Regional Chief, Division of Cooperative Activities

Subject: Maintenance and Repair of Irrigation Ditch, Montezuma Well Area, Montezuma Castle National Monument

Reference is made to Mr. Castellum's memorandum of March 25 regarding distribution of Mr. Barton's opinion on the Montezuma Well Ditch. Two copies of the report were forwarded to the Director with a copy of our memorandum to you of March 18. I do not understand why the distribution did not show on the original of the memorandum which you received and would appreciate it if you would mark it to show the distribution as made.

William L. Bowen, Regional Chief
Division of Cooperative Activities

In duplicate



WR Copy

In reply refer to:
L54-L

March 28, 1955

Memorandum

To: Regional Director, Region Three

From: Chief, Water Resources Section

Subject: Irrigation Ditch - Montezuma Castle

In his excellent memorandum of March 16, concerning responsibility for ditch maintenance at the Montezuma Well area, Mr. Barton made reference to the unpublished opinion of the Comptroller relating to Federal participation in mutual ditch companies. Since he stated that he did not have a copy of the opinion, and did not refer to references, it seems possible that the attached memorandum of January 13, 1945, may have been sent to Archives. You will note that several opinions of the Comptroller are cited on page 2. We shall be glad to obtain copies of the opinions if desirable, and they are not available in Santa Fe.

In connection with the water rights, which Mr. Barton did not attempt to define, I have assumed that all changes in the ditches have constituted changes in the means of conveyance under the decreed rights. The first problem, as I saw it in the late 40's, was to account for all rights which were originally decreed, and identify the present owners. From the recent developments, I gather that only about 25% of the rights have been exercised for many years, and the rest may be construed to have lapsed. We may be able to obtain confirmation that the United States and Messrs. Schlegel, McSparron and Winnemann, are now the sole claimants to water to irrigate only about 100 of the original 450 acres.

The next step is to show that the ditches have been progressively relocated, the points of diversion have been changed, and the valid portions of the decreed rights are now exercised through the one existing ditch.

When we have defined the rights in accordance with the last two paragraphs, the next question is whether the changes should not be confirmed by the court. Meantime, we should set up a docket as soon as we know what to claim. Working with Messrs. Schlegel, McSparron and Winnemann, I think the claim might take cognizance of any portion of the decreed rights which may not now be exercised, but which any land owner does not care to recognize as lapsed.

(SGD.) A. VAN V. DUNN

A. van V. Dunn
Chief, Water Resources Section

In duplicate

Attachment

Copy to: Regional Director, Region Two, with copy of attachment
Regional Director, Region Four, with copy of attachment
Mr. Dunn

AvVDunn:lct

01-13-1945: memorandum to regional directors, regions 1, 2, 3 and 4 from acting director regarding following opinion rendered by

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 54 ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

January 13, 1945.

MEMORANDUM for the Regional Directors,
Regions One, Two, Three, and Four.

The following opinion has been rendered by the Chief Counsel with regard to participation in local ditch companies and water users' associations by the National Park Service. The immediate interest results from problems at Aztec Ruins and Fort Laramie National Monuments and Zion National Park. It is evident that each of these cases will require further special application, but the general opinion is being circulated for your guidance and reference.

"The National Park Service, under the direction of the Secretary of the Interior, is by law authorized to promote and regulate the use of the national parks, monuments, and reservations; to supervise, manage, and control the same; and to provide for their enjoyment in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. 16 U. S. C. secs. 1 and 2. As a part of this program, the Secretary is authorized to accept donations of lands or other property within the various national parks and monuments. 16 U. S. C. sec. 6. Congress from time to time has made appropriations for the acquisition of lands for the extension of the parks and monuments, and also has appropriated funds for the acquisition of water rights and lands or interests in lands for use and protection of water rights.

"I think that the foregoing authority may reasonably be construed to carry with it by implication the authority to acquire within the limits of available appropriations any service that will tend to promote the management and enjoyment of the areas. It is this implied authority which is relied on in contracting for telephone, electric, and other similar services needed in the administration of Service areas. The form of acquisition of the water services differs from the usual contractual arrangement in that charges therefor are in the form of assessments, and as an incident of the water services, the United States acquires membership in the water companies. While the charges made by the companies may be in the form of assessments, they are for all practical purposes charges for water and service. In the circumstances, such charges may be paid from appropriations available for the operation and maintenance of the park or monument which is benefited by the water in the same manner as other charges. As a stockholder, the Government has a property interest in the company. This interest normally includes the right to attend stockholders' meetings, to vote the stock, and to exercise such additional powers as may be exercised by the other stockholders. It is both proper and advisable, therefore, that some Service officer exercise such rights in behalf of the United States.



"To hold that such water services may not be obtained, moreover, would prevent the acquisition of land necessary or desirable for park or monument purposes, when an appurtenant and beneficial water right is evidenced by an interest in such an organization, and thus negative to some extent the express power to acquire lands which has been granted to the Service.

"Substantially similar situations exist in other bureaus of this Department. The Bureau of Reclamation and the Office of Indian Affairs, we understand, have acquired stock in ditch and water organizations representing appurtenant water rights, paid assessments for water and services, and, as stockholders, have actively participated in the affairs of the organizations.

"Several years ago a similar question arose in the Department of Agriculture. The Department had acquired land upon which to build a laboratory. There was a water right attached to the land, the water right being evidenced by shares of stock in a water company. The by-laws of the company empowered the board of directors to levy assessments, or to fix rates, for water delivered, or both, for the purpose of paying the debts and expenses of the company. The by-laws limited the allotment of water or water rights belonging to the company to the owners or holders of shares of capital stock of the company, and required the party or parties to whom stock was issued to sign the by-laws and be bound thereby. The Solicitor of the Department of Agriculture entertained doubt as to whether the Department was permitted under authority of law to subscribe to the by-laws, and thus bind the Government to pay past, current, or future indeterminate debts of the company. The question was referred to the Comptroller General, who held (unpublished decision of December 5, 1938, A-99421) that, if the water necessary for the operation of the laboratory could not be obtained except by the Department's becoming a stockholder of the water company and paying the regular fees and assessments thereto, his office would not be required to object to the use of funds appropriated for the maintenance and operation of the laboratory to pay such fees, assessments, or other reasonable charges as might be necessary to obtain the required water.

"The Comptroller General has also held (unpublished decision of January 5, 1939, B-021), that a Federal agency may become a member of an electric cooperative and pay the necessary membership fee therefor from maintenance and operation funds. In another decision (19 C. G. 937), the Comptroller General held that a Federal agency may pay charges necessary to secure access to the library facilities of a law library association, even though such charges take the form of a stock purchase and membership assessments.

"I believe, therefore, that:

"(1) The National Park Service, acting in behalf of the United States, may acquire and hold stock in a local ditch company or water users' association when such stock represents water rights appurtenant to land acquired for park or monument purposes.

"(2) The National Park Service may pay reasonable assessments, fees, or charges levied against the stock on account of water or services furnished by the organization.

"(3) Representatives of the National Park Service, acting in behalf of the United States, may participate in the meetings of the organizations, and exercise the rights normally incident to the ownership of the stock."

(SGD) Hillory A. Tolson

Acting Director.

WF Cole
CWW

In reply refer to:
L54-L

MAR 28 1955

Hon. Barry Goldwater
United States Senate
Washington 25, D. C.

Dear Barry:

In reply to your letter of March 21, with a letter of March 16 to you from Messrs. Schlegel, McSparron and Winnemann, concerning the ditch at the Montezuma Well Area of Montezuma Castle National Monument, we are pleased to report that the Superintendent was supplied with instructions by which to settle the matter in a memorandum of March 18 from our Acting Regional Director.

There appears to be agreement between Messrs. Schlegel, McSparron and Winnemann and the Field Solicitor of the Department of the Interior, that the United States has about one-half interest in the mutually owned ditch. The Superintendent has been instructed to work out a plan for the ditch repair, agreeable to all, based on 50% participation by the National Park Service.

We are returning your enclosures herewith.

Sincerely yours,
(SGD) CONRAD L. WIRTH

Conrad L. Wirth
Director

Enclosures 5

Copy to: Regional Director, Region Three (3)
Western Office of Design and Construction
Mr. Dunn

AvVDunn:lct 3-24-55

03-21-1955: letter to director, nps from barry goldwater regarding correspondence and reply

C
O
P
Y

United States Senate
Committee on Labor and Public Welfare

March 21, 1955

Mr. Conrad Wirth, Director
National Pakk Service
Department of the Interior
Washington 25, D. C.

Dear Connie:

I am enclosing correspondence which I feel is self-explanatory, and I would appreciate hearing from you at your earliest convenience as to what can be done to remedy this situation.

Sincerely yours,

/s/ Barry

Barry Goldwater

Enclosures

P.S. Will you please return the enclosures with your reply.

03-16-1955: letter to us senate from schoegel, mcsparron and winnemann regarding irrigation problem, need advise or help to get

C
O
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Y

SINAGUA RANCH

RIMROCK ARIZONA

March 16, 1955

Hon. Barry Goldwater,
U. S. Senate,
Washington D. C.

Dear Senator:

We have an irrigation problem here and would like to know if you could help us or advise what we should do to get action.

The attached letters are self-explanatory. You will note our letter to the National Park Service, Sept. 28, 1954. We have had absolutely no information from them as to what progress was being made. Believe you are familiar with this irrigation ditch.

Our source of water supply is the overflow of the Montezuma Well. Past practice has allocated 3/6 of the flow to irrigate the approximate forty acres which the Park Service purchased with the Montezuma Well Monument. That land is now lying idle and the ditch on the Park property deteriorated badly. As a result, the three ranchers, owners signing this petition, each entitled to 1/6 of the flow, are not getting enough water to properly care for their fields. Note the letter Sept. 20, Department of Agriculture, which shows approximately a 50% loss from the source to the west end of the Park property.

Any help or suggestions will be greatly appreciated.

Yours very truly

/s/ Honora Schloegel
/s/ L. H. McSparron
C. M. Winnemann

09-28-1954: letter to moca, nps from schoegel, mcsparron and winnemann regarding wish to acknowledge and thank for prompt a

C
O
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Y

September 28, 1954

National Park Service
Montezuma Castle,
Camp Verde, Arizona

Attention: Mr. John Cook

Gentlemen:

We wish to acknowledge and thank you for the prompt and efficient help you gave us in our recent irrigation water emergency.

Ju prior to your inspection, we requested the Soil Conservation to measure the water flow of the upperpart of this ditch. Copy of their report attached. Note: They measure the flow at the outlet to be between 900 and 950 GPM of which only 486 GPM reached the weir at the lower end of the picnic grounds.

Although there is still a substantial loss of water, the increase as the result of the minor repairs, is such as to enable us to get our fields back into condition.

On September 18, 1954, when you made an inspection of the upper portion of the ditch, we called your attention to one very precarious section. We understand, that there are two or three spots as bad. If this ditch went out, or was in such poor repair that the three parties dependent on it for agricultural water did not get enough supply, they would suffer serious damage, naturall, there would be the unpleasantness of damage claims, and this we most certainly wish to avoid.

We, therefore, request that you call the urgency of this situation to the attention of the proper department for immediate action. It is our considered opinion that in the interest of conservation and your own economy, the ditch throughout your property should be concrete lined or flumed.

Yours very truly

/s/ Honora Schloegel

Cozy McSparron

C. M. Winnemann

09-20-1954: letter to mr. winnemann from work unit conservationist regarding the request for the soil conservation service to meas

C
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UNITED STATES
DEPARTMENT OF AGRICULTURE
Soil Conservation Service

September 20, 1954

Mr. C. M. Winnemann
Rimrock, Arizona

Dear Mr. Winnemann:

At your request the Soil Conservation Service measured the water in the Montezuma Well Ditch above and below the National Park Service property in order to determine the approximate loss adjoining the farmland.

Two weirs were used to make this measurement. One was installed approximately 300 feet down the ditch from the well. The type of weir used was a two foot rectangular weir. The reading obtained was 1.89 Sec.Ft. or 850 gallons per minute.

The second weir consisted of two and one half foot Cipolletti type of weir. It was placed at the west end of the camp ground. This measured 1.08 Sec. Ft. or 486 gallons per minute.

This represents a loss of 0.81 Sec. Ft. or 364 GPM.

All of the leaks were not stopped at the well outlet. It is estimated that from 50 to 100 gallons per minute were still leaking at that point. Due to the condition of the existing ditch banks it is very difficult to stop all seepage at the well outlet.

Sincerely,

/s/ Charles Van Gorder
Work Unit Conservationist

WR Copy

In reply refer to:
L5h

Region Three
Santa Fe, New Mexico

March 18, 1955

Memorandum

To: General Superintendent, SWNM

From: Acting Regional Director

Subject: Irrigation Ditch - Montezuma Well

Reference is made to previous correspondence on the above subject, the latest of which is Acting Superintendent Castellum's memorandum of February 25. There are attached two copies of Field Solicitor Barton's memorandum of March 16 to the Regional Director, which analyzes the problem and establishes the basis for a workable solution. This is that the users, of which the United States is one, should undertake a joint ditch repair or rehabilitation project and share the cost proportionately.

Mr. Castellum in his memorandum of February 25 requested consideration of an allotment of funds from the contingency reserve. We suggest that Superintendent Cook contact the other parties involved and work out an agreement on what work is to be done this spring. If you will then give us a report including an estimate of our share of the cost we will explore means of financing it.

Hugh M. Miller
Acting Regional Director

In duplicate

Attachment, in duplicate
Copy to: Director (2) With 2 copies of Mr. Barton's report.

Misc Ltr (2)

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
P. O. Box 1728
Santa Fe, New Mexico

In reply refer to:
L54

Memorandum

March 16, 1955

To: Regional Director, Region Three, National Park Service

From: Field Solicitor, Santa Fe

Subject: Maintenance and Repair of Irrigation Ditch, Montezuma Well Area, Montezuma Castle National Monument, Arizona

My opinion has been requested regarding the obligations for maintenance and repair of the irrigation ditch which supplies water to three privately owned tracts of land and to irrigated acreage of Government land within the Montezuma Well section of Montezuma Castle National Monument. The ditch has its intake at or near an ancient spring known as Montezuma Well, located in the SW¼NE¼ (Lot 4) Sec. 31, T. 15 N., R. 6 E., GSRBM. The ditch is about one mile long from its intake to the last headgate, which appears to be located in NW¼SE¼, Sec. 36, T. 15 N., R. 5 E. The upper part of the ditch, for about the first three-fourths mile, is located on land purchased by the United States from the heirs of William B. Back in 1946. Included in the lands purchased is a tract of approximately 41 acres which is irrigated with water diverted from Montezuma Well and carried through the ditch. Three tracts of private land, containing a total of about 67 irrigated acres, lie to the westward of the land purchased from Back. Those lands were at one time the property of William B. Back and were conveyed by him to the predecessors of the present owners.

In September, 1954, two of those owners notified the Superintendent of Montezuma Castle National Monument that the ditch was in bad repair and that they expected the Government to repair it before the next irrigation season.

In this memorandum I shall not attempt to define the precise basis of the water rights owned by the Government and by the owners of the three irrigated tracts to the westward. Beaver Creek flows on a generally westerly course along the south side of all of the irrigated tracts. In its course, it flows within 50 yards or so of the intake of the ditch in question. The ditch in question appears to have been constructed about 1906, and prior to that time William B. Back had diverted water directly from Beaver Creek. Between 1897 and 1912 he was owner of all the lands with which we are directly concerned. Whether the present diversion from Montezuma Well is a mere change in point of diversion from the prior Beaver Creek diversion

MCLP

under an adjudicated priority of 1870 is a question which I do not undertake to answer at this time. Although ditch rights and water rights are related, they are separable property interests, and may be separately considered. They should be separately considered whenever the interests of clarity require.

The records indicate that Montezuma Well supplies a sufficient flow of water for all irrigation uses on lands irrigated from the ditch. The records also indicate that the water is mineralized to such an extent as to be unfit for domestic use. There is no apparent water rights conflict among any of the irrigators under the ditch, but the question is the narrow one regarding obligations to maintain and repair.

Prior to 1912, it appears that some of the land now irrigated by the ditch in question was irrigated under a ditch which ran closer to Beaver Creek, known as the Wales Arnold ditch. This ditch diverted from the William B. Back ditch at the time the Back ditch diverted directly from Beaver Creek. Wales Arnold filed a location notice in 1890 for what he called the "Government Ditch," in which he used the term "relocate." He apparently claimed the water right exercised through the ditch under a use which began many years before. In 1897 William B. Back acquired all the former Wales Arnold lands, including all appurtenant water rights and ditch rights in Section 36, T. 15 N., R. 5 E. About the same time, he was apparently a homestead entryman on the lands in Section 31, T. 15 N., R. 6 E., which include Montezuma Well and for which he received a patent in 1907. It does not appear just when the present ditch started to be used as a complete substitute for the previous William B. Back ditch and the Wales Arnold ditch. In any event, the substitution of the present ditch for the former ditches appears to have been made either by consent of all the parties, or while William B. Back owned all the land appurtenant to the Back and Arnold ditches.

It therefore appears that the water rights which are utilized through the present ditch are appurtenant to the lands upon which the waters are used and that the ditch rights are also appurtenant to those lands. Each irrigator has an easement in the ditch from his lowest headgate all the way to the ditch intake. They are tenants in common of easements for a ditch. To the extent of the outstanding easements, the Government is a servient tenant, and its lands are subject to the several easements held in common by the other irrigators. In like manner, each irrigator is a servient tenant with relation to all irrigators who divert water below his lands. They have

a right to enter upon the Government lands and the lands of each other for the purpose of making repairs and doing maintenance work, doing no more damage than is reasonably necessary.

The situation is complicated by the fact that the Government is also a user of the ditch, and is therefore both a servient tenant and a tenant in common with the other holders of easements. This situation is not unknown or unprecedented. I have stated above the rights of the several easement holders as against servient tenants, including the Government as a servient tenant, but the question remains, "What are the obligations among themselves?"

The authorities directly in point are very meager. There is a short annotation in 169 A.L.R. 1147, entitled "Rights and Duties of Owners inter se with Respect to Upkeep and Repair of Water Easement," which does little more than state the well-known general principles. In many States the relative obligations are clearly set out by statute; for instance, section 540.420, Ore. Rev. Stat. 1953 (Ore. Compiled Laws Annotated, Sec. 116-505) places a statutory obligation on co-owners of ditches to do their proportionate share of maintenance. Sec. 540.430 provides that in case any co-owner fails to contribute his proportionate share, those co-owners doing the work are entitled to a lien as for a mechanics lien, and also authorizes water masters to refuse to deliver water to a co-owner who is in default. This is part of the Oregon Water Code which has been in effect since 1909.

Oregon decisions are persuasive in the Arizona courts for the reason that the Arizona Water Code is largely copied from that of Oregon. Stewart v. Verde River Irrigation and Power District, 49 Ariz. 531, 68 P. 2d 329. However, Arizona did not copy that particular section and has no statutory provisions regulating the mutual obligations of co-owners of ditch rights. Under Sec. 75-143, Ariz. Code Annotated 1939, water users may clean canals and make repairs, and have a lien for their expenses. However, since this refers to users of water "contracted to be delivered," it does not appear to apply to ordinary co-owners but only where there is a contract to deliver water, such as a ditch company operating as a carrier.

However, the Oregon courts have established a clear precedent unrelated to the statute, as it was established in 1895. Moss v. Rose, 27 Ore. 595, 41 P. 666. In this case, the defendant was both a co-owner and a servient tenant. In the opinion modifying the decree,

the Supreme Court says, "The plaintiffs will be allowed to appropriate one-half of the waters diverted, and required to bear one-half of the expense of maintaining the ditch across the defendant's lands, and, for the purpose of performing their part of the work, they must have the right of entry upon the said lands of defendant along the banks of the ditch. And in case of the default of either party, the other may complete the necessary repairs, and thereupon the party in default shall be liable for one-half the expense thereof. The decree of the court below will be modified, and one here entered in accordance with his opinion." The court did not say whether it was basing its rule on legal or equitable principles, and cited no authority, but the decision was certainly independent of any statute. A similar principle was adopted by the District Court of the Fourth Judicial District of the Territory of Arizona in and for the County of Yavapai in a decree rendered May 29, 1906 in Priscilla Mahan and Charles F. Mahan v. William Schroeder, et al (including William Back). In that part of the decree relating to a division of water between the plaintiff and William Schroeder, the expense of enlarging the ditch, of establishing a proper means of measurement and of maintaining the same, was decreed to be borne by the parties in the proportion of three-fifths to the plaintiffs Mahan, and two-fifths to the defendant Schroeder, which was the same proportion as their rights to the water diverted. This ditch was on the other side of Beaver Creek, and we are not directly concerned with it.

The above conclusion would not be valid if William B. Back had undertaken any contract running with his land, to supply water to the lands which he sold in 1912 or later. There is nothing in the record to show that he undertook any such contractual obligations. In fact, his conveyance of April 5, 1912 to Charles R. Chestnut of 110 acres in Sec. 36, T. 15 N., R. 5 E., through which two of the present irrigators appear to derive their title, includes the following provision in the property description:

> "Also, an undivided one-half interest of, in and to the irrigation ditch known as the Wales Arnold Ditch, taking water from Beaver Creek * * * "

This would clearly negative any intent to contract to deliver water to the tract conveyed and would make the grantee a tenant in common of an easement for a ditch. As stated above, it appears that the present ditch was substituted for the Wales Arnold ditch which was later abandoned (and probably for the former Back ditch)

with the consent of all parties or while William B. Back owned all the appurtenant lands. I therefore conclude that the maintenance and repair of the present ditch from its intake to the last headgate (or to the last point where maintenance is required if works must be maintained to enable the return flow to reach a natural watercourse on its way to Beaver Creek below the irrigated lands) is the common legal obligation of all parties having rights to carry water through it, and the expense should be divided in proportion to the rights to carry water through it. Under the law of Arizona, water rights for irrigation are appurtenant to the lands irrigated. Slosser v. Salt River Valley Canal Co., 7 Ariz. 376, 65 Pac. 332; Arizona Code Annotated 1939, sec. 75-135. Easements for ditches to carry the water are also appurtenant. Kinney on Irrigation and Water Rights, 2nd ed., sec. 1017, and the rights and obligations pass with the land titles unless legally separated therefrom. The obligation arising from the ownership and use of the Government land should be recognized, without regard to whether the obligation could be enforced in any court. Two of the irrigators have suggested an action for damages, but it is doubtful whether any such action could be brought against the United States. A mere failure to repair the ravages of time and storm which reduces the carrying capacity of the ditch, due to insufficient funds under appropriations by Congress, would not, in my opinion, constitute actionable negligence under the Federal Tort Claims Act. There is statutory authority for the payment of claims for damages caused to owners of lands or other private property, arising out of the operation of Indian irrigation projects. Act of February 20, 1929, 45 Stat. 1252; 25 U. S. C., 1952 ed., sec. 388. There is similar statutory authority for the payment of claims for damage to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation. This authority is provided in the annual appropriation acts for the Department of the Interior. It is not necessary that the above-mentioned classes of claims be based upon negligence. In any event, there is no such authority applicable to the activities of the National Park Service. If the other irrigators were to exercise their right as dominant tenants to repair the ditch and call upon the Government to contribute its share, and the Government were to refuse contribution, they might make out a case in implied contract under the equitable doctrine applied in Moss v. Rose, supra. However, such an implied contract obligation would not arise until they completed the repair work and contribution were refused.

I suggest that the problem is one for solution through mutual effort, since this is what is popularly known as a mutual ditch. The tenants in common should get together and make necessary repairs, without strict accounting of hours of labor and money spent. The other irrigators have suggested a concrete lining for the entire ditch. By mutual cooperation this might be for the benefit of all concerned, thereby minimizing future maintenance and repairs, although they could not compel such a manifest improvement over past mutually acceptable conditions if any of the tenants in common were to object to contributing. One of the benefits of cooperation would be the voluntary improvement which no party would be able to impose upon the others.

The use of appropriated funds in fulfillment of a ditch repair or improvement program would be proper. In an unpublished decision (citation not available) the Comptroller General held that appropriated funds were available to pay assessments duly made by the Fort Laramie Ditch Company for the maintenance and repair of the Fort Laramie ditch, in order to continue the right to a supply of water for lands acquired for Fort Laramie National Monument, Wyoming. He also held that the National Park Service might take part in the affairs of the company and vote the shares acquired, which represented rights to conduct water. This precedent has been relied upon in other cases of a similar nature, and would be applicable to the present case.

The latest report shows that the United States irrigates under this ditch only 41 acres out of a total of 108 irrigated acres. Although this memorandum does not purport to analyze the water rights of the United States, the record shows some basis for a claim of half of the water which Montezuma Well will produce. The late reports show that the other three irrigators under the ditch have long recognized some such claim. It would strengthen the claim if it were agreed among the parties that the cost of maintaining, repairing, or improving the ditch were to be borne one-half by the United States and one-half by the other three irrigators in their proper proportions.

SIGNED

Merritt Barton
Field Solicitor

In quintuplicate

Copy to: General Supt., SWNM (2)
Regional Solicitor, Denver (2)

WR Copy

In reply refer to:
L54-L

DEC 10 1954

Memorandum

To: Regional Director, Region Three

From: Chief of Lands

Subject: Irrigation Ditch, Montezuma Well, Montezuma Castle

The question as to ditch maintenance at Montezuma Well raised in the memorandum of November 26 from Mr. Miller has not been fully determined, and no water right docket has been assembled. There was considerable correspondence in 1947 and 1948. Since the Washington Office records before 1949 have gone to the Archives and you may have made a similar disposal, we are attaching certain duplicate copies from the Water Resources files. We can duplicate our typed copy of the decree of 1906 and a memorandum of August 19, 1947, to the Custodian from Mr. Schroeder relating to the chronological history of the ditch, if they are not already accessible to you.

Mr. Dunn's attached memorandum of December 4, 1947 and the memorandum of October 28, 1947 from Mr. Hastings indicate that the United States owns approximately 50 per cent of the first priority rights, but only one-ninth of the total decreed rights. They also suggest that only first priority rights may now be exercised and that the remainder may have lapsed.

The decree names Priscilla and Charles F. Mahan as plaintiffs and William Schroeder, William Back and others as defendants. It provided for certain improvements to permit more efficient water deliveries and allotted three-fifths of water and cost of construction to plaintiffs and two-fifths to Schroeder. There appears to have been two ditches, and most of the water is designated as Beaver Creek flow, but one defendant was recognized as diverting from "spring not in creek" and presumably the Montezuma Well.

In the absence of further allocation of responsibilities, and following the court principle of allotting water and costs to the Mahans and Schroeder in the same proportion, we believe that

each water user should share in all costs in the same proportion in which he is entitled to water. This is the basis recognized by some state codes and engineers' regulations if other contractual provisions are not made, and the interest this Service has assumed in the few other cases which have arisen. It is not clear from the aforesaid memorandum of October 28, 1947, whether present responsibility should be based on 101 (98) irrigated acres, or on a larger proportion of the 456 acres.

Since this is a mutual ditch, there should be some form of agreement to define interests, and none seem to have been recorded. We believe that Mr. Barton is familar with the agreement under which the Park Service participates in the maintenance and operation of the Fort Laramie Ditch, and the past correspondence and activities relating to better organization needed for administration of the Farmers' Ditch at Aztec and financing of expenses of the Water Users Association at Zion.

(SGD) JACKSON E. PRICE

Jackson E. Price
Chief of Lands

In duplicate

Attachments 6

Copy to: Mr. Dunn

AvVDunn:lct 12-9-54

01-12-1948: letter to state land commissioner from chief, wrb regarding enclosed notice of beginning of construction of the water s

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
~~CHICAGO, ILLINOIS~~
Washington 25, D. C.

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

January 12, 1948.

Mr. O. C. Williams,
State Land Commissioner,
Phoenix, Arizona.

My dear Mr. Williams:

The enclosed Notice of Beginning of Construction of the water system at Montezuma Castle National Monument under Permit A-1964 is offered as a matter of record rather than news. The water system has been in operation since before the application was filed. Its completion, by enlargement, is dependent on increasing water demand created by similarly increasing annual visitor attendance at the Monument, subject, however, to the restoration of a stable postwar Federal economy. We can now only hope that we shall be able to catch up with the postwar water demand by the date construction should be completed under the permit, and do not know how the public will be accommodated if we do not.

(SGD.) A. VAN V. DUNN

AvVD:sh.
Enclosure 693.

Chief, Water Resources Branch.

cc: Regional Director, Region Three (2).



UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
~~CHICAGO, ILLINOIS~~
Washington 25, D. C.

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

January 9, 1948.

MEMORANDUM for the Regional Director, Region Three.

The accompanying Notice of Beginning of Construction under Water Right Permit A-1964, in duplicate, should be filed in the assemblies of Montezuma Castle National Monument Deed 3, in your office and at the Monument.

The date of construction, in 1928, is based on Mr. Pinkley's letter of September 30, 1937, to the State Water Commissioner. Since there is one other water right of 1928 in the drainage, we should like to have more details as to what was done in 1928 and the months in which the work was accomplished.

Because of the adoption of certain ground water laws in Arizona in the past year, and the probability that they will be modified to conform with those of other states in the next few years, we should have a log and pump test record. It will be helpful in the future, if you can send us such records as are available, following the form provided by the Geological Survey and sent to you last July.

(SGD.) A. VAN V. DUNN
Chief, Water Resources Branch.

AvVD:sh.
Enclosure 692.
In duplicate.



01-08-1948: memorandum to regional director, region three from chief, wrb regarding memorandum that completes the assembly

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
~~CHICAGO, ILLINOIS~~
Washington 25, D. C.

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

January 8, 1948.

MEMORANDUM for the Regional Director, Region Three.

Mr. Hastings' memorandum of December 19, of which Mr. Lassiter forwarded a copy by memorandum of December 22, seems to complete the assembly of data relating to water rights at the Montezuma Well Area of Montezuma Castle National Monument. We will prepare a water right assembly, with definition of Federal interest, as soon as possible.

For immediate administrative purposes, it may be assumed that the United States has a right to irrigate 41.22 acres by the ditch diverting waters of the outlet of the Well. To preserve this right, the irrigation should be continued, and provision for such action seems to have been made through the permit No. I-33np-118 being issued to the Montezuma Dairy.

There is a question as to the relation of the right to use water from the Well and the original right to divert the water from Beaver Creek. This Service will try to establish their identity by change in point of diversion, in order to profit by the earlier priority. However, this matter does not need to concern the Custodian at this time, and the United States can count on the support of others using the same ditch, in any action which may be required.

(SGD.) A. VAN V. DUNN
Chief, Water Resources Branch.

AvVD:sh.

In duplicate.



12-29-1947: memorandum to regional director, region three from associate director regarding copies of special use permit i-33np-

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS
Washington 25, D. C.

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

December 29, 1947.

MEMORANDUM for the Regional Director, Region Three.

There are returned herewith three copies of Special Use Permit I-33np-118, prepared for the Montezuma Dairy's use of 41.22 acres of cultivated meadow land in Montezuma Castle National Monument. These have not been signed to indicate whether the permit is approved. Possibly it is under consideration only in your office.

The provisions of this proposed permit have not been reviewed by all concerned Divisions of the Director's Office. It is observed, however, that this permit and others being received from your region which involve the incidental use of water have not complied closely with instructions of FO-563, pages 18 and 19. Close attention to the instructions of this memorandum should be given by all who prepare or act on Special Use Permits.

(SGD) A. E. DEMARAY
Associate Director.

CHG:sh.

Enclosure 680.
In duplicate.
cc: Mr. Dunn.
Mr. Gerner.



WRC

C O P Y

December 22, 1947.

MEMORANDUM for the Director.

Enclosed is copy of Custodian Hastings' memorandum of December 19, which it is believed clears up the questions raised by Hydraulic Engineer Dunn by his memorandum of December 4, concerning water rights and use at Montezuma Well.

(SGD.) J. R. Lassiter
J. R. Lassiter,
Regional Engineer.

Enclosure 2953170.

C O P Y

Montezuma Castle National Monument
Camp Verde, Arizona

December 19, 1947.

MEMORANDUM for the Regional Director, Region Three.

Reference is made to Regional Engineer Lassiter's memorandum of December 9 and Chief of Water Division Van V. Dunn's memorandum of December 4 concerning water rights and use at Montezuma Well.

On December 18 a check was made with the clerk of the Yavapai County Court in Prescott, Arizona and no supplemental decree covering use of water from the Well instead of the creek was found. As stated in my memorandum of October 28 there is an understanding among users of water from the Well as to the amount each may use but I could find nothing in the court record covering this understanding. There has been a lot of litigation between Mahan and Schroeder whose diversions involve water formerly diverted from Beaver Creek for the Montezuma Well property. All entries under "B" in the County Recorder's book of Milling Sites and Water Rights were checked to see if any supplemental agreements were recorded under the name of William Back, former owner of the Montezuma Well property, but none could be found.

Mr. Van V. Dunn's second question states, "Is the subdivision of 98 acres of irrigated land, in Mr. Hastings' report, intended to account for the entire 101 acres originally decreed to William Back, or are there other irrigated lands under that right?"

The acreage figures quoted in my memorandum of October 28 may be regarded as approximate. The irrigated land at Montezuma Well is listed by the Yavapai County Assessor's office at 41.22 acres. Other users of water from the Well informed Archaeologist Schroeder orally that "about" the acreage reported was used. The discrepancy between 98 and 101 acres could be corrected by prorating parts of the additional 3 acres.

During the past several years only four parties including the owners of the Montezuma Well property have been using water from the Well. We find nothing to indicate that the interests of a fifth party have been overlooked.

There are two corrections in Mr. Van V. Dunn's memorandum of December 4 which should be made. The name William "Black" as used in his memo should be William "Back". And in the breakdown of use by acreage on Page 2 "Walters" Ranch should be "Watters" Ranch.

In duplicate.

Homer F. Hastings,
Custodian.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON 25, D. C.

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

December 4, 1947.

MEMORANDUM for the Regional Director, Region Three.

The maps and report by Custodian Hastings, on water rights and use at the Montezuma Well Area of Montezuma Castle National Monument, which were forwarded with Mr. Lassiter's memorandum of November 4, clarify all questions except:

1. Did the Court ever render a supplemental decree to permit diversions from the outlet of the Well, in lieu of the authorized diversions from Beaver Creek?

2. Is the subdivision of 98 acres of irrigated land, in Mr. Hastings' report, intended to account for the entire 101 acres originally decreed to William Black, or are there other irrigated lands under that right?

In connection with the first question, Mr. Hastings states that the point of diversion was moved fromBeaver Creek to the outlet of the Well after the decree, and that no water from the outlet has reached Beaver Creek since that date, except as seepage after use in the irrigation ditch. If the Court has not recognized the change, the owners of interests in the original Black right are only entitled to use the full flow of the outlet so long as such flow does not exceed one-half of the total original flow of Beaver Creek. It is, therefore, important to know whether there was a supplemental decree, and get a copy if there was; and to know the relative flow of the outlet of the Well, and of Beaver Creek above the intake of the ditch by which Mr. Finney irrigated 30 acres if that is the highest diversion on Beaver Creek.

In connection with question 2, it is quite possible that the 3 acres (101-98) are those lost to irrigation when the point of diversion was changed from Beaver Creek to the outlet of the Well. However, it is not certain that the 3 acres are not the measure of rights of a fifth party who was overlooked by Mr.Hastings, or that the allocation is not a mere approximation to be corrected by prorating parts of the additional 3 acres.

Mr. Hastings requests a copy of the deed conveying a one-half interest in the waters of Beaver Creek to the United States. This allocation is to a predecessor of the United States, and is in the abstract and not in the deed. The information will be included in the water right assembly, but is not readily available at the moment. Furthermore, our problem is to determine and prove what portion of that right did pass to the United States. From the information now available, the water right priorities seem to be allocated approximately as follows, on the basis of area irrigated:

First to Black and divided as follows:

United States	51 acres
Walters Ranch	20 "
Dickenson Ranch	16 "
Schlegel (Rim Rock) Ranch	21 "
Lost by changed point	3 "
	101 acres

Second to P. & C. F. Mahan (2 priorities)	170 acres
Third to William Schroeder	90 acres
Fourth to Robert Finney	30 acres
Fifth to Elizabeth Clift	15 acres
Sixth to Riley Casner (direct of waters of Beaver Creek)	3 acres
Seventh to John Skaggs	15 acres
Eighth to B. F. Taylor	14 acres
Ninth to N. Hutchinson	8 acres
Tenth to Nelson Hollingshead	10 acres
Total decreed rights	456 acres

In this allocation Mr. Black's one-half interest in waters of Beaver Creek have been fairly well lost to others, and only the rights of Mr. Casner

suggest that the Court may have recognized diversions from the outlet of the Mill. On the other hand, if only 88 acres are irrigated from the said outlet, it is quite possible that some flow from that source should be permitted to flow into Beaver Creek to satisfy other rights.

The rotation of diversions, authorized in the decree, and mentioned by Mr. Hastings, is a normal procedure. In this case, since no duty of water has been defined, it is the best way to divide the variable supply of water.

It is suggested that no further question be raised as to the northern location of the Black Ditch. To show its location nearer the creek may reduce the irrigated acreage and rights of its joint owners. The Water Division will investigate the matter at a later date.

(SGD.) A. VAN V. DUNN
Chief, Water Division.

In duplicate.

cc: Mr. Dunn.

AvVD/sh/lh

11-04-1947: memorandum to director from regional engineer regarding enclosed copy giving information regarding areas irrigated

C O P Y

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

November 4, 1947.

MEMORANDUM for the Director.

There is enclosed a copy of Custodian Hastings' memorandum of October 28, giving information obtained by Archaeologist Schroeder regarding areas irrigated by water from Montezuma Well. Also enclosed is one photostat of a map obtained by Mr. Schroeder as mentioned in the above memorandum and a print of the map traced by Mr. Schroeder. It is hoped that the above will clear up the points raised by Hydraulic Engineer Dunn's memorandum to this office of September 26.

(signed) J. R. Lassiter,

J. R. Lassiter,
Regional Engineer.

Enclosure 2851181.

cc: Custodian, Montezuma Castle National Monument.

10-28-1947: memorandum to regional director, region three from custodian regarding water rights and irrigation of the land at mon

UNITED STATES

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

Montezuma Castle National Monument
Camp Verde, Arizona

October 28, 1947.

MEMORANDUM for the Regional Director, Region Three.

Reference is made to Chief, Water Division Van V. Dunn's memorandum of September 26, Acting Director Miller's memorandum of October 2 and Assistant Regional Director Davis' memorandum of October 13 concerning water rights and irrigation of the land at Montezuma Well. The following areas are irrigated by water from the Well:

Montezuma Well property	41	acres.
Watters Ranch	20	"
Dickenson Ranch	16	"
Schlegal (Rimrock) Ranch	21	"
Total	98	acres.

This information was obtained by Archaeologist Schroeder who questioned users of the water and/or their neighbors. There is no "River Master". The Yavapai County Court designated a Water Commissioner to supervise division of the Well and other ditches taking water from the creek in that area. He was paid a sum stipulated by the Court and provided by the water users according to their share of the water.

The flow of the Well is not sufficient to provide water for all this area at any one time but by agreement the different farms which use the water get full use of all there is in the ditch when their turn comes.

There is no evidence that any water from Montezuma Well goes directly into Beaver Creek unless it is turned into the creek for short periods when the ditch is being cleaned. It appears that our primary interest lies in our protecting our right to use water from Montezuma Well and not from Beaver Creek.

We believe the deed to the land specifies that the Montezuma Well property has a right to half the water from Montezuma Well and three other farms, (Schlegal, Dickenson, and Watters) share equally in the other half. This is the understanding among users but we can find nothing in our files to support this. Is this provided in the deed and if so, may we have a copy of this part?

Mr. A. Van V. Dunn's memorandum of September 26, 1947 requested information regarding the flow of the Well and maps showing the course of the ditches. It appears to be Mr. Dunn's impression that water from Montezuma Well goes into Beaver Creek and then is withdrawn for irrigation. This was once the case but is no longer practiced. There is now a ditch

which carries only the water from Montezuma Well and so far as can be seen, no water from the Well enters Beaver Creek. This ditch is used to irrigate the Well property and the other farms listed.

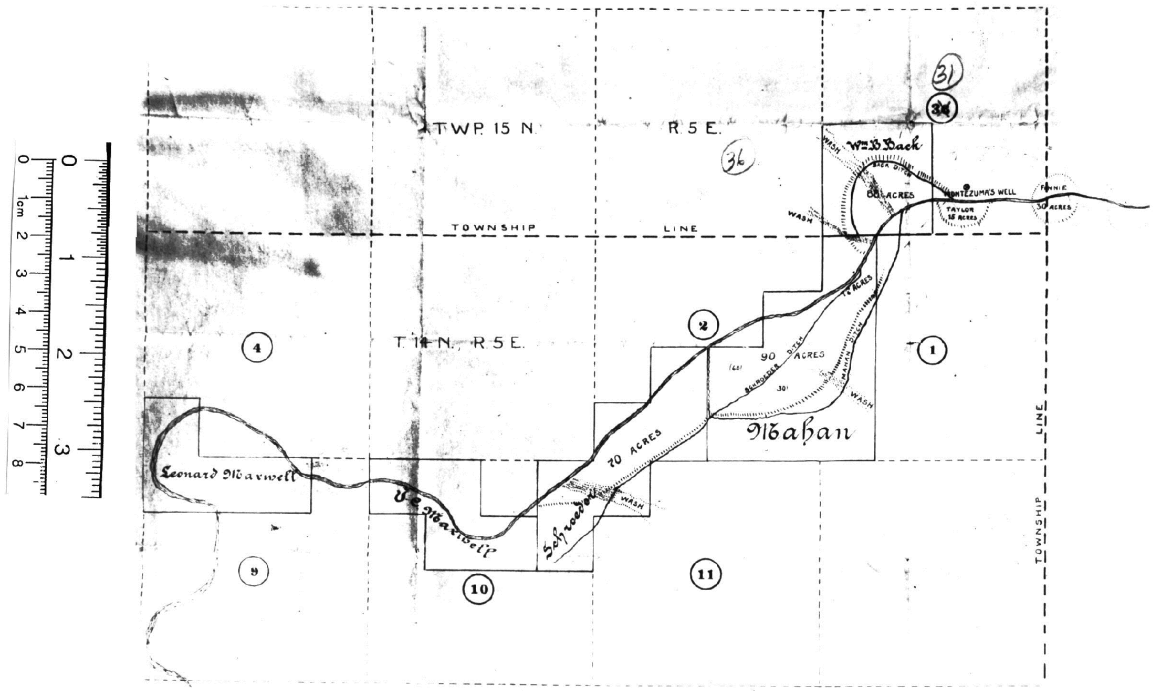
A check was made at the office of the Yavapai County Court for any maps that might accompany Court Decree No. 3583 handed down in 1906. A map was found according to the photostatic copies attached but it is erroneous. What is shown as Section 36 is actually Section 31 and Section 36 is the next one to the west. Beaver Creek enters Section 31 about half way of its east boundary and Montezuma Well is near the east-west center line of the Section. All of the Back ditch lies south of the Well and did not swing north of it as shown on the map.

Archaeologist Schroeder has made a tracing of a Base Map prepared for Mr. Kenneth Watters by H. D. Phelps, professional engineer, Prescott, Arizona. The tracing is attached and we would like to have four blue print copies of the tracing for our use.

In duplicate.

Homer F. Hastings,
Custodian.

00-00-0000: map



UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

54

October 2, 1947.

MEMORANDUM for the Regional Director, Region Three.

It is not possible to give a complete answer to the memorandum of August 25 from Mr. Davis regarding the definition of Federal water rights which were acquired when the Montezuma Well property was purchased. In a memorandum of September 26, commenting on Mr. Schroeder's field examination, Mr. Dunn has pointed out that one question is the percent of the total flow of Beaver Creek which may originate in the Montezuma Well. Before final definition, it will also be necessary to determine what areas, other than Monument land, are, or have been, irrigated from the original or existing ditches if we accept one as a relocation of the other.

The United States is probably entitled to the percentage of one-half of the Beaver Creek flow which the area of irrigated Monument land bears to the total area irrigated by the ditch. In spite of Mr. Schroeder's information that the River Master does not recognize any lapsed rights, this is not conclusive proof that any of the interested landowners have not lost, or are not subject to loss, of part of the rights by prolonged nonuse.

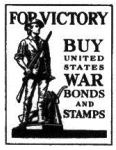
For the time being, we suggest that this Service should attempt to continue all irrigation which seems to have been practiced in the past. However, it can reduce the amount of irrigation for three or four years without loss of rights, provided the maximum irrigation was practiced in the last year before Federal acquisition.

(Sgd) Hugh M. Miller

AvVD:sh. Acting Director.

In duplicate.

cc: Mr. Dunn.



UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

54

September 26, 1947.

MEMORANDUM for the Regional Director, Region Three.

The information obtained by Archeologist Schroeder, and submitted with Mr. Lassiter's memorandum of September 12, with regard to water rights at the Montezuma Well area of Montezuma Castle National Monument, is extremely helpful but not quite adequate for one who has not been on the ground. I hope to visit the area during the next year, but such a trip is not possible in the near future because of the pending move to Washington and the amount of work which has accumulated during my summer trip.

I wonder if the river master, referred to by Mr. Schroeder, has a map showing the headgates of all ditches listed in the decree, or whether the Court has maps of all of these ditches. If so, we should like to order prints if we can obtain their titles and the cost of reproduction. If no maps are available, I wonder if Mr. Schroeder could make another sketch, blocked off into sections, to show the approximate location of Beaver Creek and the various headgates covered by the decree.

It would also be valuable to know what portion of the natural flow of Beaver Creek below the Well Area comes from that well. No measurement is needed at this time, but it is hoped that Mr. Lassiter, Mr. Schroeder, or the Custodian can state whether the well contributes 10%, 25%, or 50% of the total flow below the confluence of Beaver Creek and the stream from the well.

The answers to these questions are essential to a proper determination of the water rights. If the information is not available, however, there seems to be no immediate danger of losing rights if this Service continues to use all water that was used by its predecessors.

(SGD.) A. VAN V. DUNN
Chief, Water Division.

AvVD:sh.

In duplicate.

FOR VICTORY
BUY
UNITED
STATES
WAR
BONDS
AND
STAMPS

09-12-1947: memorandum to director from regional engineer regarding enclosed copy of memorandum detailing findings in regard

WR Gh (2)

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

September 12, 1947.

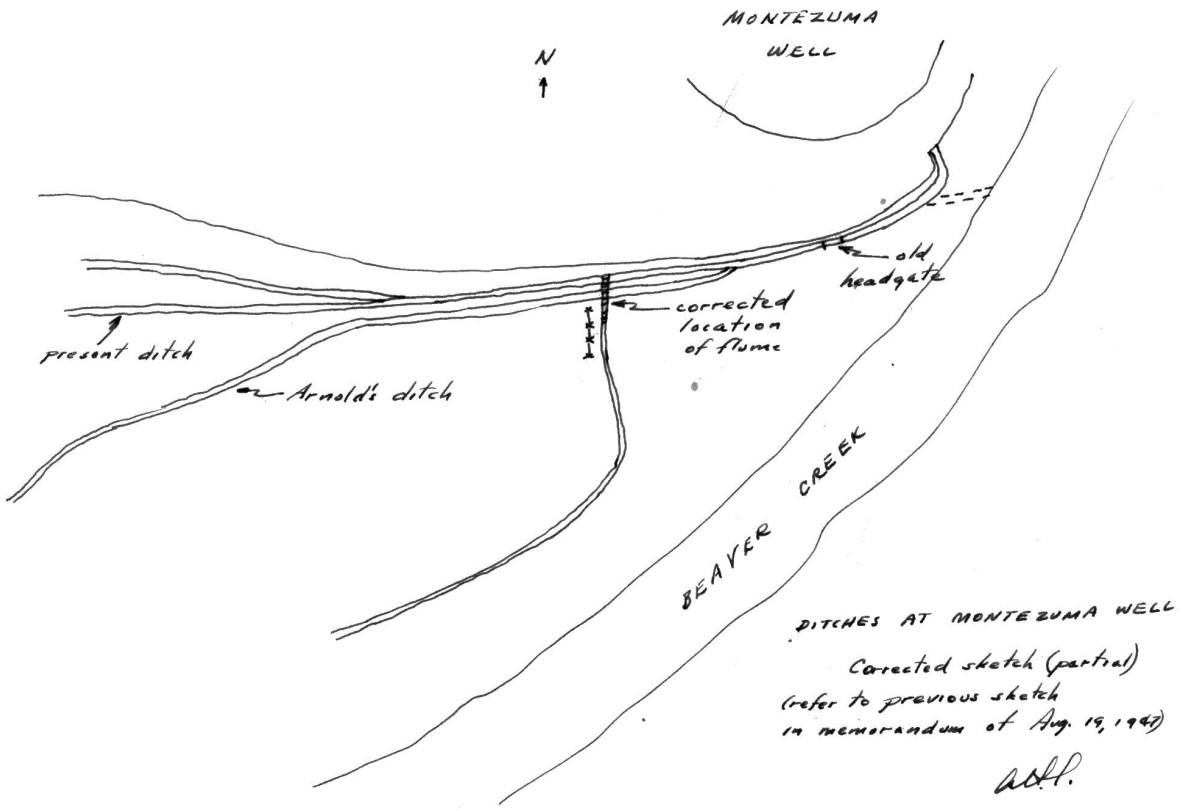
MEMORANDUM for the Director.

Enclosed is a copy of a memorandum of August 19 and one of August 31, each from Archeologist Schroeder to the Custodian, Montezuma Castle National Monument. These give in detail his findings in regard to the ditches and water rights at Montezuma Well. It is hoped that this will prove to be complete information of the water rights at Montezuma Well, as requested by Mr. Tolson's memorandum of June 12.

JAMES R. LASSITER

J. R. Lassiter,
Regional Engineer.

Enclosure 2874213.
In duplicate.
cc: Custodian, Montezuma Castle (2).

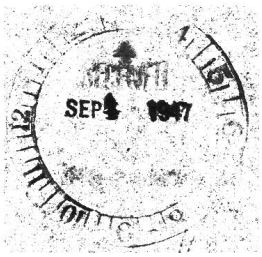


DITCHES AT MONTEZUMA WELL

Corrected sketch (partial)
(refer to previous sketch
in memorandum of Aug. 19, 1947)

adl.

09-00-1947: received stamp



Montezuma Castle National Monument
Montezuma Well
Camp Verde, Arizona

August 31, 1947

MEMORANDUM for the Custodian, Montezuma Castle National Monument.

Reference is made to my memorandum of August 19 pertaining to the water rights and ditches at Montezuma Well. The following is offered by way of clarification, addition, and correction.

Reference is made to paragraphs 9, 10, and 11 in the above mentioned memorandum. According to Tom Schroeder, William Back discontinued the use of the Beaver Creek ditch shortly after the court decree of May 29, 1906. He built or repaired the revetment as stated in paragraph 10 and immediately began work on the ditch from the Well, which joined the Beaver Creek ditch as stated in paragraph 11. Along with the construction of the Well ditch, Back put up a stone revetment on its south border to prevent flood waters of Beaver Creek from washing the ditch away. This is the present revetment. The former revetment of the Beaver Creek ditch was mainly dirt and some stone, and smaller in size.

Since the above memorandum was written, a large section of the Wales Arnold Beaver Creek ditch has been found in the large catclaw patch near the east fields. That portion of the ditch shown in red on the sketch accompanying the above mentioned memorandum is correct, but it did not originate at the spot shown as noted in paragraph 15. Further investigation reveals that the depression coming out under the revetment was due to erosion. The ditch has been traced further east as shown on the enclosed corrected sketch. We will not be able to trace this ditch any further to the west as it has been plowed under in the east fields since the discontinuance of its use.

Through some error I misplaced the flume on the original sketch. It is shown in its proper position on the enclosed sketch.

Albert H. Schroeder
Archaeologist

Montezuma Castle National Monument
Camp Verde, Arizona

August 19, 1947

MEMORANDUM for the Custodian, Montezuma Castle National Monument.

Reference is made to Assistant Regional Director Davis' memorandum of June 18, 1947 requesting that further efforts be made to locate the Wales Arnold ditch. Inquiry has since been conducted among the former heirs who have visited the Well recently and also among the local residents. The following is a chronological summary of all information obtained to date with sources parenthesized. The attached sketch contains references to the pertinent paragraphs which follow.

1) Prior to 1870 - Wales Arnold dug the Old Government Ditch from Beaver Creek. (Inferred from facts at hand.)

2) 1870 - William B. Back appropriated 101 acres of land. (Court Decree - enclosed.)

3) March 2, 1880 - Wales Arnold sold his land to Robert Hornbeck and assigned the ditch property and water rights to him. This water right included all water that would flow into the ditch and a right location to one half the water in Beaver Creek. (Yavapai County Records & my memorandum of May 24, 1947.)

4) September 19, 1881 - The same rights were passed on to Robert Pleasants and W. G. Wingfield by Robert Hornbeck. (Yavapai County Records & my memorandum of May 24, 1947.)

5) January 23, 1883 - The same rights were passed on to M. H. Sherman and H. Mehrens by W. G. Wingfield, Pleasants being deceased. (Yavapai County Records & my memorandum of May 24, 1947)

6) July 22, 1890 - William B. Back located a right on the water of Montezuma Well, and a right of way for a ditch for about one mile in a westerly direction. (Yavapai County Records & my memorandum of May 24, 1947)

7) December 11, 1890 - Wales Arnold gave notice of claim and reappropriation of the Old Government Ditch and the water rights to Beaver Creek. (Yavapai County Records & my memorandum of May 24, 1947.)

8) September 21, 1897 - M. H. Sherman sold his property and water rights to William B. Back. (Yavapai County Records & my memorandum of May 24, 1947.)

9) May 29, 1906 - Court Decree (copy attached) ordered William B. Back to box or flume his ditch for a distance of about 100 yards from its head. The head at this time was in Beaver Creek. This decree is still in force and hasn't been altered according to Tom Schroeder who has been appointed water commissioner by the court.

10) After May 1906 - William B. Back constructed a revetment along the south side of the Beaver Creek ditch to prevent flood-waters from washing it away. He also built a large wooden head-gate (still evident - A.H.S.) about 50 yards down ditch to prevent flood waters from entering the ditch. (Tom Schroeder and Carl Back, son of William J. Back.)

11) After construction of revetment - William B. Back constructed a ditch from the outlet of Montezuma Well and connected it directly with the Beaver Creek ditch. From this time on, Back used the ditch from Montezuma Well allowing some of the creek water to enter his ditch by means of a headgate at the east end of the revetment (still evident - A.H.S.) in order to mix it with the Well water to lower the lime content of the latter. This practice was soon discarded and Back never again used the waters of Beaver Creek. (Tom Schroeder and Carl Back.)

12) After discontinuance of use of Beaver Creek Water - William B. Back constructed a flume from the Well ditch across the Beaver Creek flood channel just south of the ditch to the higher land on the other side of the flood channel. This flume carried water to a ditch which took the water to the "island" where he raised watermelons. He discontinued irrigating this island about 1925. (Flume still evident - A.H.S.) (Tom Schroeder.)

COMMENT

13) William B. Back must have obtained a right location to half or part of the water in Beaver Creek when he appropriated his 101 acres in 1870. (par. 2) as Wales Arnold had a right location to half the water in Beaver Creek which he passed on to Robert Hornbeck in 1880. (par. 3)

14) The Wales Arnold ditch and that used by William B. Back were one and the same according to Carl Back, son of one of the heirs, William J. Back. This would again infer that both had right locations to water in Beaver Creek.

15) According to William J. Back, son of William B. Back, a portion of Wales Arnold's ditch is still evident south of the present ditch. This can still be seen running in a southwesterly direction from under the revetment which flanks the south border of the present Well ditch. This point is about 150 yeards west of the outlet of the Well. When William B. Back constructed the Well ditch, it included the first 150 yards of Arnold's ditch and then continued in a westerly direction as noted in his right location, (par. 6) instead of going to the southwest through Arnold's ditch. Back's ditch proceeded in the same direction as the old Indian ditch, (still evident - A.H.S.) but on a lower grade.

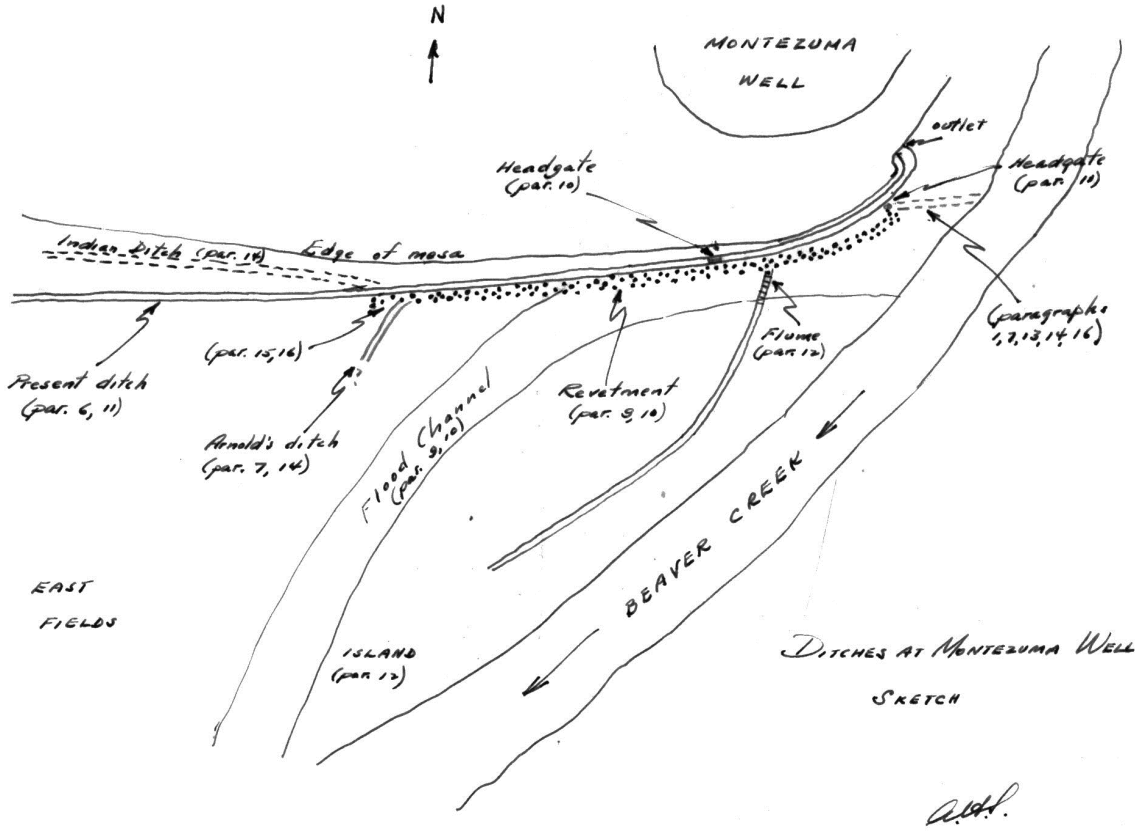
16) According to all sources contacted Arnold's ditch headed in the bend of Beaver Creek east of the outlet. A dam had been constructed in the creek to divert this water into the ditch. The ditch was washed out for a length of about 100 yards on several occasions, and a revetment was constructed (par. 10). Additional repair was made on the revetment later and apparently it was during this later repair that the revetment was built over the point where the Arnold ditch turns to the southwest. Floods have since removed all evidence of the Arnold ditch east of the present east end of the revetment.

17) According to Carl Back, the Back property never lost the right to the waters in Beaver Creek.

If any additional information is obtained pertaining to the above data, it will be submitted at the first opportunity.

Albert H. Schroeder
Archaeologist

00-00-0000: sketch of ditches at montezuma well



08-25-1947: memorandum to director from acting regional director regarding questions over water rights which were acquired whe

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

August 25, 1947.

MEMORANDUM for the Director.

A number of questions have arisen over water rights which were acquired when the Montezuma Well property was purchased during the past fiscal year. A statement from your Office as to what water rights were acquired with this property, together with an outline of any action we should take to protect them, will be appreciated. It is entirely possible that we will be unable to make full use of all existing rights that may be owned by the government. However, we do plan to lease, for agricultural use, 40 acres of tillable land, some time this fall, which will utilize at least part of any water rights we may own.

Any information that you may be able to give us on this problem will be appreciated.

(Sgd) John M. Davis

John M. Davis,
Acting Regional Director.

cc: Custodian, Montezuma Castle.

06-12-1967: memorandum to regional director, region three from nps regarding the irrigation rights at montezuma well area, moca

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

54

June 12, 1947.

MEMORANDUM for the Regional Director, Region Three.

From Mr. Schroeder's memorandum of May 24, which was forwarded with Mr. Lassiter's memorandum of May 28, the irrigation rights, which are appurtenant to the Montezuma Well Area of Montezuma Castle National Monument, seem to be properly recorded but rather poorly defined.

Apparently, Wales Arnold made his diversion from Beaver Creek some time before March 2, 1880. The original date is not entirely clear, but we may be able to learn more from proofs for patents. It is also fairly evident that William Back made a filing on 200 miners inches (4 sec. ft.) of Montezuma Well, on January 22, 1890. It is also fairly evident that Wales Arnold intended to record a relocation of the ditch, which we may assume to be a change in point of diversion, from Beaver Creek to the Montezuma Well outlet, by his notice of December 11, 1890, as recorded at page 167, Book 2, of Mill Sites and Water Rights.

We should attempt to verify these points, if there are any old-timers who can supply the information. We should also locate the old point of diversion and general course of the ditch, and prepare a map of the old and the present locations for record purposes. There is probably no urgency except that the oldtimers may not be available later, and the old diversion point may be obliterated further with each Beaver Creek flood.

We also note from your memorandum of May 15 that about 10 or 20 head of cattle have been watering at the northwest corner of the tract for some years. We see no objection to their being allowed to do so until fences can be erected, but we should not recognize any rights of the owners to water such stock unless they have water rights. The owners should probably be granted permits to let their stock cross the Monument land, provided said permittees can show rights to water stock from waters of Beaver Creek. The permit should also indicate that access is to terminate when the Monument is fenced.

This Service should also continue to irrigate the areas which

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BONDS
AND
STAMPS

were irrigated until Federal acquisition, until we decide on other uses for the water, or that we are definitely willing to abandon a part of them.

(SGD) HILLORY A. TOLSON

Acting Director.

AvVD:sh.

In duplicate.

cc: Mr. Dunn.

06-10-1947: memorandum to director from regional engineer regarding reference made to memorandum relative to the water right

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEWMEXICO

June 10, 1947.

MEMORANDUM for the Director.

Reference is made to Acting Director Coffman's memorandum of April 28, relative to the water rights on Montezuma Well tract.

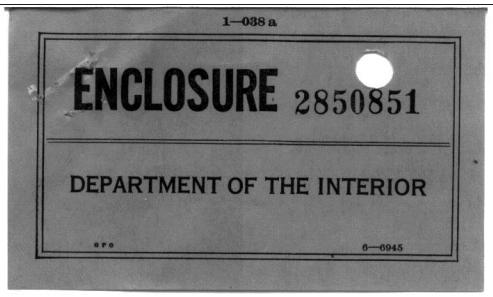
There is enclosed copy of Custodian Hasting's memorandum of June 5 which is in reply to the last sentence of the first paragraph, page 3, relating to the use of domestic and stock water by the former owner.

(Sgd). J. R. Lassiter.

J. R. Lassiter,
Regional Engineer.

Enclosure 2850851.




1—038 a
ENCLOSURE 2850851
DEPARTMENT OF THE INTERIOR
6—6945

WR Copy

UNITED STATES

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

Montezuma Castle National Monument
Camp Verde, Arizona

June 5, 1947.

MEMORANDUM for the Regional Director, Region Three.

Reference is made to Regional Engineer Lassiter's memorandum of June 2, 1947 requesting certain data pertaining to Montezuma Well.

The only sanitary facilities are a pit toilet and in the present dwelling there is a sink that was hooked up to a cesspool.

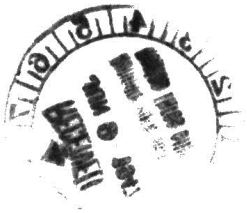
The maximum size of the land-owner's families was nine including seven children. In addition, there was an average of two hired laborers on the farm most of the time.

The maximum amount of stock usually kept was about 20 head. For a time Mr. Back, the former owner, made a practice of winter-feeding teams of horses used in lumbering operations during the summer. At times there would be 50 to 60 horses that belonged to other owners on the farm.

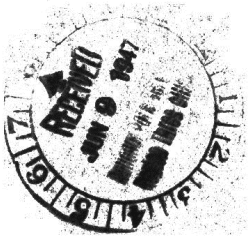
In duplicate.

Homer F. Hastings,
Custodian.

Submitted with memo of 6/10
from Lassiter



06-09-1947: received stamp



05-28-1947: memorandum to director from regional engineer regarding montezuma well and particularly to the portion relating to

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

May 28, 1947.

MEMORANDUM for the Director.

Reference is made to Acting Director Coffman's memorandum of April 28 relative to Montezuma Well, and particularly to that portion relating to water rights. There are enclosed a copy of Custodian Hasting's memorandum of May 25 giving his report, and two copies of information obtained from the county records showing the water rights on file during the period 1880 to 1890.

(Sgd) J. R. Lassiter

J. R. Lassiter,
Regional Engineer.

Enclosure 2850829.

cc: Custodian, Montezuma Castle.

05-25-1947: memorandum to regional director, region three from custodian regarding a request for an inspection of the county rec

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
Montezuma Castle National Monument
Camp Verde, Arizona

May 25, 1947.

MEMORANDUM for the Regional Director, Region Three.

The following information is supplied in response to Assistant Regional Director Davis's memorandum of May 15, 1947 requesting an inspection of the county records between 1880 and 1890 for entries pertaining to water rights on the Montezuma Well property. All names listed were checked in the Milling Sites and Water Rights book. Of those listed the only entry was for Wales Arnold in Book 2, Page 167. An entry was also found for William Back in Book 2, Page 132.

All names listed were also checked in the Deeds records from which the attached information was extracted.

In regard to indications on the ground that water for the tract was diverted directly from Beaver Creek, Mr. William Back in an interview in Seligman on May 19 stated that the headgate used by Wales Arnold for this purpose was still in evidence in 1940. There has been considerable erosion in the creek bottom in recent years and without the assistance of someone familiar with the terrain, we are not sure this point of diversion has been located. An effort will be continued to identify this point with certainty.

Homer F. Hastings,
Custodian.

In duplicate.

05-24-1947: memorandum to custodian, moca from archaeologist regarding information obtained from the yavapai county court re

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Montezuma Well
Rimrock, Ariz.

May 24, 1947

MEMORANDUM for the Custodian, Montezuma Castle.

The following information, copies attached, was obtained from the Yavapai County Court Records in Prescott, Arizona.

The attached copies of notices, taken from the "Milling Sites and Water Rights" records, were copied verbatum including punctuation, spelling, and abbreviation. The same applies to the attached extracts taken from the "Deeds" records which were considered pertinent.

(Sgd) Albert H. Schroeder

Albert H. Schroeder
Archaeologist

EXTRACT FROM DEED

Arnold, Wales to Hornbeck, Robert Mar. 2, 1880, in book 12, page 402 of "Deeds".

"...assigns forever all that certain parcel of land situate and described as follows, the North one half of the South East one fourth of Section Thirty Six, and the East one half of the Southwest One fourth of Section Thirty Six in Township fifteen North, Range five East of the Gila and Salt River Meridian .....together with the ditch property and water right belonging thereto, said Water Right being a right to all the water that can flow in said ditch and a right location to one half the water in Beaver Creek at the head of said ditch and the first water right located on Beaver Creek."

EXTRACT FROM DEED

Hornbeck, Robert to Pleasants, Robert W. and Wingfield, W. G. Sept. 19, 1881 in book 14, page 273 of "Deeds".

The extract is a word by word copy of the above.

EXTRACT FROM DEED

Wingfield, W. G. and wife to Sherman, M. H. and Mehrens, H Jan. 23, 1883, in book 17, page 206 of "Deeds".

The extract is a word by word copy of the above. Pleasants, Robert W. was deceased at the time of this contract.

EXTRACT FROM DEED

Sherman, Moses H. and wife to Back W. B. Sept. 21, 1897, in book 44, page 16 of "Deeds".

"..An undivided half interest of in and to the north half of the Southeast quarter and the East half of the Southwest qr of Sect. number 36 in Township fifteen North of Range number five East of the G & S River base and meridian together with the water rights and water privileges thereon and used and connected therewith, together with the ditches, dams & canals connected therewith."

COPY OF

Notice of Location by William Back in Book 2, Page 132 of "Milling Sites and Water Rights"

Notice of Location of the "Back" Water Right.

Know all men by these presents: that I William Back a Citizen of the United States, and resident of the County of Yavapai, and Territory of Arizona, have this day located for Mining, Agricultural, Culinary, and Stock Raising purposes 200 inches Miner's Measure of the waters of this Well, under and in accordance with the laws of the Territory of Arizona, regulating the location and possession of Water Rights.

Also the right of way for a ditch from this point to a place selected as a suitable site for a Reservoir.

The dimensions of said ditch being as follows, 1 mile long, running in a Westerly direction.

This location may be more generally described as follows, viz: being the Montezuma Well about 1 mile in an Easterly direction from Henry Mehren's Ranch in Yavapai County, Arizona.

Dated on the ground, this 22 day of July A.D. 1890.

Witness
W. F. Wilbur

/s/ William Back
Locator

Recorded at request of W. F. Wilbur, July 30, A. D. 1890 at 10:30 o'clock AM in Book 2 of M. S. & Water Rights, Page 132, Records of Yavapai County, Arizona.

/s/ Charles W. Akers
County Recorder

By J. M. Hitken
Deputy

COPY OF
Notice by Wales Arnold in Book 2, Page 167 of "Milling Sites and Water Rights"

I hereby give notice that I this day claim, relocate, and appropriate this ditch and water right known as the old Government Ditch and formerly owned and excavated by me. This ditch and water right are to be used for irrigating and milling purposes.

Done on the ground this eleventh day of December 1890.

/s/ Wales Arnold

Witness M. K. Gaddis

Recorded at request of Wales Arnold Dec. 20 A.D. 1890 at 9:45 o'clock AM in Book 2 M.S. & W. R. page 167. Records of Yavapai County Arizona.

/s/ Charles H. Akers
County Recorder

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

54

April 28, 1947.

MEMORANDUM for the Regional Director, Region Three.

We have considered your memorandum of March 13 regarding the potential use or disposal of portions of the Montezuma Well tract which has just been acquired from the Back estate. Our study has included a hasty review of the abstract and the appraisal of May 2, 1944, by Paul P. Cutter, then Field Examiner of the General Land Office. We have also noted your statement, in the minutes of the staff meeting of January 29, that there are agreements relating to a stock driveway and stock watering over Lots 2 and 6 of Section 31, T. 15 N., R. 6 E., G. & S. R. B. & M.

Mr. Cutter's appraisal indicates that the Forest Service was agreeable to the transfer of Lot 2 and the SE¼NW¼ of Section 31 if such a driveway was reserved, but the deed from the Back estate makes no reference to such reservations over Lot 6. The act of October 19, 1943, authorizing the acquisition and establishment of the Montezuma Well tract as a detached part of Montezuma Castle National Monument makes no reference to reservations. It does authorize the transfer of Lot 2 and the SE¼NW¼ of Section 31 when the private land is acquired, and the Bureau of Land Management has been requested to issue a notice evidencing the transfer of jurisdiction over this land from the Forest Service to this Service.

If the Forest Service still desires to acquire a stock driveway over any portion of the Montezuma Well property or the former Forest Service lands adjoining on the north, it will be necessary to handle the matter by means of a permit, as the whole of these lands are now under the jurisdiction of this Service. In anticipation of a request from the Forest Service for such a permit, please send us copies of the agreements to which reference was made in the staff meeting so that we may determine whether any commitments concerning stock driveways or stock watering have been made affecting these lands. We also advise against making any further commitments regarding the matter at this time.

From the appraisal and supplemental map, we find that the tract is served by one irrigation ditch which diverts the overflow of Montezuma Well, and that the flow of the well is about 2,000,000

FOR VICTORY
BUY
UNITED
STATES
WAR
BONDS
AND
STAMPS

gallons per day, or 3.1 sec. ft. The abstract indicates that the tract in Section 36, T. 15 N., R. 5 E., was originally irrigated from a ditch under a half interest in a "located" right to half the flow of Beaver Creek. Later deeds designate a half interest in the Wales Arnold Ditch, and a 1/6 interest in that ditch and the rights seem to be appurtenant to the portion of the NW¼SE¼ of Section 36 west of the dry draw, which has not been acquired by the United States.

Please refer to the county records between 1880 and 1890, and see if you can find a notice of appropriation of water by Wales Arnold, Robert W. Pleasants, William G. Wingfield, Robert Hornbeck, M. H. Sherman, or Henry Mehrens, with diversion in said Section 31. We should like to have a copy of the notice. We are particularly interested in knowing whether such notice was for the diversion of the water from the "outlet of Montezuma Well," from "Montezuma Well," or from "Beaver Creek." If it was from the Creek, we should also like to know whether there are any indications on the ground that the tract was ever irrigated from a direct Beaver Creek diversion. Perhaps, too, it would be well to check the county records for a later filing of a change in point of diversion from Beaver Creek to the outlet of Montezuma Well.

A flow of 2,000,000 gallons per day from the well, as reported by Mr. Cutter, is equivalent to 3.1 sec. ft. At 1 sec. ft. to 70 acres, this would be enough to irrigate 217 acres. The 1/6 interest which may be appurtenant to the portion of the NW¼SE¼ of Section 36 lying west of the dry draw would amount to a little over 0.5 sec. ft. and be enough to irrigate 36.1 acres. This is surprisingly close to the 30 acres which Mr. Cutter shows as irrigated west of the dry draw, particularly if evaporation and transit losses are added to the net irrigation demand.

The abstract and deed to the United States do not define the water rights except for the excluded tract just described, but do indicate the existence of appurtenant rights and interest in the ditch (or ditches). There is a possibility that the United States has acquired a 5/6 interest. On the other hand, a part of that 5/6 interest may have become appurtenant to land west and south of the area covered by the abstracts. Mr. Cutter indicated that only 36.8 acres of the acquisition were irrigated. The Federal water right, therefore, is somewhere between 2.584 sec. ft., based on a 5/6 interest, and 0.59 sec. ft., based on the irrigated area of 36.8 acres. The lower value can be increased to 0.68 sec. ft. if we add 20% for evaporation and transportation losses.

We have written to the State Land Department to determine if any water rights have been initiated under the present water code, but expect to find that there are none, because the use is so old. In that case, the county record, and the actual use, offer the only way to measure the extent of appurtenant water rights. In addition to the irrigation, there are water demands for domestic purposes and stock watering. The appraisal indicates that annual visitation ran from 480 to 1,000 people when Mr. Back was alive. There are some barns, houses, and tourist cabins on the tract. To complete the determination of the entire appurtenant water rights, we should know the type of sanitary facilities, the maximum size of the landowners' families, and the maximum amount of stock which they owned.

If the water right relates to diversions from the Montezuma Well, and not from Beaver Creek, their ownership by the United States is essential to the regulation of the flow from the Well. The more of the rights owned, the better this Service can control the outlet of the Well. Therefore, we should not consider disposal of any of the land until we fully define the Federal water rights, and the ultimate water needs of this Service. Neither should we consider any stock watering, or the issuance of a permit for a stock driveway which might involve the use of the Federal water rights without making ample provisions to safeguard those rights. We also believe that part of the irrigated land will offer the best camp site, if one is needed, and that the irrigation water will be desirable for the sanitary water supply even if the existing dug well proves to offer a more desirable quality of drinking water. It should be noted, too, that Federal rights on this tract can be transferred to the main Monument area downstream. It is essential, therefore, that no permits to the Forest Service or private individuals be granted without prior approval of the Director, notwithstanding any delegation of authority which may become effective at a later date.

In the circumstances, if it can be determined that the farm lands in question can temporarily be put to productive use without interfering with development proposals or protection of any remaining prehistoric irrigation canals, we should be willing to consider issuance of an annual special use permit as suggested in the last paragraph of your memorandum of March 18. However, we believe that the Service would be severely criticized, and justly so, if we sought legislation at this time to dispose of any part of the recently acquired Montezuma Well property, or to lease them except on a temporary basis.

As previously stated, we do not favor alien use of the Monument area by stock. However, if any further consideration is given to the matter, we should first determine what rights any stockmen would have to water if the access were granted. We should also determine the Monument values in the land on the west and north of the highway on Lot 2, Section 31, and the NW¼SW¼ of Section 36, and whether there would be room between the road and cliffs for a stock driveway if the area were eliminated from the Monument.

(SGD) J. D. COFFMAN

Acting Director.

AvVD:LJD:sh.

In duplicate.

cc: Mr. Dunn.

04-10-1947: memorandum to regional director from regional landscape architect regarding an inspection was made of the montez

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

April 10, 1947.

MEMORANDUM for the Regional Director.

On April 1 with Assistant Regional Director Davis, Custodian Hastings, Montezuma Castle National Monument, Regional Archeologist Reed, and Architect Bennett, an inspection was made of the Montezuma Well area for the purpose of preparing a preliminary Master Plan and Project Construction Program. The more important problems discussed included the following:

A recommendation to lease to outsiders for agriculture purposes the larger portion of the cultivated and irrigated acreage without sacrifice to the proposed National Park Service development.

The residential and utility areas to be located directly adjacent to the existing residence, the latter to be improved for early occupancy by a ranger. This site is completely screened from the Well area and has all the advantages of good bottom land under irrigation with added trees and grass cover.

The public area will be confined to the immediate vicinity of the Well and will include about 800 feet of entrance road, a parking area, a small headquarters building with lobby, office, and exhibit space, and a foot trail circling the Well and ruins.

Although the county road now passing through the northern portion of the area may be rerouted a mile or so to the north, the existing road, at present in good condition, will undoubtedly remain for our own use and to serve local ranches.

(Sgd) H. Cornell

Harvey H. Cornell,
Regional Landscape Architect.

cc: The Director.
Custodian, Montezuma Castle National Monument.

Approved for distribution, J. M. Davis, April 10, 1947.
Acting Regional Director

Mr. Price; Mr. Kahler; Mr. Tolson. March 24, 1947.

Richey.

Regional Director Tillotson's memorandum of March 13 regarding leasing of farm land at Montezuma Well, Montezuma Castle National Monument.

Mr. Tillotson's recommendation contained in the second paragraph of his memorandum of March 13:

> "In arriving at a solution to this problem we should of course determine the extent of the area that will be needed for future development and public use. After the determination has been made, it is our opinion that all of the bottom farm land not needed should be eliminated from the monument by appropriate legislative action and returned to private ownership."

does not appear to me consistent with Service and Departmental policy.

The Service and the Department strongly supported legislation sponsored by Senator Hayden and Congressman Murdock to add the Montezuma Well area to Montezuma Castle National Monument, and told them that certain lands were necessary. After the legislation was enacted, which authorized the inclusion of these lands in the national monument, the Service secured an appropriation for $25,000.00 for the purchase of them. Now, almost before we have the property acquired, a move is being initiated to get legislation to eliminate a portion of the purchased lands from the monument.

Our good friends in Congress, the Bureau of the Budget, and the Department will certainly think we do not know what we are doing if we attempt to get legislation in the near future to eliminate some of these lands.

If leasing of the farm land is temporarily necessary to hold our water right, then we should lease it. I believe that the best way to solve this problem is to sell any part of our valuable water right that is not needed, or transfer it somewhere in the same drainage where it can be used. Mr. Dunn should determine this. This would solve our agricultural land problem, as any part not needed could be returned to its natural condition, and we could receive at least a part of its value if we sold the water right for it or utilized it elsewhere.

The Montezuma Well property has some of the best examples of irrigation by prehistoric peoples that are in evidence today. Although I have not seen the property recently, as I recall, the land referred to by Mr. Tillotson was irrigated and farmed by prehistoric people. A large prehistoric irrigation canal is adjacent to the farm land mentioned.

It seems to me that a reinvestigation of this area is questionable at this time; and should one be undertaken, an archeologist should play an important part in the investigation.

(SGD) CHARLES A. RICHEY

Acting Chief of Lands.

cc: Mr. Richey.
CAR:vea

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS
(54)

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

February 27, 1947.

Hon. Carl Hayden,

United States Senate.

My dear Senator Hayden:

Your letter of February 21 enclosing a letter to you from Mr. Stuart Hall, Thunderbird Ranch, Winrock, Arizona, in which he expresses interest in obtaining use of 40 acres of farm land comprising a portion of the so-called Montezuma Well property, has been received.

We are in the process of closing the acquisition of the Montezuma Well tract, containing 183.6 acres, for administration as a detached unit of Montezuma Castle National Monument, Arizona. It is expected that title to the property will be accepted by the Department in the near future. There is no authority for a sale or long-term lease of any portion of the property after title becomes vested in the United States. It would only be possible to issue a revocable permit authorizing temporary use of the land for farming or grazing purposes, for which a reasonable charge would be made.

Before any commitments can be made concerning the issuance of a permit, however, a careful study must be made to determine the extent of the area required for immediate development or public use. The acreage acquired by the United States is relatively small when viewed in the light of future public use and all of it may well be required for this purpose. As you know, Montezuma Well is a highly interesting and unique archeological area of national interest.

It is anticipated that several weeks will be required to complete the study of the area. In the meantime, Mr. Hall may wish to place his application for a permit on file with the Regional Director, National Park Service, Santa Fe, New Mexico, in order that it may receive consideration at the proper time.

Mr. Hall's letter to you is returned herewith.

Sincerely yours,

(SGD) NEWTON B. DRURY

Newton B. Drury,
Director.

FOR VICTORY BUY UNITED STATES WAR BONDS AND STAMPS

Enclosure 715.

cc: Regional Director, Region Three (2) (with copies of letter dated 2/18/47.

Mr. Demaray. Mr. Richey. Mr. Dunn. Mr. Price.

HKS:eqd

12-23-1946: memorandum to regional chief of lands from park planner regarding instructions to clear points raised by the office of

Copy - excerpts only

December 23, 1946

MEMORANDUM for the Regional Chief of Lands

In accordance with instructions to clear points raised by the Office of the Solicitor, in order to acquire title to the Montezuma Well property in Yavapai County, Arizona, outlined in letter -----

----------, I left Santa Fe, December 10, with Engineer Willard Bradley --------
---

Pertinent to that portion of the property within Section 31, T. 15 N., R. 6 E., it was necessary to rerun the west, north and east boundaries of the section before the interior subdivisions could established and also a meander course of Beaver Creek to establish the boundary in Lot 4, of the NW¼ of the SE¼; that portion being south and east of the creek having been previously sold and not included in the present contract.

This south and east portion was not clearly described in the deed of conveyance, so the present owner of the Soda Springs Ranch, Mrs. Webb, was contacted with Custodian Hastings the afternoon of December 13, and it was agreed that the approximate center line of the creek would be used as the boundary.

The Beaver Creek meander line which we established gives the Soda Springs Ranch property 16.8 acres, south and east of Beaver Creek, out of Lot 4, part of the William Back homestead entry, and as their fence is now located on the bank above the creek, our location should never reach a point of question or disagreement with future owners.

(signed)
John H. Diehl,
Park Planner

10-02-1946: memorandum to solicitor from acting director regarding attached draft of the warranty deed proposed to be executed,

a2
1 10/4

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

October 2, 1946.

MEMORANDUM for the Solicitor.

There is attached a draft of the warranty deed proposed to be executed by Mildred Pain et al., for the purpose of conveying 160 acres of land, more or less, in Yavapai county, Arizona, to the United States in conformity with contract No. I-100np-9, approved July 27, 1946. This land is known as the Montezuma Well property. The following abstracts of title also are enclosed:

Abstract No. 207, prepared by Prescott Title Company.

Abstract No. 8175, prepared by Guarantee Title & Trust Company.

Abstract No. 8175-A, prepared by Guarantee Title & Trust Company.

The acquisition of this property for administration as a detached unit of Montezuma Castle National Monument was authorized by the act of October 19, 1945 (57 Stat. 572). The sum of $25,000 was appropriated in the Interior Department Appropriation Act, 1947 (Public Law 470, 79th Cong.), for the purchase of the property.

Your opinion concerning the validity of the title proposed to be conveyed is requested.

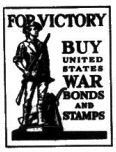
(SGD) ELLIOTT A. TOLSON

Acting Director.

Enclosure 118.

cc: Regional Director, Region Three.
Custodian, Montezuma.

Mr. Richey.
Mr. Dunn.
Mr. Price.
HKS:cq



UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO 54, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

January 13, 1945.

MEMORANDUM for the Regional Directors,
Regions One, Two, Three, and Four.

The following opinion has been rendered by the Chief Counsel with regard to participation in local ditch companies and water users' associations by the National Park Service. (The immediate interest results from problems at Aztec Ruins and Fort Laramie National Monuments and Zion National Park.) It is evident that each of these cases will require further special application, but the general opinion is being circulated for your guidance and reference.

"The National Park Service, under the direction of the Secretary of the Interior, is by law authorized to promote and regulate the use of the national parks, monuments, and reservations; to supervise, manage, and control the same; and to provide for their enjoyment in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. 16 U. S. C. secs. 1 and 2. As a part of this program, the Secretary is authorized to accept donations of lands or other property within the various national parks and monuments. 16 U. S. C. sec. 6. Congress from time to time has made appropriations for the acquisition of lands for the extension of the parks and monuments, and also has appropriated funds for the acquisition of water rights and lands or interests in lands for use and protection of water rights.

"I think that the foregoing authority may reasonably be construed to carry with it by implication the authority to acquire within the limits of available appropriations any service that will tend to promote the management and enjoyment of the areas. It is this implied authority which is relied on in contracting for telephone, electric, and other similar services needed in the administration of Service areas. The form of acquisition of the water services differs from the usual contractual arrangement in that charges therefor are in the form of assessments, and as an incident of the water services, the United States acquires membership in the water companies. While the charges made by the companies may be in the form of assessments, they are for all practical purposes charges for water and service. In the circumstances, such charges may be paid from appropriations available for the operation and maintenance of the park or monument which is benefited by the water in the same manner as other charges. As a stockholder, the Government has a property interest in the company. This interest normally includes the right to attend stockholders' meetings, to vote the stock, and to exercise such additional powers as may be exercised by the other stockholders. It is both proper and advisable, therefore, that some Service officer exercise such rights in behalf of the United States.



"To hold that such water services may not be obtained, moreover, would prevent the acquisition of land necessary or desirable for park or monument purposes, when an appurtenant and beneficial water right is evidenced by an interest in such an organization, and thus negative to some extent the express power to acquire lands which has been granted to the Service.

"Substantially similar situations exist in other bureaus of this Department. The Bureau of Reclamation and the Office of Indian Affairs, we understand, have acquired stock in ditch and water organizations representing appurtenant water rights, paid assessments for water and services, and, as stockholders, have actively participated in the affairs of the organizations.

"Several years ago a similar question arose in the Department of Agriculture. The Department had acquired land upon which to build a laboratory. There was a water right attached to the land, the water right being evidenced by shares of stock in a water company. The by-laws of the company empowered the board of directors to levy assessments, or to fix rates, for water delivered, or both, for the purpose of paying the debts and expenses of the company. The by-laws limited the allotment of water or water rights belonging to the company to the owners or holders of shares of capital stock of the company, and required the party or parties to whom stock was issued to sign the by-laws and be bound thereby. The Solicitor of the Department of Agriculture entertained doubt as to whether the Department was permitted under authority of law to subscribe to the by-laws, and thus bind the Government to pay past, current, or future indeterminate debts of the company. The question was referred to the Comptroller General, who held (unpublished decision of December 5, 1938, A-99421) that, if the water necessary for the operation of the laboratory could not be obtained except by the Department's becoming a stockholder of the water company and paying the regular fees and assessments thereto, his office would not be required to object to the use of funds appropriated for the maintenance and operation of the laboratory to pay such fees, assessments, or other reasonable charges as might be necessary to obtain the required water.

"The Comptroller General has also held (unpublished decision of January 5, 1939, B-021), that a Federal agency may become a member of an electric cooperative and pay the necessary membership fee therefor from maintenance and operation funds. In another decision (19 C. G. 937), the Comptroller General held that a Federal agency may pay charges necessary to secure access to the library facilities of a law library association, even though such charges take the form of a stock purchase and membership assessments.

"I believe, therefore, that:

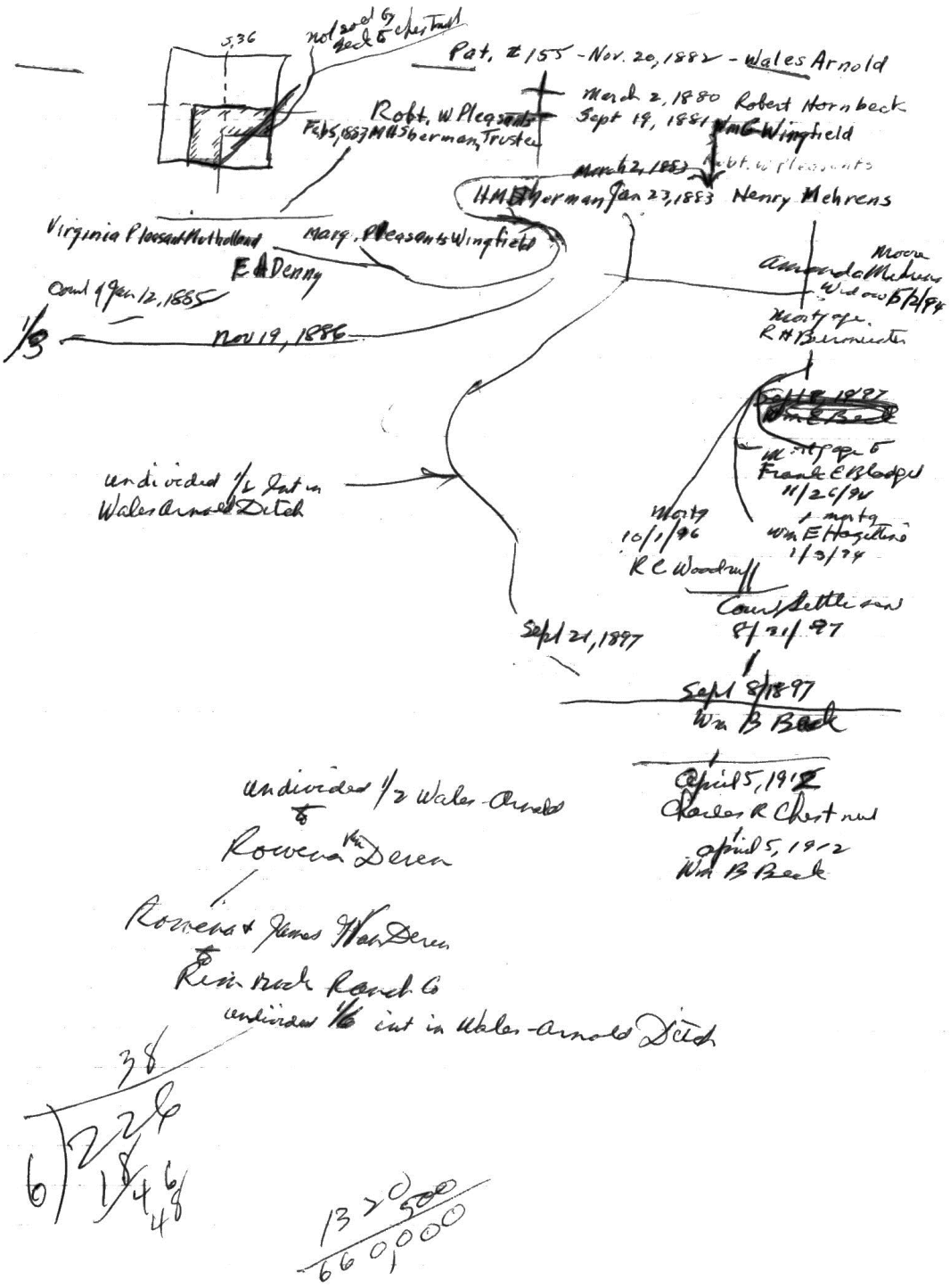
"(1) The National Park Service, acting in behalf of the United States, may acquire and hold stock in a local ditch company or water users' association when such stock represents water rights appurtenant to land acquired for park or monument purposes.

"(2) The National Park Service may pay reasonable assessments, fees, or charges levied against the stock on account of water or services furnished by the organization.

"(3) Representatives of the National Park Service, acting in behalf of the United States, may participate in the meetings of the organizations, and exercise the rights normally incident to the ownership of the stock."

(SGD) Hillory A. Tolson

Acting Director.


5.36
not a part of deed to Chestnut
Pat. # 155 - Nov. 20, 1882 - Wales Arnold
March 2, 1880 Robert Hornbeck
Sept 19, 1881 Jno G Wingfield
Robt. W Pleasants
Feb 5, 1887 H M Sherman, Trustee
March 2, 1883 Robt. W Pleasants
H M Sherman Jan 23, 1883 Henry Mehrens
Virginia Pleasants Mothelland
Marg. Pleasants Wingfield
E A Denny
Deed 9 Jan 12, 1885
1/3
Nov 19, 1886
Amanda Mehrens Widow 5/24/94
Mortg ofc. R H Brownlee
undivided 1/2 int in Wales Arnold Ditch
Mortg 10/1/96 R C Woodruff
Mortg Frank E Blodgett 11/26/94
1 mortg Wm E Hazeltine 1/3/94
Court Settlement 8/21/97
Sept 21, 1897
Sept 8/1897 Wm B Beck
April 5, 1912 Charles R Chestnut
April 5, 1912 Wm B Beck
undivided 1/2 Wales Arnold to Rowena Deren
Rowena & James W Deren to Risinger Road Co undivided 1/6 int in Wales-Arnold Ditch
38
6 | 228
18
4 6
48
13 x 500
6600

Phoenix Land District
1642411 "LC"
Miscellaneous
Montezuma Castle National Monument
Report by
Paul F. Cutter,
Field Examiner

A-28479
XXXXXXXXXXXXXXXXXXXXXXXXXX

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

GENERAL LAND OFFICE
XXXXXXXXXXXXXXXXXXXXXXXXXX
Branch of Field Examination
MAY 2 - 1944

Albuquerque, New Mexico

NATIONAL PARK SERVICE RECEIVED JUL 29 1944

Commissioner,
General Land Office,
Washington, D. C.

Approved:
Regional Field Examiner

Sir:

In memorandum to your office of December 7, 1943, the Chief of Lands, National Park Service, discussed the proposed acquisition of the Montezuma Well property authorized by the Act of October 19, 1943 (Public Law 164--78th Congress) for addition to the Montezuma Castle National Monument, Arizona. Your memorandum of November 24, 1943, file 1642411 "LC", to the Park Service also discussed the matter.

In your memorandum of December 28, 1943 you directed this office to make the appraisal of the lands sought to be acquired.

I completed the appraisement on March 30, 1944, in company with Homer F. Hastings, Custodian of the Montezuma Castle National Monument and now report as follows:

INTERIOR DEPT. JUL 29 1944

The property sought is all the property owned by the heirs of William B. Back, deceased, in the vicinity of and including Montezuma Well. The lands are in Sec. 36, T. 15 N., R. 5 E. and Sec. 31, T. 15 N., R. 6 E., G. & S. R. B. & M., Arizona. The heirs have not been willing to sell only the two subdivisions on which the Montezuma Well is situated, but have insisted on including all the property, amounting to some 182.69 acres, if the deeds on file in the County Recorder's office are used, or 179.43 acres, if the assessed acreage is used.

The following instruments are of record in the County Recorder's office of Yavapai County, Prescott, Arizona.

Book 44, Page 2:

This warranty deed dated September 8, 1897 from Amanda Mehrens Moore to William B. Back, consideration $1,235.00, conveyed one-half interest in $N\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$ Sec. 36, T. 15 N., R. 5 E., together with water rights, ditches,

PFC:scs
Orig. & 2 cc: General Land Office
1 cc: Regional Office

FOR VICTORY BUY UNITED STATES WAR BONDS AND STAMPS

RECEIVED MAY 8 1944 G. L. O.

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canals and improvements. This instrument was recorded September 8, 1897.

Book 44, Page 16:

This deed dated September 21, 1897 from Moses H. and Hattie E. Sherman to William B. Back, consideration $1,000.00, conveyed one-half interest in N½SE¼, E½SW¼ Sec. 36, T. 15 N., R. 5 E., together with water rights, ditches, canals and improvements. This instrument was recorded October 7, 1897.

Book 80, Page 576:

This instrument is a copy of the patent issued William B. Back for his homestead patented under the Act of May 20, 1862, Homestead Certificate No. 51, Application No. 253, for SW¼NE¼, Lots 4, 5, 6 Sec. 31, T. 15 N., R. 6 E., amounting to 156.47 acres. The patent was dated July 18, 1907. This instrument was filed for record December 18, 1907.

Book 88, Page 394:

This instrument is a warranty deed from William B. and Margie A. Back to Benjamin S. Witter, for that portion of the NW¼SE¼SE¼ Sec. 31, T. 15 N., R. 6 E., laying south and east of Beaver Creek and containing 15 acres, more or less, known as the Lyman S. Drum place. This instrument was dated January 27, 1908 and filed for record July 10, 1911.

Book 97, Page 142:

This instrument from William B. and Morganna Back to Charles R. Chestnut, conveyed for $7,000.00 the E½SW¼ Sec. 36, and that part of NW¼SE¼ laying west of the natural wash running through said land. Said tract of land is all situated in Sec. 36, T. 15 N., R. 5 E., G. & S. R. B. & M., Arizona, and contains 110 acres, more or less. "The dividing line between the party of the first part to the party of the second part shall be the center of the main wash above described and referred to in this conveyance. Also, an undivided one-half interest of, in and to the irrigation ditch known as the Wales Arnold ditch, taking water from Beaver Creek .....", including all improvements on the farming land in Sec. 36. This instrument was dated April 5, 1912 and filed for record the same date.

Book 145, Page 383; Probate 2374:

This instrument is a decree for final distribution of the Estate of Morganna Back who died July 2, 1926 at the age of 64. The heirs are Fred, Basil and W. L. Back and Mildred Fain and Jessie L. Cherry, each to have one-fifth interest. The property decreed is the NE¼SE¼, part of NW¼SW¼ (corrected to NW¼SE¼ by a latter instrument) Sec. 36, T. 15 N., R. 5 E., and SE¼NE¼, Lots 4, 5, 6 Sec. 31, T. 15 N., R. 6 E., except NW¼SE¼SE¼ Sec. 31, amounting to 15 acres, more or less, and known as the Lyman S. Drum place. This decree is subject to right of William B. Back, husband. It was entered in Superior Court August 10, 1928.

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Book 45, Page 383; Probate 2374:

This instrument is an order correcting the last-named instrument. The lands described are now given as NE¼SE¼, NW¼SE¼ Sec. 36, T. 15 N., R. 5 E., and SW¼NE¼, Lots 4, 5, 6 Sec. 31, except that part deeded to David R. Finney Estate, as follows: That part south and east of Beaver Creek in NW¼SE¼SE¼ Sec. 31. This decree was entered November 27, 1928 and filed for record December 12, 1928.

Book 151, Page 39:

This instrument is an order dated August 27, 1927 from the Superior Court of Yavapai, Arizona, requiring the Back heirs to give a quit claim deed to the Estate of David R. Finney, to correct an error in the description of the deeded land; the erroneous description being "a portion of NW¼SE¼SE¼ Sec. 31". This portion should be described as SE¼NW¼SE¼ Sec. 31, otherwise known as Lot 4. The quit claim deed shall give title to "all that certain piece, parcel or tract of land situated in Lot 4 Sec. 31, T. 15 N., R. 6 E., G. & S. R. B. & M., Yavapai County, Arizona lying south and east of Beaver Creek, the same being equivalent of the SE¼NW¼SE¼ of said section, township and range, and having heretofore been erroneously described by deeds from and through said William B. Back and decedent, Morganna Back, as the said portions of the NW¼SE¼SE¼ of said section." This instrument was filed for record May 12, 1930.

Book 151, Page 40:

This instrument is the quit claim deed ordered by the court in the last previous instrument from William B., William L. and Fred Back and Mildred Fain, conveying to Virginia Finney all that portion of Lot 4 Sec. 31 lying south and east of Beaver Creek, being equivalent to SE¼NW¼SE¼ Sec. 31. This instrument is for the purpose of correcting the deed recorded in Book 88, Page 394. This instrument was dated September 7, 1927 and filed for record May 12, 1930.

Book 151, Page 97; Probate 2724:

This instrument is the decree of final distribution of the Estate of William B. Back who died May 13, 1929 at the age of 72 years. The heirs are the same as those listed in the final decree of distribution of Morganna Back. The property distributed is described as NE¼SE¼, part of NW¼SE¼ Sec. 36, T. 15 N., R. 5 E., and SW¼NE¼, Lots 4, 5 and 6 Sec. 31, except that part of Lot 4 deeded to David R. Finney Estate, south and east of Beaver Creek, amounting to 15 acres. The decree was entered June 27, 1930 and filed in the court and in the County Recorder's office June 27, 1930.

Book 151, Page 497:

This instrument is a warranty deed from the William B. Back heirs to Eaton Bros., Inc. It conveys 8.78 acres by a metes and bounds description as follows: Beginning at a point which bears west 1185.8 ft. from the quarter corner on the east line of Sec. 36, T. 15 N., R. 5 E.; thence west 271.80 ft.; thence south 19°36' west, 169.9 ft.; thence south 9°24' west, 340.7 ft.; thence south 6° 51' east, 186.1 ft.; thence south 21°02' west, 226.96 ft.; thence north

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67°20' east, 826.10 ft.; thence north 32°42' west, 528.56 ft.; thence north 14°18' west, 133.45 ft., to place of beginning, being a portion of the SE¼ Sec. 36, T. 15 N., R. 5 E., containing 8.78 acres. This instrument was dated April 8, 1931 and filed for record April 11, 1931.

Book 154, Page 331:

This instrument is a perpetual easement dated March 22, 1932 from Fred and W. L. Back and Mrs. Mildred Fain to Yavapai County for a road over Lots 4, 5, 6 Sec. 31, T. 15 N., R. 6 E., and 150 ft. in width. The county is to construct one-half mile of fence on the road. This instrument was filed for record March 22, 1932.

Book 158, Page 96:

This instrument is a right of way dated December 2, 1932 from Mr. and Mrs. W. L. Back to the Mountain States Telephone and Telegraph Company over the NW¼SW¼ Sec. 31, T. 15 N., R. 6 E. This instrument was filed December 7, 1932.

Book 168, Page 292:

This instrument is an easement from W. L. and Fred Back and Mildred Fain for the heirs of the W. B. Back Estate to the Arizona Power Corporation for an electric power line over all their property in Sec. 36, T. 15 N., R. 5 E., and Sec. 31, T. 15 N., R. 6 E. This instrument was dated January 25, 1937 and filed for record March 1, 1937.

Book 173, Page 83:

This instrument is a quit claim deed from Basil Back to Ralph C. and Honora Wood Schlegel for 8.78 acres (described by metes and bounds as previously given above). The consideration was $10.00. The instrument was dated January 5, 1939 and filed for record January 7, 1939.

From these instruments it appears that Back's original homestead patent was for SW¼NE¼, Lots 4, 5, 6 Sec. 31, T. 15 N., R. 6 E., amounting to 156.47 acres. He acquired by purchase the N½SE¼, E½SW¼ Sec. 36, T. 15 N., R. 5 E., amounting to 160 acres, making a total of 316.47 acres.

He sold the E½SW¼ and 30 acres west of the dry wash in NW¼SE¼ Sec. 36 (a total of 110 acres) to Charles R. Chestnut. This property is now owned by Ralph C. Schlegel. He sold a portion (amounting to 8.78 acres) east of the dry wash in N½SE¼ Sec. 36 to Eaton Bros., Inc. This property is now likewise owned by Schlegel. He sold that part of Lot 4 Sec. 31 south and east of Beaver Creek (amounting to 15 acres, more or less) to Benjamin S. Witter. This was formerly known as the Lyman S. Drum place and is now owned by the David R. Finney Estate. Having sold 133.78 acres, the Back Estate should now amount to 182.69 acres unless Back has sold a few acres not recorded, or the lands originally purchased in Sec. 36 did not quite total 160 acres. The map attached hereto shows the lands acquired by Back (except E½SW¼ Sec. 36, now sold), the lands sold and the remaining lands sought to be acquired. Due to the metes and bounds descriptions of the lands

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sold, the lands sought to be acquired cannot now be described by regular legal subdivisions or until the submission of a supplemental plat based on additional field surveys by the Public Survey Office.

The heirs of the Back Estate and the ones from whom the property will have to be acquired are:

W. L. Back, son, Seligman, Arizona (Deputy Sheriff)
Fred Back, son, Camp Verde, Arizona
Basil Back, grandson, Cornville, Arizona
Mildred Fain, daughter, Prescott, Arizona
Jessie L. Cherry, daughter, Cornville, Arizona

Prior to his demise, William B. Back made his living by farming and stock raising on his own lands, and by charging tourists 50 cents admission to see Montezuma Well. The latter did not supply a great deal of money since he took in but $1,000.00 during an average year, and since he had to supply the services of a guide. His young son usually acted as guide and was paid $1.00 per day for his services. During the depression years attendance was down to 450 to 800 visitors annually, part of whom were children admitted at 25 cents each. Due to lack of war-time tourist travel, the well has not been operated as a tourist attraction for the past three years. Since 1941 the farm has been leased to Art Nichols of Cornville, Arizona, who has raised oats, rye and hegari. This year the place is not being actively farmed at all. There is a three-acre field of winter rye and the other irrigated lands have a growth of volunteer oats from the previous year's planting. A caretaker who lives in the main house (No. 1 on attached map) looks after the place.

There are many difficulties in the way of making a fair and just appraisal of this property which would be acceptable to both the buyer and seller. There are five heirs to be satisfied, each with a different opinion as to the value of the property. Land values are steadily rising and have doubled in the past few years. Several millionaires have settled in the Verde Valley, including that of the tributary Beaver Creek, and have been willing and able to pay more for land than the average farmer. Early records of travel to Montezuma Well are not available and accurate records were not kept during the decreased travel of the depression years. The locked gate barring the private road to the well was only occasionally opened as an accommodation to tourists during the past three years and the revenue from that source was just a few dollars a year. Then, too, it is not known just exactly what property is to come with the sale. A good example is a stone museum which was locked during my examination. At one time this museum contained many artifacts consisting of skulls (one of which had an Indian arrowhead still embedded in it), grinders, baskets, pottery, jewelry, etc. Some of this was the property of the estate and some of the individual heirs. Some of the individually-owned material has now been removed. Some of the heirs are willing to sell all the artifacts, and others are not willing. Some would be of interest to the Government, and some may not be. Then, too, these are collector's items, and the value could be high or low, depending on the willingness of the individual collector to buy. Finally, the value of a property of this kind is based not solely on past revenue but also on what revenue the place can reasonably be expected to produce in the foreseeable future, especially if

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conditions are liable to change for the better. The purchase is not to be made until six months after the end of hostilities, but the appraisement cannot be made now on what the value will be then because no one knows how conditions will change. Some of the heirs are not willing to now give an option for the duration plus six months. The well might also be worth more to the Government as a tourist attraction open to the general public than to any private operator.

For practical purposes as a revenue producer, the well has been only intermittently operated for the past ten years. Using that as a basis, the well has but a low present value. Since the appraisement is made as of today's highly inflated farm-land values, it seems that the well should also be appraised at today's deflated values, to be consistent. The heirs, however, want to obtain today's values for the farming lands and a value for the well based on normal conditions. If the normal valuation for the well as a tourist attraction is used, then it seems that a normal valuation considerably less than today's values for the farming and grazing lands should be used. My valuations are based on today's values.

I had interview with Harold Linn, Forest Ranger on Beaver Creek from 1932 to 1943. He stated that irrigated lands in the Verde Valley and on Beaver Creek were worth $100.00 per acre from 1930 to 1939, but now the lands are worth $200.00 per acre. In 1930 he purchased 32 acres for $3,400.00 in Verde Valley near Cottonwood; the improvements thereon were in poor state of repair. He knew of a 20-acre farm in Verde Valley which sold for $2,500.00 in 1939.

I examined the County Assessor's records and found that irrigated lands are assessed at $40.00 per acre and grazing lands at $1.00 per acre in the county. According to the 1943 tax schedule, the following valuations are given to the property of the William B. Back Estate, consisting of: NE¼SE¼, part of NW¼SE¼ (less 8.78 acres) in Sec. 36, T. 15 N., R. 5 E., and SW¼NE¼, Part of Lot 4 and Lots 5 and 6 Sec. 31, T. 15 N., R. 6 E.

ACRES		VALUE
41.22	irrigated lands	$1,650.00
92.21	grazing lands	90.00
46.0	other lands	65.00
179.43	Total Acreage	$1,805.00
	Improvements	690.00
	Fencing	140.00
	Total Value	$2,635.00

On July 16, 1936 Mrs. I. M. Jackson sold 800 acres near the National Monument (with improvements) to C. D. Bell for $20,000. Mr. Bell in discussing this sale with the Custodian of the Montezuma Castle National Monument stated that he considered that he paid $300.00 per acre for the irrigated land and $1.97 per acre for the grazing land and $3.00 per acre for the school land.

On December 14, 1938 Eaton Bros. sold 278 acres (with improvements) to Ralph Schlegel for $40,000. The land alone was included at $5,000.00, which

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made the 21 acres of irrigated lands have a value of $213.97 and the 257 acres of grazing lands have a value of $1.97 per acre. Both Bell and Schlegel are wealthy men well able to pay more for farming land than the average farmer.

The Jackson place was considerably improved by Bell and has been sold several times since. It is now owned by Kenneth W. Waters, Jr. His 1943 assessed valuation of this property is as follows:

ACRES		VALUE
297.30	irrigated lands	$11,895.00
2985.98	grazing lands	2,985.00
20.00	other lands	25.00
	personal property and stock	10,070.00
	improvements	19,055.00
	Total Value	$44,030.00

On November 28, 1939 Charles A. Ward purchased from the Estate of M. J. Marcus 160 acres in Secs. 33 and 34, T. 15 N., R. 6 E. for $40,500.00. The place was substantially improved with a large house, tenant house, swimming pool, barns, garages, outbuildings, furniture and included a 102-acre National Forest allotment. In 1943 his assessed valuation was as follows:

ACRES		VALUE
16.00	irrigated lands	$ 640.00
144.00	grazing lands	145.00
	furniture	2,100.00
	machinery and stock	1,905.00
	improvements	48,960.00
	real estate	785.00
	Total Value	$53,750.00

It is impossible to arrive at the breakdown purchase price for irrigated and grazing lands from these figures. They do show, however, that substantial and wealthy men have found the district attractive for winter homes and are willing to invest large sums in property in the area.

In my discussion with the dirt farmers of the area, I learned that they considered the normal value of irrigated lands in this area to be $100.00 to $125.00 per acre and the present value $175.00 to $200.00 per acre; and the normal value for grazing lands at $1.25 per acre and the present value $1.75 per acre. Due to the occasional purchase by wealthy men of lands in this area at higher figures, I have appraised the irrigated lands at $250.00 per acre and the grazing lands at $2.00 per acre. The grazing lands include both rolling mesa lands and bosque lands along the river bottom. The grazing lands have sandy soil which support a growth of filaree, thorn bush, scrub cedar and soapweed, mesquite and catclaw, with a little grama grass. The carrying capacity is at the rate of 10 to 11 cows yearlong per section. The Forest Service leases similar lands at 6 to

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7 cents per acre per annum. Similar State lands lease at 3 cents per acre per annum.

There is considerable irregular boundary and cross fencing on the irrigated portions of the land which I have appraised at $250.00 to $350.00 per mile, depending upon the number of wires, spacing of posts, stays and condition of fence. The total replacement value of the different fencing is $712.50, but since it is half worn out or depreciated, I have allowed one-half the replacement value or $356.25. The buildings are appraised at recent replacement costs less a reasonable deduction for depreciation, depending upon the age and condition of the building. It is well known to contractors that they can arrive at a close approximation of the cost of a small house on square footage basis. I discussed this matter with contractors and lumber dealers in Prescott and found that a small home of four or five rooms can be constructed for approximately $3.50 per square foot, while small outbuildings can be constructed at considerably less. I have used these figures in arriving at the appraised price for the buildings.

The ditches and water rights are considered appurtenant to the land and are included in that appraisement.

Under todays' conditions, Montezuma Well has no value at all to its present owners, only a speculative value in the future as an attraction. Only by using the services of a minor son as a guide at a nominal wage did it ever have a value to the owner. If labor had had to be employed in the open market to guide visitors around the well, it would never have paid as a tourist attraction. In 1931 when $1,020.00 was taken in, it would have cost $1.50 per day with found or $2.50 per day without found to hire a guide, or $912.50 for the year, leaving a profit of but $107.50 per year. Based on a 20-year period this would give the well a valuation of $2,150.00 as a tourist attraction. The value of the well as a source of water for the irrigated lands is figured in the value of the irrigated lands appraised.

Montezuma Well is some 6 miles northeast of Montezuma Castle National Monument. When the well was operated as a tourist attraction, not more than one tourist in 10 at the National Monument visited the well. About 10 years ago, and prior to the limited travel during the depression years, nearly 20,000 people visited the Montezuma Castle National Monument annually. Within the reasonable future after the war, the monument can reasonably be expected to have 40,000 visitors annually. If the well is operated privately and one-tenth of these visitors visit the well, there should be about 4,000 visitors to the well each year, for a total yearly income of $2,000.00. Expenses of a guide will probably be more than in 1931 and could average $4.00 per day or $1,460.00 per annum, leaving a net yearly profit of $540.00 for the 20-year period. This would amount to $10,800.00, which seems a reasonable present value of the well based on speculative future possibilities.

I made a thorough examination of the well and its environs. I measured the east-west diameter and found it to be 500 ft. It is approximately 75 ft. from the rim to the waters edge. The flow of water from the well at the bottom of the cliff is approximately 2,000,000 gallons per day, according to my measurement of flow. Both archaelogically and geologically, it is an interesting study. Since

there are no lavas or meteorites in the locality it could not be an extinct volcanic crater or a meteor crater. The entire area in the vicinity is underlain with limestones of the Verde formation of late tertiary age. This formation which reaches a thickness of 1500 ft. was laid down in a lake caused by the damming of Verde Valley by lava flows, the white calcareous sediments being washed down from the surrounding older limestone mountains. When the formation became solidified the meteoric waters started their work of solution and formed caverns in the limestone. As this work progressed, the roof of one of these caverns near the surface became thinner and weaker until it could no longer support itself and caved in, leaving this crater-like depression now known as Montezuma Well. So far as I know, no one has as yet plumbed bottom.

Tourists are regularly taken in Carlsbad Caverns to a depth of 1300 ft. to 1400 ft. but the deepest single room is some 750 ft. Accordingly, while I would expect the water in Montezuma Well to be several hundred feet deep, I did not expect it to be over 800 ft. deep. The water in the well is very hard and by no means stagnant. It is replenished through some subterranean passageway and quite likely from Beaver Creek. The outflow after irrigating a few farms finds its way back to Beaver Creek. The water is somewhat less than tepid in temperature. The bottom lands were irrigated and farmed some 1200 years ago by prehistoric Indians, the remains of their ditches being today plainly discernable. An interesting feature of these ditches as distinguished from the evidence in the Salt River Valley is that they are stone lined on the sides. This lining reaches a thickness in places of 20 inches. At first, and due to the presence of coarse pebbles, I thought the ditches had been lined with some cement made by the Indians; later study convinced me, however, that the lining was natural and due to the presence and deposition of calcareous salts in the water. The present ditch has been used for at least 75 years and if it were not cleaned regularly, it, too, would become stone lined. The present deposition makes a spongy mass which retains any pebbles washed in by heavy rains. If this material was allowed to accumulate, it would solidify and make a similar lining. The deposit is built up gradually and becomesthicker and thicker and in time would choke the ditch. There seems to be enough scouring action on the bottom to prevent bottom lining. These old stone-lined ditches are a constant source of interest to tourists. Unfortunately, the road grade covers about one-fourth mile of the ancient ditch from a point south of the west quarter corner of Sec. 31 westerly and northerly. At least one-fourth mile of the old ditch could be restored for the benefit of tourists without interfering with the road.

Just below the north rim of the well there is a prehistoric cliff dwelling in an excellent state of preservation. Below the south rim there is a considerable cavern which could be used as a point of interest if the roof is shored up. On top of the south rim there are ancient Indian ruins which no doubt could be restored. Just west of the center of Sec. 31 there is an ancient Indian burial grounds which likewise is of interest to tourists. Some of these graves could be restored to show the prehistoric people's method of burying under a rock ledge from a shallow pit. No restoration work should be undertaken below the rim of the well unless the greatest care is exercised in protecting the roof from caving.

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Between the barn and the tourist cabin there is a picnic grounds used by the Pioneer Society. There are tables and benches for approximately 250 people. Since this equipment is moveable and reported to be owned by the Pioneer Society, it is not included in the appraisements given. Just southeast of the northwest corner of the NE¼SE¼ Sec. 36 there is a fenced lane where stock of Van Deran can water at the main ditch between Back and Schlegel. The county records do not show this lane to have been sold by Back and presumably it would come over to the Government on purchase of the property.

Lot 2 and SE¼NW¼ Sec. 31 are in the Coconino National Forest. It is proposed that these lands be eliminated from the Forest for addition to the National Monument. The Forest Service has been willing to have these lands added to the Monument but has requested the use of a passageway for stock using the Forest to water at the main ditch. This stock comes off the rim at the draw just west of the west quarter corner Sec. 31 and water near the picnic grounds and tourist cabins. The Forest lands have been allotted to Stewart Hall for grazing. The request for retention of a water passageway was originally made by Ranger Harold Linn of the Forest Service. He stated to me that he thought it was a good idea at the time but would not make such a request if he was to do it over. The map attached clearly shows that these cattle do not water on Forest land but on private lands owned by the Back Estate and that they are in trespass in watering on this land. If this land is eliminated from the Forest, the cattle on the National Forest can water at a point on Dry Creek some 3 miles distant. The proposed passageway for stock does not even take in the customary watering place at the picnic grounds and includes land lying south of the ditch and in Back's irrigated field. Cattle coming off the rim or cliff to water have a tendency to destroy the road and interfere with traffic. There is no feasible way of constructing an underpass for cattle at this point. Retention of a driveway for stock on the lands eliminated from the National Forest would not provide access to the water. I am not in favor of the Park Service granting right of access over lands proposed to be purchased for addition to the National Monument for stock-watering purposes since it may interfere with proper administration and management and be unsanitary as well.

ITEMIZED APPRAISEMENT

1. 4-room frame house, 28' x 24', shingle roof, J. M. asbestos roof over portion, fir flooring, beaver board interior walls. House has small room used as store room and probably originally intended for a bath room. (672 sq. ft. at $3.50 per sq. ft., less 35% depreciation.)	$ 1,528.80
2. Barn, light construction with semi-open sides, C. I. roof, 75' x 42'. Barn contains hay lofts, cow and horse pens or stalls, tool room, feed pen, and 25' x 25' picket corral attached.	750.00
3. Rock museum (without contents), 16' x 21', 9' high, has flat C. I. roof, 1 door, 4 double windows. (336 sq. ft. at $1.00 per sq. ft., less 25% depreciation.)	252.00

4. West double tourist cabin. Each one-half is 14' x 16' with 18' x 16' patio (or double garage) between. Adobe construction, flat C. I. roof, 1 door and 4 single windows each side. (448 sq. ft. at $1.00 per sq. ft. plus $52.00 for roof over patio and less 35% depreciation. $ 325.00

5. East tourist cabin, same as Item No. 4. 325.00

6. Frame cabin at edge of slough, Lot 6 Sec. 31, 18' x 10', 1 room, shingle roof, 1 door and 2 single windows. Siding of finished lumber. About 40 years old. (180 sq. ft. at $1.00 per sq. ft., less 75% depreciation.) 45.00

7. Frame cabin at edge of field in NE¼SE¼ Sec. 36. 24' x 17', shingle roof, 1" unfinished board siding, 2 doors, 5 double windows. (408 sq. ft. at $1.00 per sq. ft., less 75% depreciation.) 102.00

8. Frame feed shed west of cabin 7. 8' x 10', 1 room, floored, C. I. roof. (80 sq. ft. at $1.00 per sq. ft., less 75% depreciation.) 20.00

9. 2-room tent house near southeast corner of land sold to Eaton Bros. (in NE¼SE¼ Sec. 36). 24' x 16', wood floors and 3' side walls. (384 sq. ft. at 25¢ per sq. ft., less 75% depreciation.) 24.00

10. Old log cabin, 75' east of house No. 1, 16' x 14', 1 room. About 50 years old. Formerly the post office at Rimrock, Arizona. No windows, 1 door 4½' x 3'. (224 sq. ft. at 50¢ per sq. ft., less 75% depreciation.) 28.00

11. Dug well at house, 25' deep, 4' diameter, lined with rocks. (25' at $5.00 per ft.) 125.00

12. Chicken house, 100 ft. northeast of barn, 14' x 14', light frame construction, old shingle roof. (196 sq. ft. at 25¢ per sq. ft., less 75% depreciation.) 12.25

13. Wire corral south of road, Lot 5 Sec. 31, 50' x 70', 32" woven wire and 2 barb wires. ($60.00 new value less 50% depreciation.) 30.00

14. Over one-half mile private road to Montezuma Well. (at $100.00 per mile) 50.00

15. Montezuma Well. Speculative value as tourist attraction. See text. 10,800.00

16. Lands (including ditches and water rights):

36.8	a. irrigated at $250.00 per acre	$9,200.00	
3	a. dry farming at $25.00 per acre	75.00	
142.89	a. grazing at $2.00 per acre	285.78	
182.69	total acres		$ 9,560.78

17. Fencing. 1880' of 3-wire fence at $250.00 per mile; 6150' of 4-wire fence at $300.00 per mile; 1840' of 5-wire fence at $350.00 per mile; 350' of 22 in. woven wire with 1 barb wire fence at $350.00 per mile; 510' of 2-pole fence at $300.00 per mile. Total $712.50 less 50% depreciation. 356.25

GRAND TOTAL VALUATION $24,334.08

If this Montezuma Well property is acquired and placed under the jurisdiction of the National Park Service and put in shape so as to be more attractive to tourists, it is believed that nearly 90 per cent of the tourists visiting Montezuma Castle National Monument will also visit Montezuma Well. Any additional fee will probably be 25 cents and the services of at least one extra ranger will be required. If the anticipated 40,000 annual visitors to Montezuma Castle materialize in the post war period, it is seen that the Government would be reimbursed for the cost of acquisition within a reasonable time. A unique and interesting National Monument such as Montezuma Well should certainly be placed under control of the Park Service for the edification and enjoyment of the general public for all time.

It is accordingly recommended that the Park Service take steps as soon as the money has been made available to acquire this property from the heirs of William B. Back, deceased, at not more than the appraised price given herein for the property appraised. If the artifacts in the private museum are to be acquired, it is suggested that they be appraised by some member of the Park Service having knowledge of such things and that the appraisement therefore be added to the appraisement given herein, but, in no case exceeding the $25,000 authorized by Congress. It is my understanding that no request will be made for the setting up of the purchase money until at least six months after the war. Whenever the purchase appears imminent, it is recommended that the Public Survey Office be called upon to mark the boundaries of all lands added to the National Monument and submit a supplemental plat eliminating the lands south and east of Beaver Creek in Lot 4 Sec. 31 sold by Back to Benjamin S. Witter, and the lands in N½SE¼ Sec. 36 sold by Back to Charles R. Chestnut and Eaton Bros., Inc. The latter tracts are now owned by Ralph C. Schlegel. There is a fence on the south and east boundary of the 8.78-acre tract sold to Eaton Bros., Inc.

Respectfully submitted,

Paul F. Cutter

Paul F. Cutter,
Field Examiner.

1642411 "LC"
MAY 8 1944

FILE COPY

601 Sheldon Building

February 2, 1944.

MEMORANDUM for the Regional Director,
Region Three.

Reference is made to your memorandum of January 26, 1944, regarding water rights problems at Montezuma National Monument.

Recognized beneficial uses are very limited in Arizona, being municipal, domestic, irrigation, power, stock watering, mining, and by recent amendment, for wild life purposes. There is nothing to prevent Mr. Hockethorn's diversion of water for irrigation except when the diversion can be proved to reduce the well supplies on the monument to less than the normal use to date. There is no ground for complaint just because the flow of Beaver Creek falls off.

Unfortunately, the National Park Service cannot prove injury to its well supply unless it has a record of available supply before and after Mr. Hockethorn starts irrigation. A record should now be kept of each pump run, giving the quantity of water pumped and the water level in the well at beginning and end of run. It would also help to keep a record of the water level in the well and in the stream at the same time. We want to be in a position to prove that the well supply comes from the stream and also that diversions from the stream above actually affect the well supply.

As a matter of fact, up-stream diversions may not have much effect on the flow in the monument once the normal return seepage is established. That is, we may never wish to claim damages, but we are just as interested in proving the source of well supply and establishing a water right whether we claim damages from a neighbor or not.

One way to assure a certain flow at the monument is to file a claim and build and use ditches there before Mr. Hockethorn does so above. We would then have the senior right to be satisfied first. Another way, now that fish culture is recognized as a beneficial use, would be to build a dam to impound water in the stretches of creek where water is wanted, and perfect water rights for that before Mr. Hockethorn takes action. However, irrigation has superior benefits to fish culture so that with equal priority the irrigation right would be senior.

Since you have no funds or authority for any of this construction, now, about all we can do is watch water levels and pump runs as mentioned. The water level of the creek should be recorded at some place where the creek has a cross section

suitable for future flow measurements. We must make these observations from now on if we are to establish the claim we filed some years ago. Mr. Hastings should be instructed in the method of measurement and use of a bench mark reference elevation.

(SGD.) A. VAN V. DUNN
A. van V. Dunn,
Hydraulic Engineer.

AVD:rw

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

JAN 31 1944
ROUTING | Date
1/31/44
January 26, 1944.
FILE

MEMORANDUM for the Regional Director, Region Four.

We are enclosing a copy of a letter from Custodian Hastings regarding water rights problems at Montezuma Castle National Monument, and a copy of our reply. This correspondence is for Mr. Dunn's information should he desire to reopen negotiations for perfection of a water right at that monument. Mr. Maxwell states that he is very doubtful that a dam and diversion would have any material effect on the output of our well.

Charles A. Richey,
Assistant Regional Director.

Enclosure 2889182.

cc: Custodian, Montezuma Castle.

01-25-1944: memorandum to custodian, moca from assistant regional director regarding acknowledgment of receipt regarding the

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
REGION THREE
SANTA FE, NEW MEXICO

January 25, 1944.

MEMORANDUM for the Custodian,
Montezuma Castle National Monument.

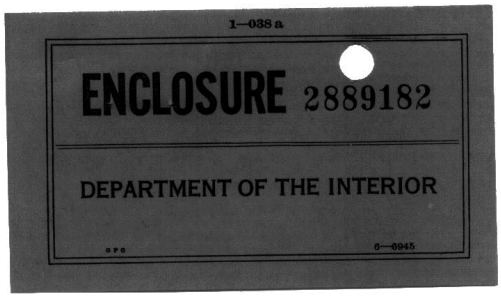
This will acknowledge receipt of your memorandum of January 21, regarding the potential use of water from Beaver Creek by Mr. Heckethorn who recently purchased the "Davis Property."

In accordance with the third paragraph of Mr. Dunn's memorandum of February 17, 1943, it is assumed that a diversion and use of water by Mr. Heckethorn would actually strengthen our justification to perfect a water right. We are, however, sending a copy of your letter to Mr. Dunn so that he will be fully informed and can take action if he desires to do so.

CHARLES A. RICHEY

Charles A. Richey,
Assistant Regional Director.

cc: Mr. Dunn, Region Four,
with copy of Custodian's memo.



UNITED STATES

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

Montezuma Castle National Monument
Camp Verde, Arizona.

January 21, 1944.

MEMORANDUM for the Regional Director, Region Three.

Reference is made to our memorandum of February 15, 1943, and Mr. Maxwell's memorandum of March 8, 1943, concerning the Government's water rights in Beaver Creek. You are now aware that the "Davis Property" adjoining our south boundary has been sold to Mr. E. W. Heckethorn of Flagstaff, Arizona. It is understood Mr. Heckethorn plans to saw grass on his newly acquired land and develop a winter pasture for his cattle. He plans to do this by dry-farming methods, but he is not familiar with conditions here and I suspect that once he is acquainted with our summers, he will plan to pump water from Beaver Creek to irrigate his land.

If pumping were to become excessive, it would reduce the flow of the stream as it passes the residences, museum, and Montezuma Castle and would have a detrimental effect on the part of the monument viewed by all visitors.

The possibility is also foreseen that Mr. Heckethorn will apply for permission to construct a dam on the monument so he can divert water through a ditch to his land.

If Mr. Heckethorn chooses to withdraw water from the creek, no doubt he can do so up to the limit of his rights. This is to ask if there is anything which should be done to further protect the Government's rights to water in Beaver Creek.

/s/ Homer F. Hastings

Custodian,

C
O
P
Y

601 Sheldon Building

February 17, 1943.

MEMORANDUM for the Superintendent,
Southwestern National Monuments.

Reference is made to Acting Superintendent Maxwell's memorandum of February 9, 1943, with regard to water rights at Montezuma Castle.

We have already applied to the State Water Commissioner for what you call an allotment of water. The application is in a dormant status because the source of supply is underground flow and the Commissioner does not have jurisdiction over underground water unless it is proved to be flow in a well defined channel, equivalent to the underground flow of a surface stream or an actual underground stream with no surface flow.

If Mr. Davis, or his successor, actually makes a surface diversion in Beaver Creek which cuts down the available flow at the monument, he will be helping the Park Service prove its source to be under the Commissioner's jurisdiction. Then we could perfect the right. Hence, we should welcome the Davis diversion provided Mr. Hastings keeps sufficient records of well flow to prove its source affected by the Davis diversion. This record should have been started some years ago regardless of what Mr. Davis may do.

If Mr. Hastings wants to make a direct diversion from the surface flow by ditch we can perfect a right to that at once. To the extent the water so diverted was used in place of water previously diverted from the well, it would constitute perfection of rights under our application of March 9, 1937. However, the whole application was for only 0.009 sec. ft. or 5200 gallons per day and part of that was for domestic consumption which cannot be made of the surface flow without treatment. Hence no ditch diversion will now help the claim for drinking water, the most essential use.

Further, if a ditch diversion is made it will have to be for enough water to irrigate the land and cover seepage losses and evaporation. This would doubtless be more than the claim of 1937 and thus require a new application, priority and right for at least a part of the diversion. If such a new claim is to be initiated it should certainly be done before the Davis interests make new diversions or attempt to reinstate those which have lapsed for more than 5 years.

The first problem, therefore, seems to be whether the monument wants a ditch diversion or wants water in excess of 5200 gallons per day. If not,

FILE COPY

Mr. Hastings should concentrate on records and wait to see what Mr. Davis does. On the other hand, if the answer is yes, he should build and use the ditch, sending us a map of it with tie from diversion to section corner. I believe we have about all the rest of the data needed for preparing the statement of claim.

A. van V. Dunn,
Hydraulic Engineer.

cc: Director)with copy
Region Three)of Mr. Maxwell's
Custodian, Montezuma)memo of 2/9/43.
Castle

AvVD:SH

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
~~COOLIDGE, ARIZONA~~
Santa Fe, New Mexico

ADDRESS REPLY TO
THE SUPERINTENDENT

FEB 12 1943

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FILE	

February 9, 1943.

MEMORANDUM for the Regional Director, Region Four.
Attention, Water Rights Section.

Reference is made to Mr. Van Dunn's memorandum of July 11, 1942, and other correspondence regarding water rights on Beaver Creek in the vicinity of Montezuma Castle National Monument.

Acting Custodian Hastings, Montezuma Castle National Monument, has advised this office that a representative of the Forest Service has informed him that a patent was recently granted on the Davis property. He anticipates that the property may be sold, and suggests that the Park Service make application to the State Water Commissioner for a definite allotment of water for the monument, such water to flow down the creek to legitimate users below.

According to the informant's statement, it has been approximately five years since Beaver Creek water was used on the Davis property. You are of course familiar with the five-year lapse clause regarding water rights in Arizona. Should a new owner obtain water rights for the Davis property and use all the water in Beaver Creek, it might cause the death of large trees as well as smaller shrubs and vegetation along the creek, which would be enormously detrimental to the scenic and recreational values of the area. Would it strengthen the Service's claim to unappropriated Beaver Creek water if we apply for water to pass through an irrigation ditch, to be built along the creek, the water to be used for irrigating the vegetation in the monument, and pass into the creek below? The water from the irrigation ditch could also be used to water the newly developed campground that lies in a heavily vegetated area.

We will wait for your advice in this matter before taking action.

Ross A. Maxwell

Ross A. Maxwell,
Acting Superintendent.

cc: Acting Custodian Hastings,
Montezuma Castle National Monument.

Copies sent to Director
Region Three
Custodian, Montezuma
2/17/43

10-09-1942: memorandum to water rights section, region four from superintendent regarding private water usage along beaver cre

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
COOLIDGE, ARIZONA

OCT 12 1942
ROUTING | Date
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FILE

ADDRESS REPLY TO
THE SUPERINTENDENT

October 9, 1942.

MEMORANDUM for the Water Rights Section, Region Four.

Reference is made to memorandum of September 18 from Attorney Albert L. Johnson concerning private water usage along Beaver Creek, Montezuma Castle National Monument.

Concerning usage of water on the Davis property, Custodian Jackson has stated further:

> "My knowledge that Mrs. Davis had used water from Beaver Creek within the last five years for irrigation of part of her property came as result of a talk with the District Forest Ranger, Harold Linn. Since I did not possess written records of when the Davis property was last farmed to a limited extent, I went to him, and learned the land was farmed as late as 1938, as indicated in a previous communication from me."

Your memorandum also raised the question of what the Custodian meant by reference to "other land owners" who were versed in the five year lapse clause. The statement was a general one only intended to indicate that all property owners in the country knew of the requirement and that they were all careful to irrigate on their property at least once every five years.

Charles A. Richey
Superintendent.

cc: Custodian, Montezuma Castle N. M.

601 Sheldon Building

September 18, 1942.

MEMORANDUM for the Superintendent,
Southwestern National Monuments.

We received your memorandum of September 10 enclosing a copy of a memorandum from Custodian Jackson, Montezuma Castle National Monument, referring to the private water usage along Beaver Creek. This was the first information we had with reference to Custodian Jackson's knowledge of the usage of water on the Davis property.

Please keep us advised if there is any change in the situation on Beaver Creek or if Custodian Jackson learns anything further with reference to the use of the water there. One statement the Custodian makes is not entirely clear where he says that Mrs. Davis, in common with many other land owners in this region, was well versed on the five year lapse clause. We do not know who the other land owners are he has in mind.

(SGD.) ALBERT L. JOHNSON

ALJ:SH

Attorney.

cc: Region Three.

FILE COPY

UNITED STATES

DEPARTMENT OF THE INTERIOR

C O P Y

NATIONAL PARK SERVICE
Montezuma Castle National Monument
Camp Verde, Arizona
July 28, 1942

MEMORANDUM for the Superintendent,
Southwestern National Monuments.

Reference is made to your request of July 8 for information on how long it has been since waters from Beaver Creek were used for irrigation purposes on the Davis property.

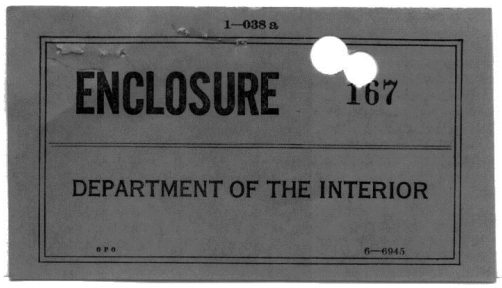
Since I had no records here to prove when irrigation water was last used on the Davis property it was necessary for me to contact local citizenry in the endeavor to establish exactly when the Davis family left the property. I was unable to establish exactly what that date was, but learned that one Robert Baum took care of the property for some time after the Davises left. He was a very elderly and frail man, unable to do much farming, but it has been established without question that he did a little gardening on the property, with water obtained from Beaver Creek by means of a small ram and flume and short section of ditch.

District Forest Ranger Harold Linn today advised me that he knew Baum was living on the Davis property in 1938. Mr. Linn confessed he would be unable to swear that irrigation was not being practiced on the property any time prior to January 1, 1939. From January 1, 1939, he could swear no irrigating was done there.

So it appears very evident that Mrs. Davis, in common with many other landowners in this region, was well versed on the five year lapse clause in water rights, and had Baum do just enough irrigating to retain the water right.

I regret that it is not possible to give a more encouraging report.

Simply that you may have this as a matter of reference in your files, I might state that Floe Alice Davis is now Mrs. Earl Rogers, and lives at Boreana Mine, Yucca, Arizona.

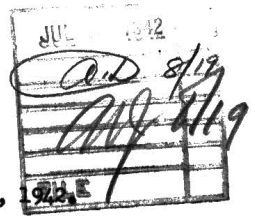


/s/ Earl Jackson

Custodian

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE



July 24, 1942.

MEMORANDUM for the Regional Director, Region Four.

Reference is made to Mr. Dunn's memorandum of July 17, requesting a description of Homestead Entry #076241 in the name of Mrs. Flo Alice Davis, together with supplemental and township plats of this area.

The records of the General Land Office show there is no supplemental plat.

Final certificate was issued April 21, 1937 in Phoenix, Arizona, #076241 covering the following area south of Montezuma Castle:

SW, SW, NW¼,	Sec.	16,	T.	14	N.,	R.	5 E.	G. & S.R.M.
N½ NW, NW, SW¼,	"	"	"	"	"	"	"	"
S½ SE, NE¼,	"	17	"	"	"	"	"	"
SE, SW, NE¼,	"	"	"	"	"	"	"	"
N½ NE, NE¼, SE¼	"	"	"	"	"	"	"	"
NW, SE,	"	"	"	"	"	"	"	"
W½ NE, SE¼,	"	"	"	"	"	"	"	"

A copy of the township plat with this area outlined in green is enclosed.

Geo. R. Collens

Acty. Chief, Land Planning Division.

Enclosure 2869493.

cc: Supt., Southwestern Monuments
cc: Custodian, Montezuma Castle N.M.

July 17, 1942.

MEMORANDUM for the Director.

Will you please obtain from the General Land Office a description of Homestead Entry serial number 076241 in the name of Mrs. Floe Alice Davis, the widow of J. L. Davis, which is located on Beaver Creek just north of Montezuma Castle National Monument. If the homestead is irregular in shape we should like a print of the supplemental plat of the area, and in any case should like the township plat involved.

We are not absolutely certain whether the homestead is in Section 3, 4, 8, or 9, of Township 14 North, Range 5 East, G. & S. R. B. M., or just to the north in Township 15 North, Range 5 East.

Hydraulic Engineer.

AvvD:SH

cc: Supt., S.W. Monuments.
Custodian, Montezuma Castle N. M.,
through Supt., S.W.Monuments.

FILE COPY

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
COOLIDGE, ARIZONA

ADDRESS REPLY TO
THE SUPERINTENDENT

JUL 17 1942
ROUTING | Date
7/17
7/17

July 15, 1942.

MEMORANDUM for the Water Rights Division, Region Four.

Following up our recent memorandum concerning water rights on Beaver Creek in the vicinity of Montezuma Castle National Monument, we are enclosing a copy of Acting Register J. M. Gibbons' letter of July 11 concerning application No. 076241 of Mrs. Floe Alice Davis.

It is hoped that this self-explanatory letter will be helpful in giving the information requested in our recent memorandum.

Charles A. Richey
Superintendent.

Enclosure 94.
cc: Custodian, Montezuma Castle N. M.,
with enclosure.

C
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P
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UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
DISTRICT LAND OFFICE

Phoenix, Arizona
July 11, 1942

Acting Superintendent
National Park Service
Southwestern Nat'l Monuments
Coolidge, Arizona

Dear Sir:

In reply to your letter of July 9, 1942 concerning H. E. serial 076241 of Mrs. Floe Alice Davis, our records show that Washington authorized the allowance of this application December 8, 1936 and the entry was allowed February 19, 1937. Final proof has been submitted in the case and final certificate issued; however both proof and final certificate have been suspended and held for cancelation by Washington.

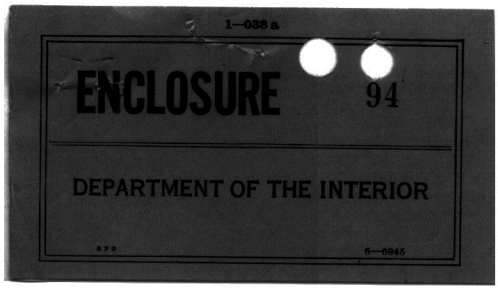
Our records show that on June 22, 1942 there was filed a stipulation from Mrs. Davis to the United States covering the construction of a reservoir on the land, as well as an easement for flowage and seepage from such reservoir.

The above entry is the last entry on our books concerning this homestead entry.

Very truly yours.

/s/ J. M. GIBBONS

Acting Register.



601 Sheldon Building

July 14, 1942.

MEMORANDUM for the Superintendent,
Southwestern National Monuments.

Reference is made to your memorandum of July 8 concerning the water rights on Beaver Creek in the vicinity of Montezuma Castle National Monument.

I am very much interested in learning the details of water usage from Beaver Creek at or near the monument area as I visited the monument some time in 1938 on that very matter. At that time Custodian Jackson did not believe that we would have any trouble with private water rights there.

I am submitting herewith a copy of Mr. Dunn's memorandum to me of July 11 which shows his latest analysis of the subject. In the final sentence on page 1 he asks me what my interpretation of the possible lapse of rights might be with reference to the date 1919 when the water code took effect. I have no doubt that the water code abolished riparian rights and that Mrs. Davis had established no riparian rights prior to 1919. From our information there seems to be no appropriative right established since then. However, we in this office will be very much interested in learning the latest information from Custodian Jackson in response to your recent request.

Attorney.

Attachment.

ALJ:SH

cc: Region 3, with attachment.
Custodian, Montezuma Castle Nat. Mon.,
with attachment. (through Supt., S.W.Mons.)

601 Sheldon Building

July 13, 1942.

State Water Commissioner,

Phoenix, Arizona.

Dear Sir:

Will you please advise us of any water claims you may have recorded on Beaver Creek in Sections 3, 4, 8 & 9, T. 14 N., R. 5 E., G. & S. R. B. M. in Yavapai County. We are particularly interested in possible claims or rights in the name of J. L. Davis or his widow, who also signs herself Mrs. Floe Alice Davis. If you find no records in the sections given, will you please check the portion of the stream in the next township to the north, as we are not entirely certain as to the boundary of Mrs. Davis' land at this moment.

Reference is also made to our water right filing for Beaver Creek Diversions for Montezuma Castle National Monument which you "received" on March 9, 1937, and later rejected for lack of proof regarding the source of the well supplies. Because of these diversions we are particularly interested in any further claims which may be filed on the stream above and should like to be advised of any such filings before you issue permits.

May we also ask if the water law relating to underground flow has been broadened since 1937 and whether you have any water right manual more recent than that of November 1935 which we now use.

Yours very truly,

A. van V. Dunn,
Hydraulic Engineer.

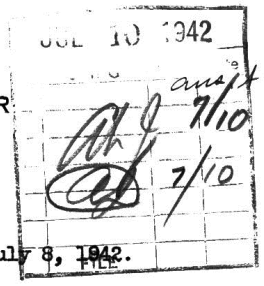
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FILE COPY

07-08-1942: memorandum to water rights division, region four (4) from charles richey, acting superintendent regarding preservatio

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SOUTHWESTERN NATIONAL MONUMENTS
COOLIDGE, ARIZONA

ADDRESS REPLY TO
THE SUPERINTENDENT



July 8, 1942.

MEMORANDUM for the Water Rights Division, Region Four.

There is enclosed a copy of Custodian Jackson's memorandum of June 27 requesting information concerning water rights on Beaver Creek in the vicinity of Montezuma Castle National Monument.

We have written to the General Land Office, as suggested by Mr. Jackson, to determine whether Homestead Application, Phoenix No. 076241, was ever allowed.

Mr. Jackson's memorandum and our familiarity with this area lead us to believe that waters from Beaver Creek have not been used on the Davis property for a number of years. This presents the possibility that any water rights on this property may have lapsed from non-use. We have written to Mr. Jackson requesting specific information concerning the water use, for irrigation purposes, on the Davis property. We will advise you in detail concerning both of these points as soon as we receive additional information.

Our files on Montezuma Castle National Monument indicate that our application for appropriation of water from Beaver Creek, Application No. A-1744, was filed, but has never been approved.

The damming of Beaver Creek sufficiently to stop the normal flow through the hot summer months will do considerable damage to the vegetative growth along its banks, and will probably not provide sufficient water to keep alive the many thousands of young trees which were recently planted as a stream control measure. The value of a living stream in the vicinity of the heavy public area is an important feature, too, which cannot be overlooked.

Because of the technical nature of the problems involved concerning the above-mentioned water right, we would prefer that your office handle any contacts with the Arizona State Water Commissioner in determining the existing rights in the vicinity of Montezuma Castle National Monument.

Under any condition we would like to preserve part of the normal flow of Beaver Creek through Montezuma Castle National Monument. We will greatly appreciate any advice or information your office can give us in this respect. Will you also advise us whether we can be of assistance to you in any way in connection with this problem.

Charles A. Richey
Acting Superintendent.

Enclosure 57.
cc: Regional Director, Region Three.
Custodian, Montezuma Castle N. M.

UNITED STATES

C O P Y

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

MONTEZUMA CASTLE NATIONAL MONUMENT

CAMP VERDE, ARIZONA

June 27, 1942.

MEMORANDUM for the Superintendent,
Southwestern National Monuments.

It is many years since this monument was set aside, and yet we do not know what, if any, water rights it has. It is time this was found out, for the reason that the Davis property, adjoining our boundary on the south side, and unoccupied for several years, now has a prospective buyer, and he will intend to use water from Beaver Creek to irrigate with if he buys the land. And if he uses water from Beaver Creek, just upstream above most of our monument area, the diminution in flow below that point will wreak havoc on the beauty of the stream bottom and the vegetation growing along it in summer months. Years ago, when the Davis family dammed up Beaver Creek and used its water for irrigation, the water flow down to the Castle was entirely cut off in the summer, and the creek dried up. When my father was custodian here he contested their right to take all that water, but the matter, after leaving my father's hands, was never finally settled, I think.

So now we need seriously to know two things: One; what, if any, water rights does the Davis property have to Beaver Creek stream flow? Two; what, if any, rights to stream flow does Montezuma Castle National Monument have?

I need the answers to the above questions soon, for a prospective buyer of that land was in yesterday, asking me questions about water rights I couldn't answer.

Mrs. Davis, either under the name of Mrs. J. L. Davis or Mrs. Floe Alice Davis, filed homestead application Phoenix Number 076241 on August 19, 1935, alleging settlement on or about February 1, 1918, prior to all withdrawals. That homestead application was before the General Land Office on appeal, pending adjudication of Mrs. Davis' rights, on July 25, 1936, for a letter of that date from Frank Pinkley to my father stated that.

So I believe by using that reference, you can get the data we need from the General Land Office.

(Sgd.) EARL JACKSON

Custodian.

C O P Y

Montezuma Castle
x White Sands
x Clinicalma
x Saguaro
x S.W. Monuments

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
HEADQUARTERS, SOUTHWESTERN MONUMENTS
COOLIDGE, ARIZONA

May 3, 1938.

Mr. Joseph E. Taylor, Attorney,
Branch of Land Acquisition and Regulation,
National Park Service,
610 Sheldon Building,
San Francisco, California.

Attention: Albert L. Johnson,
Associate Attorney.

Dear Sir:

Reference is made to your letter of April 28 requesting information with respect to various water rights problems under consideration by your office.

Difficulty is being encountered with respect to the option on the Dog Canyon water supply at White Sands National Monument. Mr. Lackey, of Region Three, was handling this problem, but resigned some weeks ago before it had been brought to its conclusion. The original option has been properly recorded, safeguarding the Government's rights. The owner, Mr. Lawson, still maintains that a mistake was made and wishes to patent only 40 acres and the water right to the Government. This proposal would be acceptable, but the State Land Commissioner refuses to permit Lawson make 40 acres patent, insisting that Lawson must patent the entire tract. While it appears that the option is enforceable at law, we are still hoping for an amicable settlement. It is understood that the funds to complete the purchase were obligated prior to lapse of the appropriation and are still available. There is, thus, really no change in the status of the matter, except for recordation of the option, since the last report in your files.

With respect to the situation at Montezuma Castle National Monument you are referred to Mr. Taylor's letter of October 29, 1937, in which it was said that "Since he acknowledged that the filing establishes date of priority as of March 9, 1937, it seems to us that our position has been protected. We recommend that the matter be allowed to rest in status quo if possible."

No further action has been taken and it is our belief that the situation is unchanged from the date of Mr. Taylor's letter, supra.

There is no change in the status of the water right problems at Saguaro National Monument. It will be recalled that apparently J. Rukin Jelks has a valid right to the only surface supply of water in the Tanque Verde section of the monument. This section of the monument is, moreover, the subject of proposed legislation which will exclude it, returning it to the National Forest; hence it is felt that pending determination of this legislation no further investigation or action is indicated with respect to that portion of the monument. There are apparently no water rights involved in the so-called cactus section of the monument west of the Tanque Verdes. The Government now owns none of this land. Proposed legislation would provide funds for the purchase of these alienated lands essential to inclusion of the cactus in the area owned by the Government. It is felt, however, that even after acquisition of the alienated lands, no water right problem will exist. The land is particularly arid and the development of even subsurface waters is doubtful. It may be worth of note in your files that the proposed legislation includes thesum of $1,500 for the purchase of a right of way, two acres of land, and an existing well in Section 31, Township 14 south, Range 16 east, G. & S. R. B. M., now owned by Randall H. M. Baker, P. O. Box 2823, Tucson, Arizona. The option runs 18 months from December 11, 1937. The well showed a production of 20 gallons per minute after continuous pumping during a prolonged dry season. Report of the chemical laboratory included the statement that "This water is remarkably soft and pure." Driller's log and complete inventory of casing and equipment are on file in this office.

Our latest file on the water situation at Chiricahua National Monument is Mr. Tolson's letter of January 17, 1938, addressed to Mr. Taylor. We plan to complete construction, if possible, under CCC prior to September 30, 1940, but now have a crowded program which prevents the purchase of necessary materials, and it is expected that this work must be deferred at least until calendar year 1939.

Cordially,

/s/ Frank Pinkley
Frank Pinkley,
Superintendent.

02-02-1937: memorandum to attorney from associate engineer regarding suggestions of filings on southwestern monuments

COPY

Montezuma Castle
x Chiricahua
x Wupatki
x S.W. Monuments

February 2, 1937.

MEMORANDUM TO MR. TAYLOR:

I suggest making the following filings on Southwestern Monuments immediately if you agree. (Numbers thus (1) refer to my report of December 17.)

(1) 1. Beaver Creek at Montezuma. There is already a homesteader who wants this water, but has not filed on it as far as I can find. Our filing would then have priority, even if others do file.

(3) 2. Chiricahua. Try to file on commingled use of spring and stream, even though only spring is now used.

(4) 3. Tonto. File on spring. Spring does not flow off monument, but is used for stock watering. Our filing will protect our interest.

(7) 4. Wupatki. File on spring. But what action have you or Mr. Johnson taken regarding the merit of Babbitt Bros. Pipe?

A. van V. Dunn,
Associate Engineer.

Montezuma Castle
x Chiricahua
x S.W. Monuments

FILE COPY

January 23, 1937.

Mr. Frank Pinkley,
Superintendent,
Southwestern Monuments,
Coolidge, Arizona.

Dear Mr. Pinkley:

I am glad to receive your comments of January 19, together with those of Mr. Miller of December 23, regarding the water systems in the Southwestern Monuments.

For your information, at Chiricahua and Walnut Creek the water in the bed of the channel, whether pumped to the surface or obtained from an apparent spring or collecting box as you describe, is in all cases interpreted as the flow of the stream, according to advice from the State Water Commissioner of Arizona. This does not affect your water use at all, but in making the filings we shall have to file on these supplies as diversions from the respective streams.

The Kofa Mountain and Organ Pipe water problems are not really ready for appropriation for development at this moment, but we are calling the matter to the attention of Mr. Kittredge for information when the Proclamations are issued.

In connection with the enlargement of Montezuma Castle National Monument, I wonder if there has been an error which might affect your proposed enlargement. If you will refer to Mr. Cammerer's letter of December 14, and that of Antoinette Funk of December 8, you will find that the first parcel in Section 16 is listed by Mr. Cammerer as being a portion of the northwest quarter of the section, but on the description by Antoinette Funk it is described as the northeast quarter. By the colored portion as shown on your print of drawing MONT-4971, it is described as being in the northwest quarter.

By this error, it may be that the General Land Office is not opening to entry that portion of Section 16 in the northwest quarter which would conflict with your enlargement, the point merely being that the homesteading by Mrs. Davis may not be recorded to include the extreme northeast portion of the land which she is occupying, or proposes to occupy, and would give her instead a ten-acre subdivision to the east of the proposed monument. Of course the land as bounded on the ground would hold, but her description should be corrected to agree with Mr. Cammerer's letter.

Yours very truly,

Joseph E. Taylor,
Attorney.

AvVD:SM

CC: Director

12-23-1936: letter to attorney;branch of land acquisition and regulation from acting superintendent regarding water uses in the nati

REC'D DEC 28 1936

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
HEADQUARTERS, SOUTHWESTERN MONUMENTS
COOLIDGE, ARIZONA

December 23, 1936.

Mr. Joseph E. Taylor, Attorney,
Branch of Land Acquisition and Regulation,
National Park Service,
110 Sutter Street,
San Francisco, California.

Dear Mr. Taylor:

Receipt is acknowledged of Mr. Dunn's letter of December 14 and your letter of December 19 concerning water uses in the national monuments under the jurisdiction of this office. Mr. Pinkley is in Washington and because of his detailed knowledge of these various problems it is felt that final answer to these letters should be deferred until his return.

The following exception is noted, however. The parenthetical statement in the comment on Montezuma Castle National Monument to the effect that water from the Coolidge Dam has been refused should apply to Casa Grande National Monument. Water from the Coolidge Dam does not reach the vicinity of Montezuma Castle National Monument.

I believe that information received in Mr. Cammerer's letter of December 14, concerning the boundary extension at Montezuma, will be pertinent to your files. Copy of Mr. Cammerer's letter and its enclosures are enclosed.

We have transferred the information concerning the land opened for entry to a copy of Map NM/MONT-4971. Our coloring does not check with the description in the last paragraph of Mr. Cammerer's letter, but you will readily identify the area that has been opened for entry along Beaver Creek.

Very truly yours,

Hugh M. Miller,
Acting Superintendent.

HMM:LG

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON

REC'D DEC 28 1936

C
O
P
Y

December 14, 1936.

Mr. Frank Pinkley, Superintendent,
Southwestern Monuments,
Coolidge, Arizona.

Dear Mr. Pinkley:

We are enclosing a copy of a letter of December 8, concerning the Homestead application 076241, Phoenix series, filed August 19, 1935, by Mrs. J. L. Davis, which is located within the proposed extension of Montezuma Castle National Monument.

We are preparing the proclamation extending the boundaries of this monument, omitting the following described lands which have been opened to entry:

Gila and Salt River Meridian

T. 14 N., R. 5 E., Sec. 16 SW¼ SW¼ NW¼, N½ NW¼ NW¼ SW¼,

Sec. 17 S½ SE¼ NE¼, SE¼ SW¼ NE¼,

N½ NE¼ NE¼ SE¼,

NW¼ SE¼, W½ NE¼ SE¼

The attached map indicates in red the land opened to entry and the area proposed for addition to the monument is enclosed within the Green line.

Sincerely yours,

(SGD) ARNO B. CAMMERER

DIRECTOR

12-08-1936: letter from assistant commissioner recommednation for the restoration of certain tracts of land

GENERAL LAND OFFICE
WASHINGTON

REC'D DEC 28 1936

December 8, 1936.

Refer to: Phoenix 076241 "C" LET
List 3-4766
1660317

Coconino National Forest :Instructions.

Register,
Phoenix, Arizona.

Sir:

On October 15, 1936, the Department of Agriculture recommended that a tract of unsurveyed land that will probably when surveyed be described as

Gila and Salt River Meridian

T. 14 N., R. 5 E.,
Sec. 16, $SW\frac{1}{4}$ $SW\frac{1}{4}$ $NE\frac{1}{4}$, $N\frac{1}{2}$ $NW\frac{1}{4}$ $NW\frac{1}{4}$ $SW\frac{1}{4}$,

Sec. 17, $S\frac{1}{2}$ $SE\frac{1}{4}$ $NE\frac{1}{4}$, $SE\frac{1}{4}$ $SW\frac{1}{4}$ $NE\frac{1}{4}$, $N\frac{1}{2}$ $NE\frac{1}{4}$ $NE\frac{1}{4}$ $SE\frac{1}{4}$, $NW\frac{1}{4}$ $SE\frac{1}{4}$, $W\frac{1}{2}$ $NE\frac{1}{4}$ $SE\frac{1}{4}$

Containing 110 acres, more or less, in List 3-4706, be opened to entry under the act of June 11, 1906 (34 Stat. 233).

On December 1, 1936, the First Assistant Secretary of the Interior approved the recommendation for the restoration of the above described land.

The land above described is listed upon the application of Mrs. James Lennie Davis, of Camp Verde, Arizona, who, it is alleged, has been a settler upon the land since 1918. In view of the purposes of the restoration, no public notices thereof will be required.

Advise Mrs. Davis hereof and allow her thirty days in which to furnish evidence of the citizenship of her husband, James Lennie Davis, and to give her own first name or names.

In the event her husband was a native born citizen of the United States her affidavit to that effect will be sufficient, if not, require compliance with Circular 1202, a copy of which you will send with the enclosed copy of this letter.

Upon receipt of the above showing, if satisfactory and complete, and no objections appear on your records, you may allow the enclosed homestead application, noting thereon the date and initials of this letter as your authority for such action, and transmit same to this office with your regular returns.

Very respectfully,

(Sgd) ANTOINETTE FUNK
Assistant Commissioner

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

REC'D DEC 2 0 1936

In reply please refer to
Phoenix 076241 "C" LET

Dec. 8, 1936

1660317
1642411

Cooperation

Coconino National Forest
Arizona

The Director,

National Park Service.

My dear Mr. Cammerer:

Reference is made to office letter of May 28, 1936, in connection with the extension of the Montezuma Castle National Monument in Arizona, and to the homestead application 076241, Phoenix series, filed August 19, 1935, by Mrs. J. L. Davis of Camp Verde, Arizona.

I am enclosing herewith a copy of my letter of even date to the Register of the district land office at Phoenix relative to said homestead application.

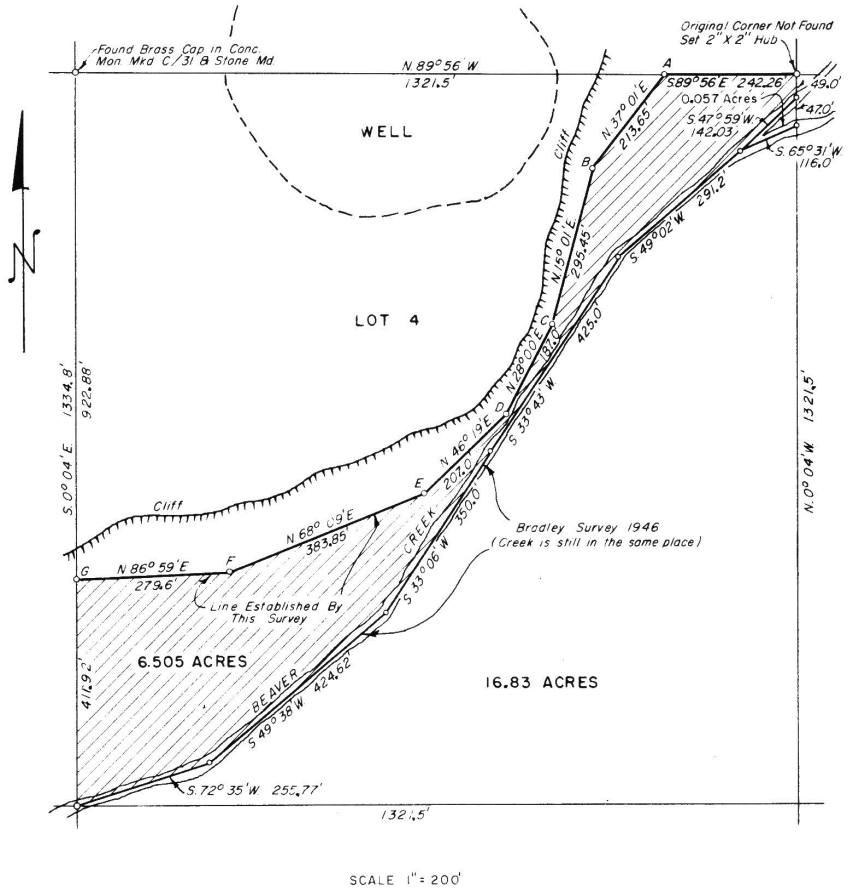
Two carbon copies of this letter are also enclosed.

Very respectfully,

(Sgd) ANTOINETTE FUNK

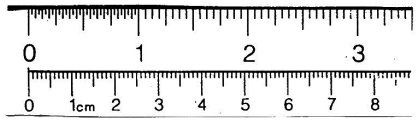
Assistant Commissioner

12-2 jcg



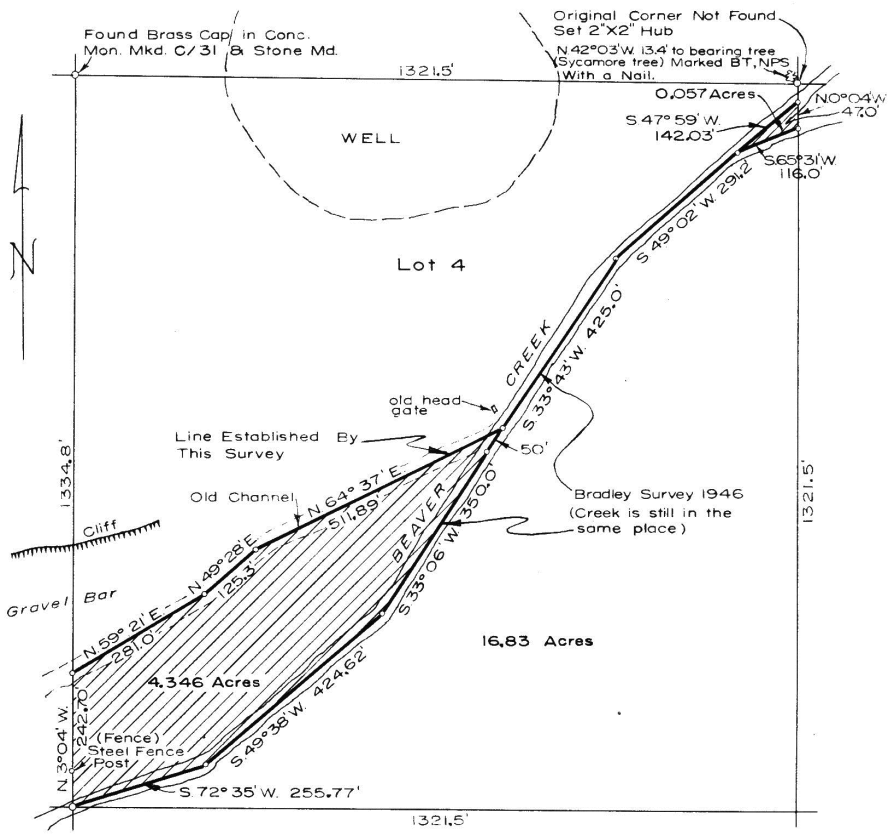
SCALE 1" = 200'

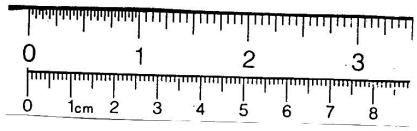
SURVEY OF ALLEGED CHANNEL
Well Section
Montezuma Castle National Monument



Drawn by C. Arquero 10/24/63

NM-MC-7110





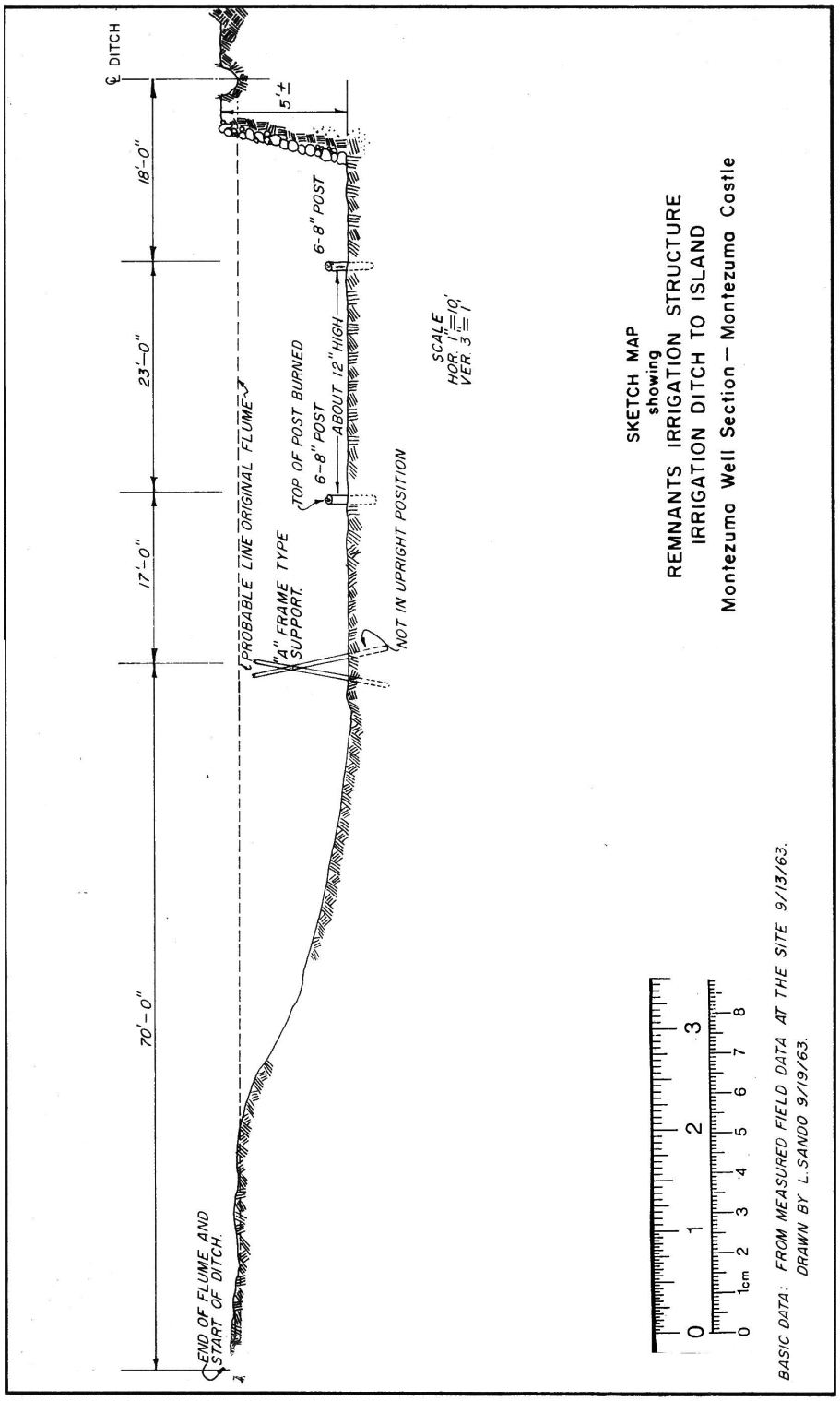
Scale 1" = 200'

SURVEY OF OLD CHANNEL
Well Section
Montezuma Castle National Monument

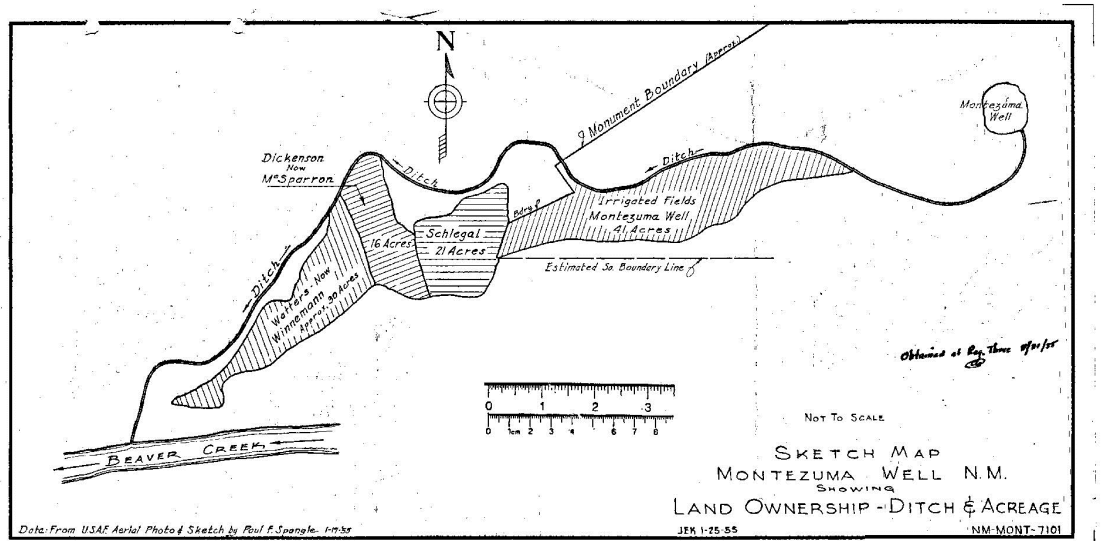
By C. Arguero 6/6/61

NM-MC-7109

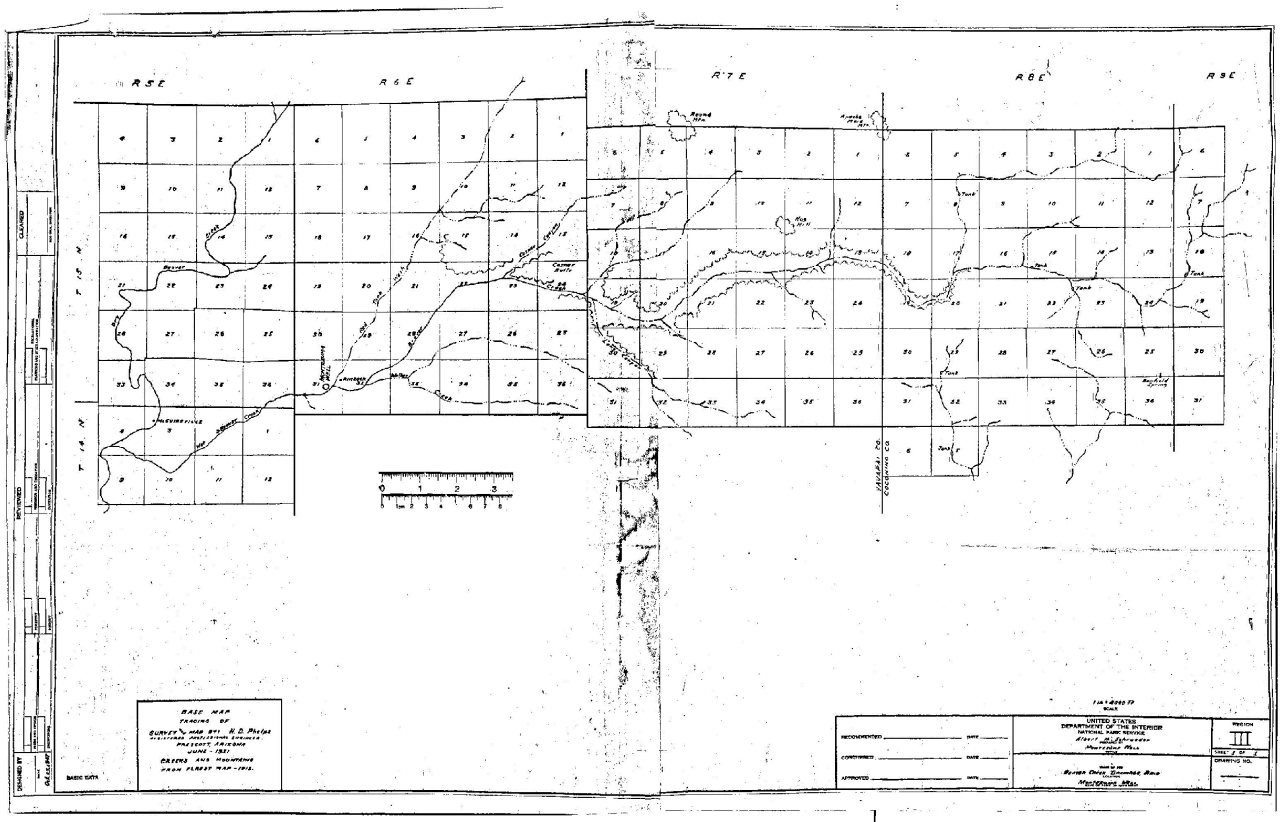
00-00-0000: sketch map showing remnants irrigation structure: irrigation ditch to island



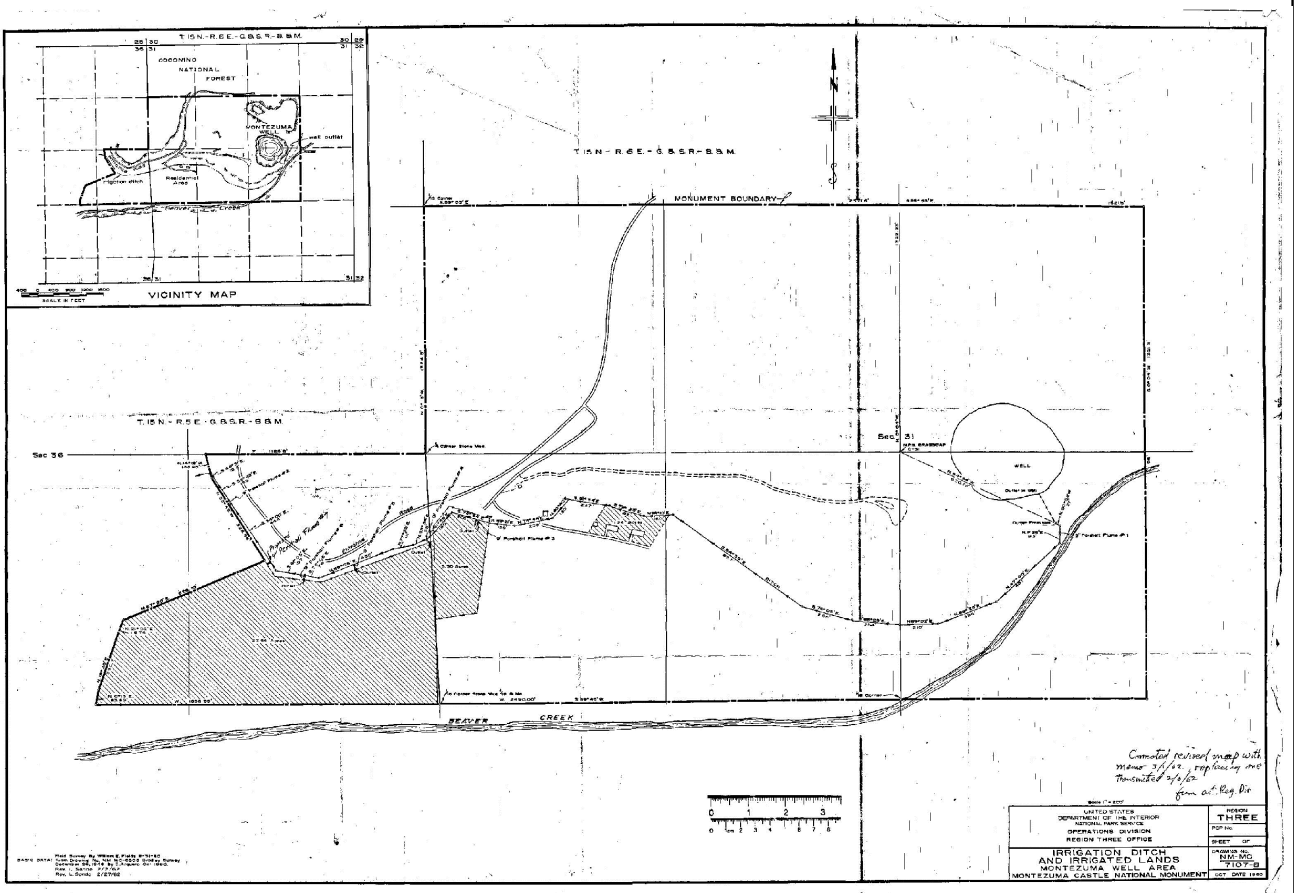
01-25-1955: sketch map - montazuma well n.m. showing land ownership - ditch and acreage



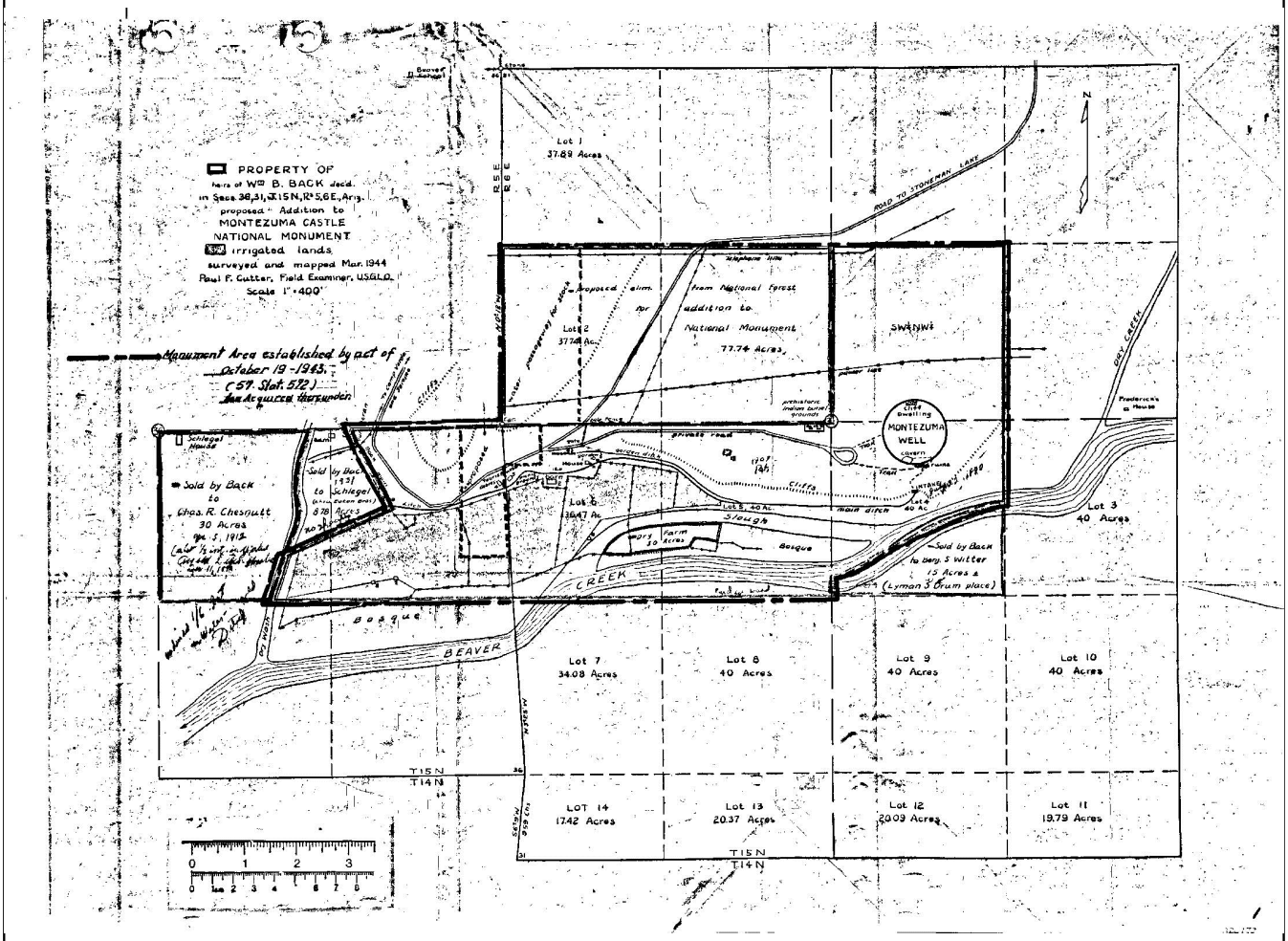
06-00-1931: map of the beaver creek drainage



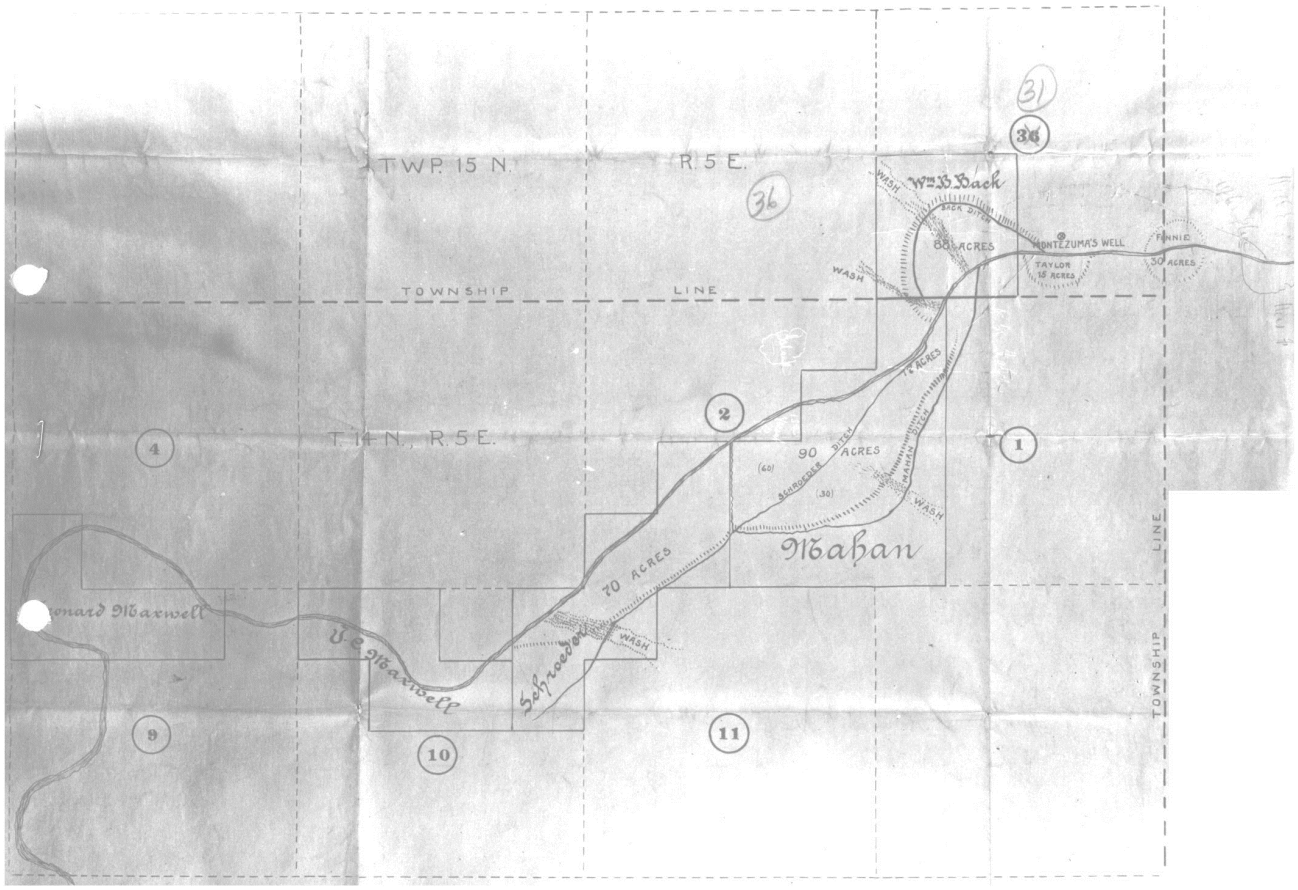
10-00-1960: map of an irrigation ditch and irrigated lands - montezuma well area



00-00-0000: map of proposed additions to moca



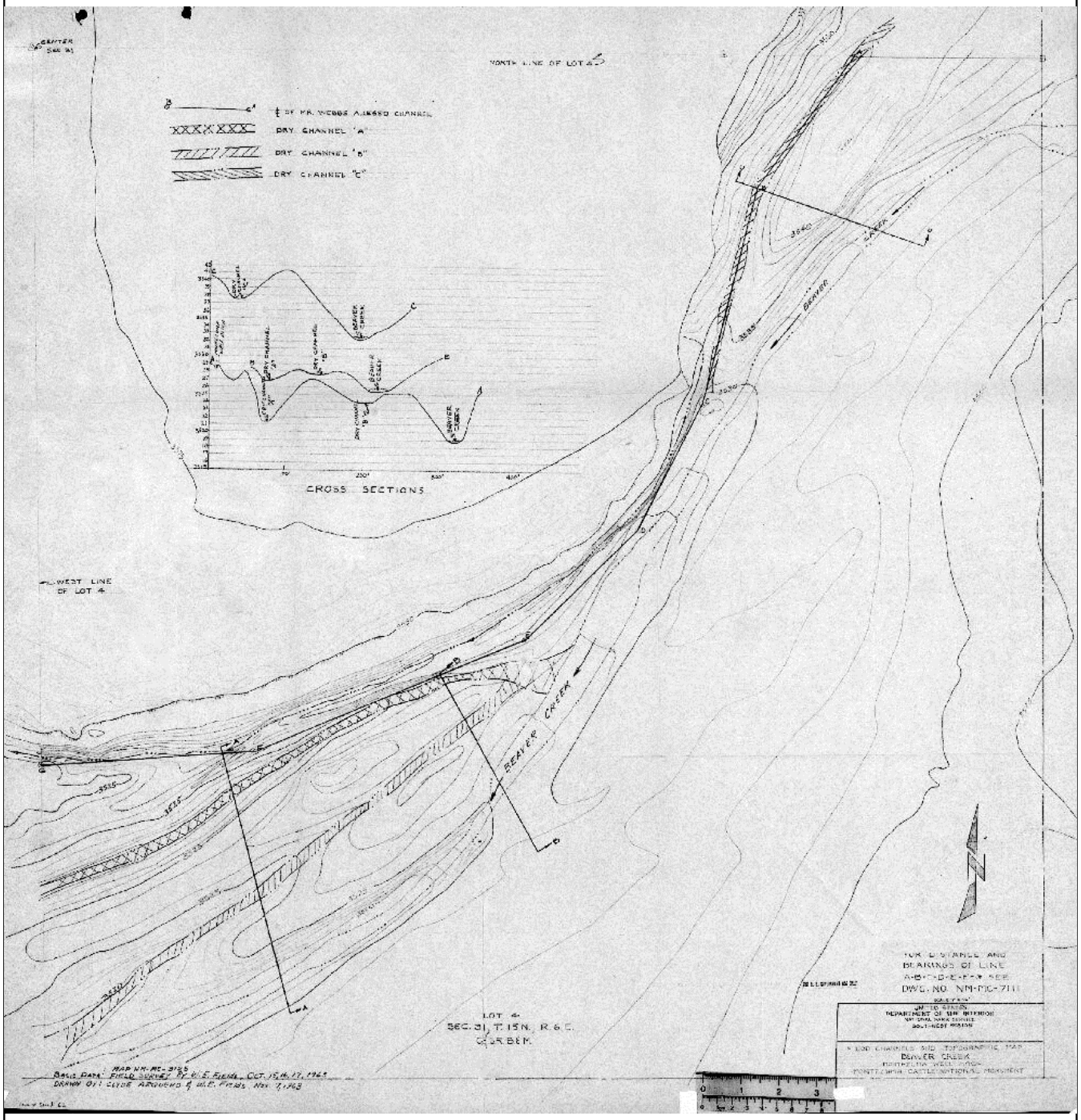
00-00-0000: topographic map of montezuma's well



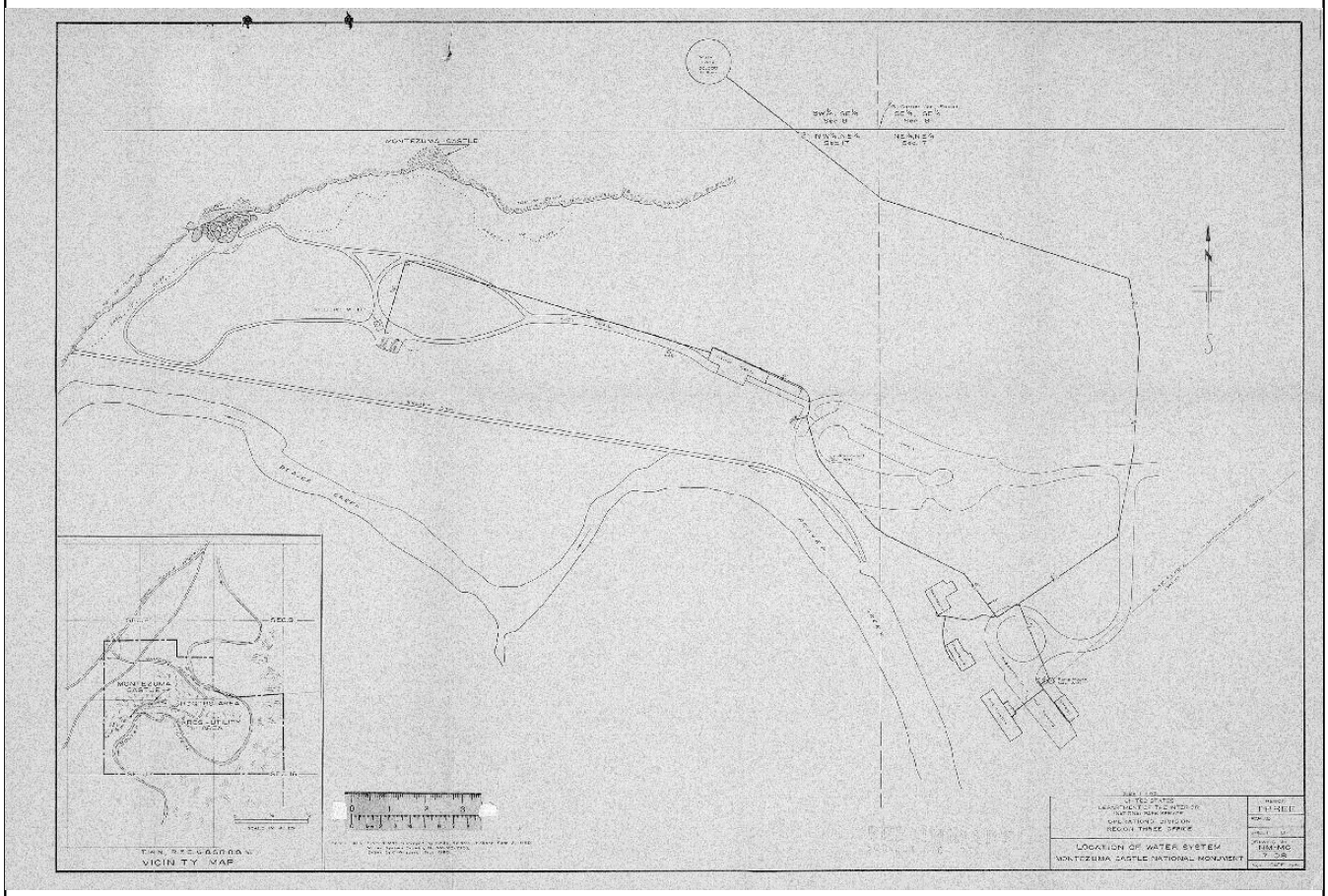
10-20-1947: stamp of receipt



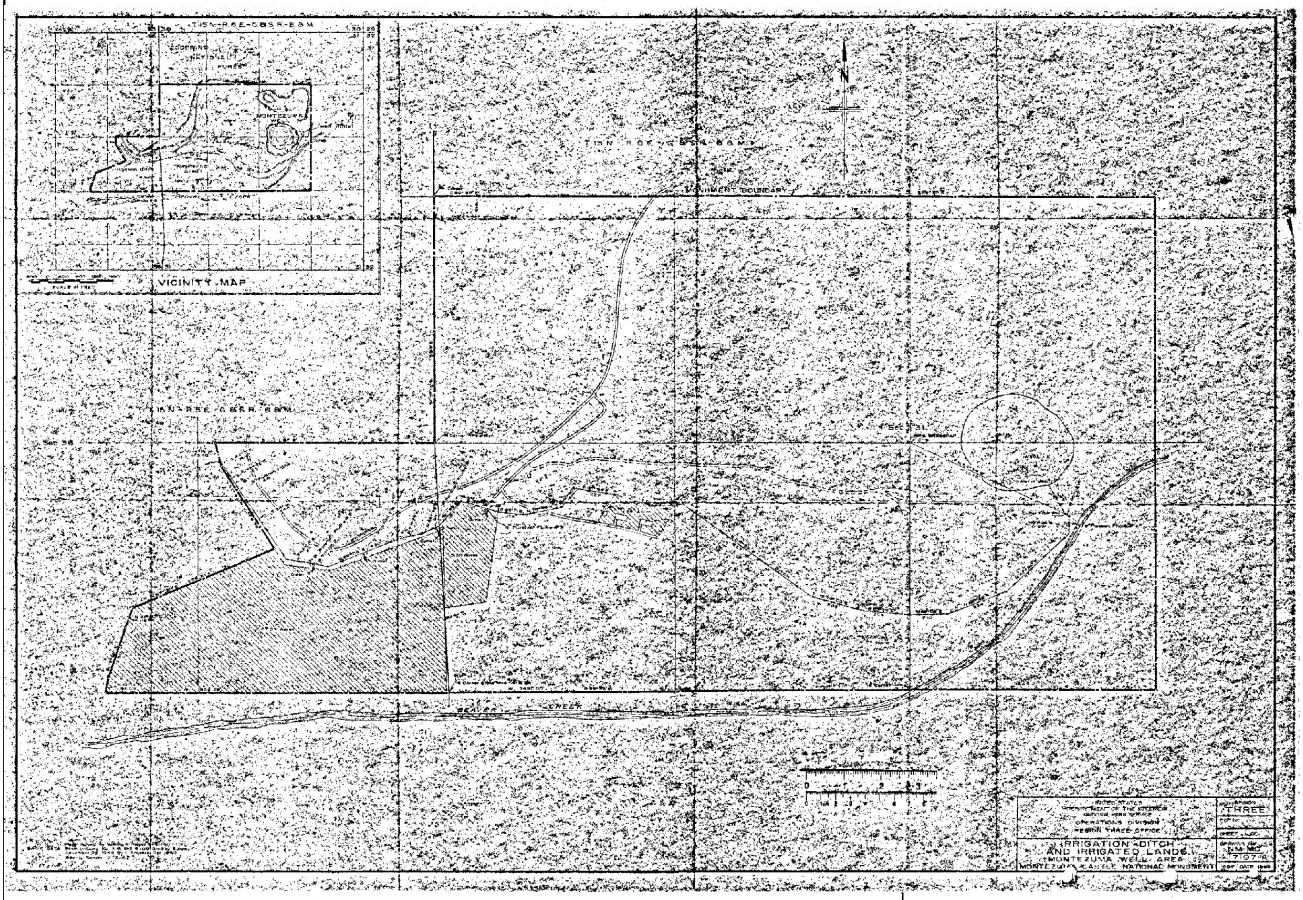
11-07-1963: flood channels and topographic map of the beaver creek area - montezuma well area



11-00-1960: map of the location of water system - moca



00-00-0000: map of an irrigation ditch and irrigated lands - montezuma well area



Docket Information

Number of Documents in Docket 318

Documents Dated from 3/2/1880 to 6/15/1983

Docket Compiled: 6/3/2016