



WATER-RIGHT DOCKET

Rocky Mountain National Park

Docket No: 74

UTILITY SPRING AREA PIPELINE

Preliminary Docket Information

06-23-2011: Note to File

6-23-11 Mary Kay Watry
Note to file:

The Hupps Ditch and Beaver ditch were decreed in Boulder County CA 4862 dated June 29, 1916. In CA 10050 decreed in Boulder County on January 30, 1939, 0.015 cfs was transferred to Utility Area Spring Pipeline with the uses at the new point of diversion listed as domestic, industrial and fire protection in the Park Utility Area. In Case 85CW345 these waters were decreed for wildlife and fish maintenance and propagation and recreation all within the natural channel of the Big Thomson River, all limited to use within Rocky Mountain National Park.

09-12-1980: index - rocky mtn. nationa.

cket # 3

INDEX(Index prepared 9/12/60
by Region Two Office)ROCKY MOUNTAIN NATIONAL PARKWater Right Booklet No. 1Moraine Museum Water Right SystemsPART I - UTILITY SPRING & WELL

1. Map, No. NP-84-6904, Proposed Transfers of Deceased Priorities 57, 58, & 68, Thompson River Drainage, Water Dist. 4, Div. 1.
2. Findings and Decree, Recorded July 7, 1939, in the District Court No. 10050 (7 pages plus certification page, /s/ C.W. Atkinson).
3. Completion Report of Construction Project, Extend Sewer and Water Lines, Construct Sewage Treatment Plant, signed Jan. 28, 1960, w/narrative statement (2 pages).

PART II - MORAINE MUSEUM SPRING

1. Map, McPherson Pipe Lines 1 & 2, containing on it Filing Application No. 11820.
2. Map, No. NP-84-6904, Moraine Museum Pipe Line, Water Dist. 4, Div. 1, Rocky Mountain National Park.
3. Copy - Statement of Claim of the United States of America for the Moraine Museum Pipe Line, No. 10007 in the District Court - consisting of 5 pages with notation on bottom of page 1, Jul 11 '39 99670.
4. Copy - titled "Moraine Museum Pipe Line" - Domestic Priorities Nos. 11, 23, and 45; Ditch--Pipe Line--No. 12 - consisting of pages numbered 131, 132, 133, 134.
5. Copy - STATEMENT - April 9, 1953, signed A. van V. Dunn.
6. Copy - Form NP-1-1, Land Ownership Record, Deed No. 53, prepared 11/23/43 by A. van V. Dunn, Hydraulic Engr.
7. Log and History of Well, Moraine Park Well No. 1 - Permit No. 4019, w/No. 19, 1959 memo from Supt. Lloyd.

by part III

WATER RIGHT RECORD

Park: ROMO

Docket Number:

Federal #3

IDENTIFICATION NO: RS P, 3405, 73, A, F, O 3

DITCH/WATER SYSTEM: Utility Area Spring Pipe Line (Abandoned)

SOURCE OF SUPPLY: Spring

LOCATION: Point of Diversion at a point whence the N½ cor of Sec. 34,
T5N, R73W, bears N85°44'W 376 feet.

WATER RIGHT:

Appropriator: United States of America, National Park Service

Application/Permit Number: Domestic Priority No. 58-(1), Water
District No. 4, as of January 30, 1939, transferred from Irrigation
Certificate Record Number: Priority #58. This water right was
transferred from the Hupps & Beaver Ditches in Change of Point of
Date of Priority: Diversion Case No. 10050, January 30, 1939.

Quantity of Water: .015 c.f.s.

Purpose: Domestic, fire protection

Irrigated Land Description:

SUMMARY OF STATUS: This is a Federal water right, abandoned when the
pipe line from the McPherson Spring in Moraine Park was completed to
the Utility Area Water Storage Reservoir.

Note: Not abandoned.
Use converted to
wildlife & fisheries
ie Instream flow in
the Big Thompson

WATER RIGHT RECORD

Park: ROMO

Docket Number:

Federal #3

IDENTIFICATION NO: ROMO S 34 05 7 3 A P 0 3

DITCH/WATER SYSTEM: Utility Area Spring Pipe Line (Abandoned)

SOURCE OF SUPPLY: Spring

LOCATION: Point of Diversion at a point whence the N $\frac{1}{2}$ cor of Sec. 34, T5N, R73W, bears N85°44'W 376 feet.

WATER RIGHT:

Appropriator: United States of America, National Park Service

Application/Permit Number: Domestic Priority No. 58-(1), Water District No. 4, as of January 30, 1939, transferred from Irrigation Certificate Record Number: Priority #58. This water right was transferred from the Hupps & Beaver Ditches in Change of Point of Date of Priority: Diversion Case No. 10050, January 30, 1939.

Quantity of Water: .015 c.f.s.

Purpose: Domestic, fire protection

Irrigated Land Description:

SUMMARY OF STATUS: This is a Federal water right, abandoned when the pipe line from the McPherson Spring in Moraine Park was completed to the Utility Area Water Storage Reservoir.

Docket Identity

Remarq

TRAN 18734 SEC 34

12.10.15 CFS

ABANDONED

SPRING 11M HOEBAKE PHIN WING
AFTER STABAGE RESERVE 1018

UNIT 17. AKEA WAKI 2100

11

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

CASE NO. 85CW345
(Boulder County CA 4862 and CA 10050)

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

IN THE MATTER OF THE APPLICATION OF WATER RIGHTS OF
UNITED STATES OF AMERICA, ROCKY MOUNTAIN NATIONAL PARK,
IN LARIMER COUNTY

THIS CHANGE was filed with the Water Clerk, Water Division 1, on November 26, 1985 to modify the decree in Boulder County CA 10050. The Referee being fully advised in the premises does hereby find:

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

A Statement of Opposition to said application was filed by the Colorado Water Conservation Board and subsequently withdrawn by stipulation. The time for filing additional statements has expired.

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

FINDINGS OF FACT

1. The Hupps Ditch and Beaver Ditch were decreed in Boulder County CA 4862 dated June 29, 1916. The ditch was decreed for irrigation of 120 acres with 4 cfs of water as of May 5, 1876.

85CW345

USA

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2. In CA 10050 decreed in Boulder County on January 30, 1939, 0.015 cfs was transferred to Utility Area Spring Pipeline in NW1/4 NE1/4, Section 34, Township 5 North, Range 73 West. The uses at the new point of diversion was domestic, industrial and fire protection in Park Utility Area.

3. Applicant requests this right be changed to wildlife and fish maintenance and propagation and recreation uses all within the natural stream channel of the Big Thompson River.

IT IS HEREBY THE RULING OF THE WATER REFEREE

1. The name and address of the applicant:

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

2. The name of the structure:

Hupps and Beaver Ditches
aka Utility Area Spring Pipeline

3. The legal description of the structure:

NW1/4 NE1/4, Section 34, Township 5 North, Range 73 West, 6th P.M., Larimer County, at a point whence the NE1/4 corner of Section 34 bears 85 deg. 44' West 376 feet.

4. The source of the water:

Springs tributary to Big Thompson River

5. The date of appropriation:

May 5, 1876 as decreed in CA 4862 dated June 29, 1916.

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6. The amount of water:

0.015 cfs

7. The use of the water:

Wildlife and fish maintenance and propagation and recreation all within the natural channel of the Big Thompson River, all limited to use within Rocky Mountain National Park.

8. This change was filed pursuant to a Stipulation for Deletion from Abandonment List in Case Nos. 84CW426 through 84CW466 between the United States and the State Engineer and Division Engineer for Water Division No. 1. In accordance with that stipulation, the United States agrees not to use the water right decreed herein outside of the exterior boundaries of Rocky Mountain National Park unless otherwise expressly directed by statute. Furthermore, the United States agrees not to sell the water right decreed herein unless otherwise expressly directed by statute. Should the United States desire to change the place, manner, or time of use of the decreed water right, the United States agrees to file a change of water right application at such time.

9. This decree was entered pursuant to a stipulation between the United States and the Colorado Water Conservation Board and the issues decided herein were not litigated between the parties. In accordance with that stipulation, the parties shall not be collaterally estopped from asserting any factual or legal claims or defenses in any other case as a result of this decree. Additionally, the parties agree they shall not cite this decree as precedent in any other case.

10. Due to the unique location of this water right and the limitation contained herein, water rights of others will not be injured by this decree.

11. This change shall be subject to reconsideration by the water judge on the question of injury to the vested rights of others for a period of 5 years from the date of this decree pursuant to CRS 37-92-304(6).

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Page 4

Dated: JAN 29 1993

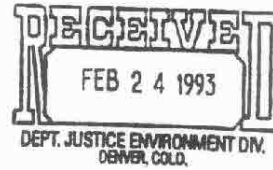

RAYMOND S. LIESMAN
Water Referee
Water Division No. 1

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

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

Dated: _____

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



85CW345
USA
Page 4

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Dated: FEB 23 1993


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

WATER DIVISION NO. 1
STATE OF COLORADO

JAN 29 1993

Date

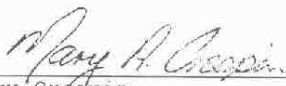
TO: Lynn A. Johnson, Esq.
999 18th St., #945
Denver, CO 80202

STATE/DIV

The Water Court Referee for Division 1 has instructed me to forward this copy of his Ruling in Case No. 85CW345. (FWD 3)

Please check your Ruling very CAREFULLY! If any errors are found, notify the Water Clerk's Office IMMEDIATELY.

You have twenty (20) days after the above date of mailing to file with the Water Clerk, any pleading in protest to or in support of the Referee's Ruling. Any such pleading to the Referee's Ruling must be filed on or before FEB 18 1993, plus any additional time allowed by Rule 6(e) CRCP. In the absence of any pleading being received, the Judge of the Water Court will incorporate the Referee's Ruling in the Decree which will be entered after FEB 18 1993.



Mary Crispin
Water Clerk, Water Division 1
P O Box C
Greeley, CO 80632
(303) 356-4000, Ext. 4550

FILED IN DISTRICT COURT
23 JAN 29 A 9:29
DISTRICT WATER COURT
BOULDER COUNTY COLO.

DISTRICT COURT, WATER DIVISION NO. 1, COLORADO

CASE NO. 85CW345
(Boulder County CA 4862 and CA 10050)

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USA
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Dated: JAN 29 1993


RAYMOND S. LIESMAN
Water Referee
Water Division No. 1

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

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

Dated: _____

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

REGISTER OF ACTIONSDISTRICT COURT, WATER DIVISION I
STATE OF COLORADO

85CW345

Case #
of Structures Filed 01

Case No. 11-26-85 Type of Case WRGHT Judge RAB	USA Drawer 3607 Denver, CO 80294 IN LARIMER COUNTY	KEY DATE SUMMARY Order of referral 11-26-85 Resume 11-85 Amended Applications Ruling Order of Re-referral Quadrennial due. Decree Publication fee \$19.50 Billed 2/21/86 Paid 4/9/86 R# 20560
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A John E. Lindskold, Esq.
 T Drawer 3607 999 18th St., #945
 T Denver, CO 80294
 O 80202
 R APPLICATION FOR CHANGE OF WATER RIGHT-Utility
 N Area Spring Pipeline aka Hupps Beaver Ditch
 F 84CW443,444 and 445
 Y
 S

REGISTER OF ACTIONS

DATE	MEMORANDUM OF PROCEEDINGS, FEES, AND COSTS	AMOUNT AND RECEIPT #
11-26-85	APPLICATION FOR CHANGE OF WATER RIGHT filed. Order of Referral to Referee.	#16388 \$151.00
1/31/86**	S.O. filed by Wendy C. Weiss, 1525 Sherman St., 3rd Floor, Denver, CO 80203, w/cert mlg. on behalf of the Colorado Water Conservation Board.	
3/13/86	SUMMARY OF CONSULTATION filed; mailed.	
8/20/87	Stipulation Regarding Withdrawal of S.O. filed by Carol D. Angel on behalf of the Water Conservation Board and JELindskold on behalf of the US Dept. of Justice.	
9/1/87 TD	(RSL) CONTINUED; need to prove historic use.	
9/5/89	TD (RSL) CONTINUED	
3/6/90	TD RSL Cont. to 9/90	
9/4/90	TD RSL Cont. to 3/91	
3/5/91	TD RSL Cont. to 9/91	
8-1-91	NOTICE OF CHANGE OF ADDRESS filed by Lynn A. Johnson atty for USA. New address: 999 18th St., #945, Denver, CO 80202	
9/3/91	TD RSL 3/92	
3/3/92	TD RSL Cont. to 9/92	
9/1/92	TD RSL Cont. to 3/93	
1-29-93	RULING SIGNED BY RSL. MAILED BY CERT. MAIL.	
2-23-93	DECREE ENTERED BY RAB. Copies mailed to all parties	

FILED IN DISTRICT COURT

35 NOV 26 P 2: 44

DISTRICT COURT, WATER DIVISION NO. 85CW345

CASE NO. 85CW345

COLORADO COUNTY COLO.

APPLICATION FOR CHANGE OF WATER RIGHT.

CONCERNING THE APPLICATION FOR WATER RIGHTS OF: UNITED STATES OF AMERICA,
NATIONAL PARK SERVICE, ROCKY MOUNTAIN NATIONAL PARK, in Larimer County.

1. Name, address, telephone number applicant:

United States of America
c/o John E. Lindsfold
Attorney, U.S. Department of Justice
Land and Natural Resources Division
1961 Stout Street, Drawer 3607
Denver, Colorado 80294-3607
(303) 844-3627

2. Name of structure: Utility Area Spring Pipeline aka Hupps Beaver ditch at
Springs (Ref. Case Nos. 84CW443, 84CW444, and
84CW445).

3. From previous Decree:

- A. Date entered: Jan. 30, 1939
Case No.: 10050, Water District No. 4
Court: Boulder County District Court
- B. Point of diversion: In the NW1/4 of the NE1/4 of Section 34, T. 5
N., R. 73 W. of the 6th P.M. whence the NE1/4 corner of Section 34
bears North 85°44' West, 376 feet.
- C. Source: Spring Tributary to Beaver Brook
- D. Date: May 5, 1876
Amount: 0.015 cfs but not to exceed 11.16 acre-feet per year
(0.0075 cfs listed as abandoned)
- E. Use: The spring has historically provided water for domestic supply,
industrial and fire protection in park headquarters and utility area.

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4. From Previous Adjudication

- A. Date entered: June 29, 1916
- B. Case No.: 4862, Water District No. 4
- C. Court: Boulder County District Court
- D. Name of Structure: "The Hupps Ditch and the Beaver Ditch."
- E. Priority No.: 58

Appropriation Date: May 5, 1876

5. Nature of change: Confirmation of the inclusion of recreational (interpretive) uses along with the adjudicated historical uses of this water right.

The attached figures display the location of the claimed use.

Respectfully submitted this 22nd day of November, 1985.

ROBERT N. MILLER
UNITED STATES ATTORNEY

By

John E. Lindskold
John E. Lindskold
Attorney, U.S. Department of Justice
Land and Natural Resources Division
1961 Stout Street, Drawer 3607
Denver, Colorado 80294-3607
(303) 844-3627

85CW 345

State of Colorado)
) ss.
County of Larimer)

Owen R. Williams, being first duly sworn, upon oath, deposes and says that he has read the foregoing Application for Change of Water Right, knows the contents thereof, and that the same are true to the best of his knowledge and belief.

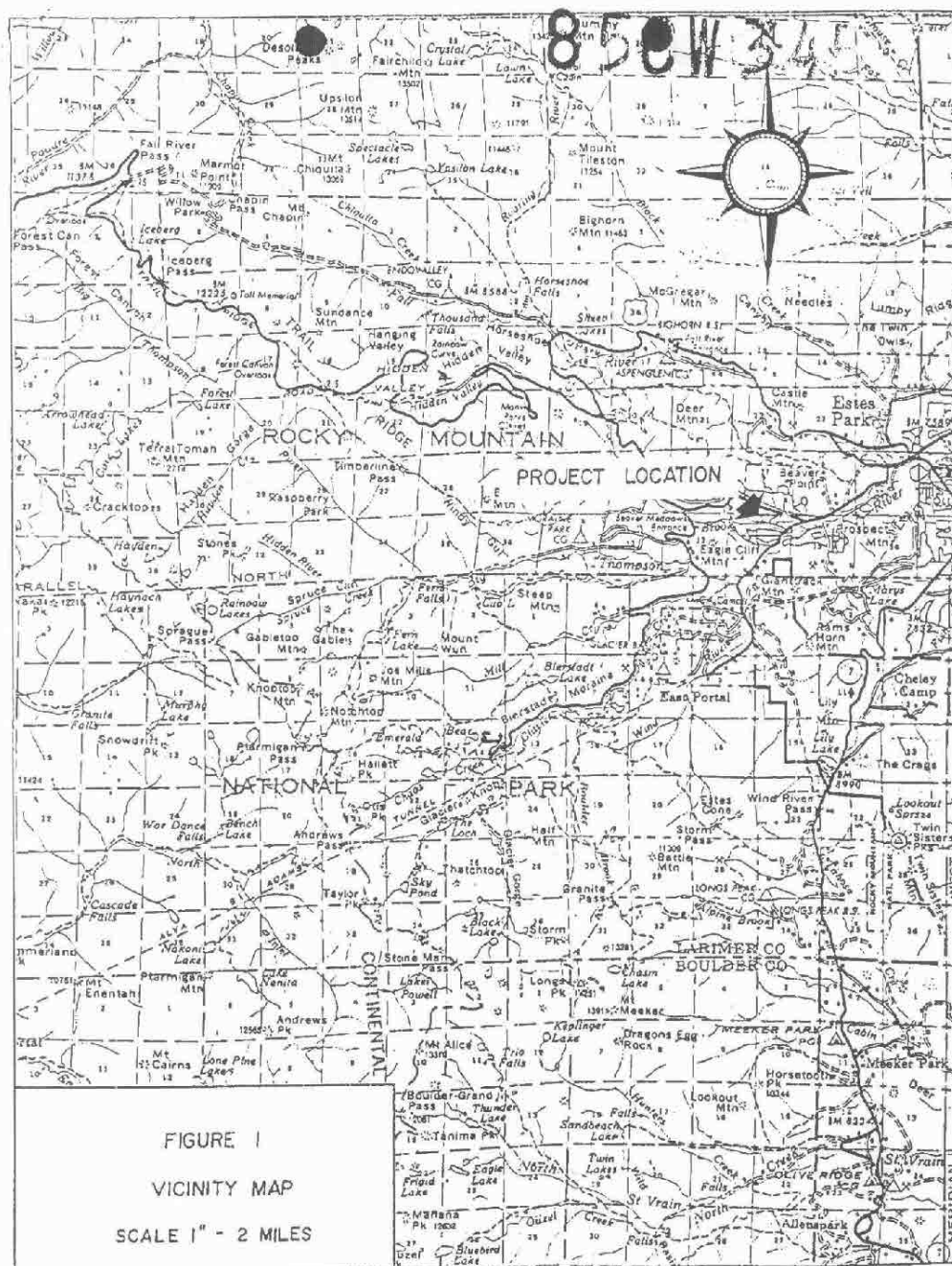
Owen R. Williams

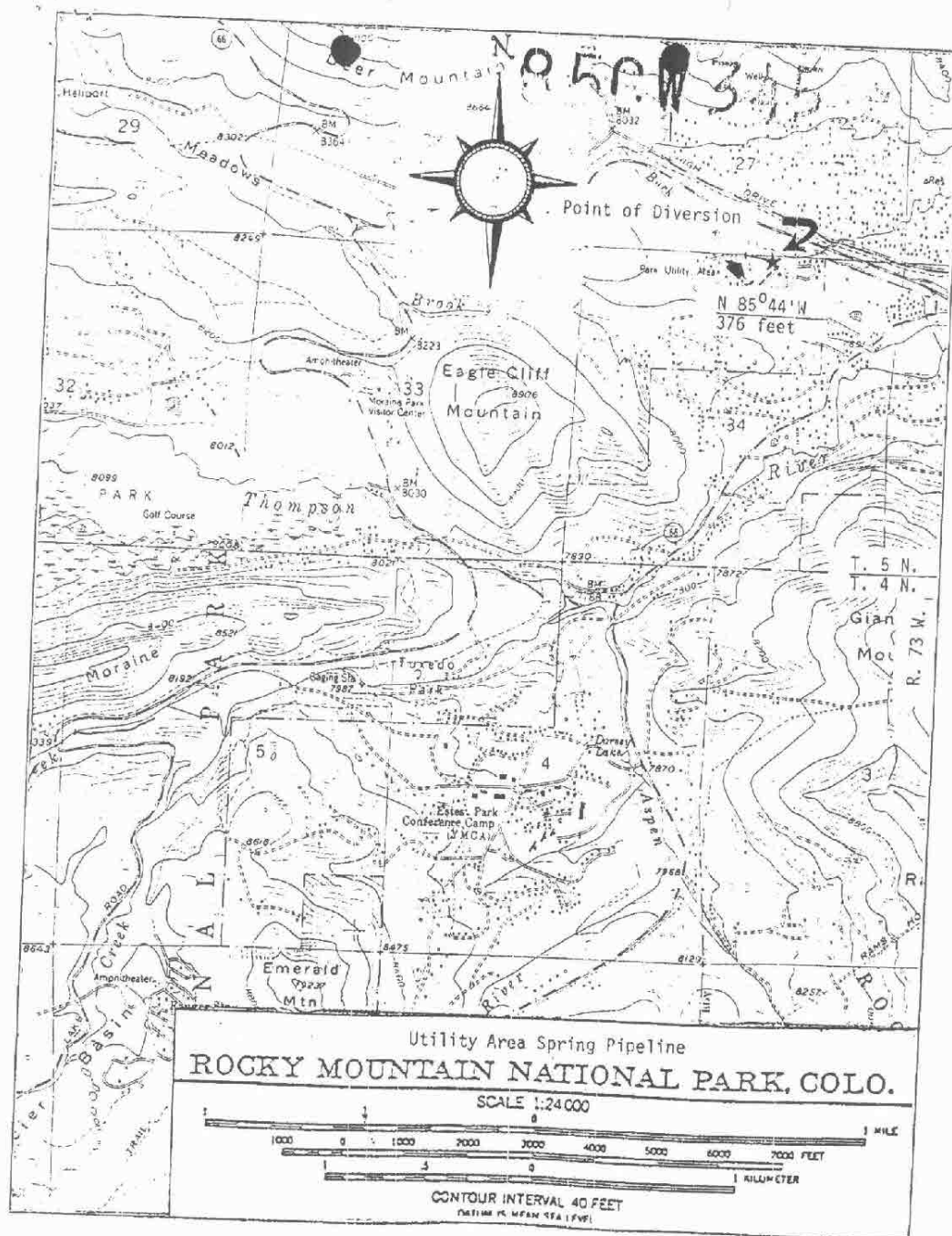
Subscribed and Sworn before me this 21st day of November, 1985.

My commission expires October 1, 1989

Robert Lee Laidout
Notary Public

Address:





Docket No. 32

ABANDONED

UTILITY AREA SPRING PIPE LINE

Pipe Line No. , Water District No. 4

MAY 8 1957

USE

Domestic and Fire Protection. Supplied water to Shops, Employee Residences, and Fire Hydrants. This water is not good for domestic use, has slight strychnine content. ABANDONED.

HEADGATE

Point of Diversion from Springs about 150 feet North of the Blacksmith Shop at a point whence the North Quarter Corner of Section 34, Township 5 North, Range 73 West, bears North 85° 44' West 376 feet.

PRIORITY

Domestic Priority No. 58-(1), Water District No. 4, as of January 30, 1939, with no greater or different priority than Irrigation Priority No. 58 from which this water right was transferred. This water right was transferred from the Hupps and Beaver Ditches in Change-In-Point-Of-Diversion Case No. 10050, January 30, 1939.

AMOUNT OF DECREE

0.015 cubic feet of water per second of time but not to exceed 11.16 acre-feet per annum (6.73 gallons per minute but not to exceed 3,636,486 gallons per annum) permitted to flow from said spring area.

OWNERSHIP and OPERATION

Owned by United States and acquired by adjudication. Operated by National Park Service. Abandoned when the pipe line from the McPherson Spring in Moraine Park was completed to the Utility Area Water Storage Reservoir.

MAPS

NP-RM-6984, May 16, 1938, Transfers of Decreed Priorities.
See Old Master Plan Sheets.

April 9, 1953

STATEMENT

For general conditions relating to adjudication and
decree, see Rocky Mountain National Park Docket No. 13.

(SGD.) A. VAN V. DUNN.

A. van V. Dunn
Chief, Water Resources Branch

Recorded JUL 7, 1939 at 9:00 o'clock A. M.

Reception No. 480428 Stanley A. Curtis, Recorder

STATE OF COLORADO, }
COUNTY OF BOULDER. } ss. IN THE DISTRICT COURT
No. 10050.

IN THE MATTER OF PRIORITY }
OF WATER RIGHTS IN DISTRICT }
NO. 4. }
ON PETITION OF THE UNITED STATES
OF AMERICA TO CHANGE POINTS OF
DIVERSION OF A PORTION OF THE
WATER HERETOFORE AUTHORIZED TO BE
TAKEN AND USED UNDER PRIORITIES
NUMBERED 57, 58 AND 68.

FINDINGS AND DECREE.

THIS MATTER NOW COMING ON TO BE HEARD in open Court this 30th day of January A. D. 1939, upon the petition of the UNITED STATES OF AMERICA, praying for authority to make changes in points of diversion of a portion of the waters authorized to be taken under adjudication priorities numbered 57, 58 and 68, in Water District No. 4, within and for the State of Colorado.

And the petitioner, appearing by Worth Allen and Wayne C. Williams, special assistants to the Attorney General of the United States, and the objectors or protestants or others appearing in person or by counsel as follows: Eleanor M. Mondius in person and by her attorneys, Fred W. Stover and Dale E. Shannon.

And this cause having been originally set by order of this court made on August 11, 1938, for hearing on the 28th day of September, 1938, and having been duly continued from time to time by order of this court, each continuance having been made at or before the time for which the matter previously had been set,

And the Court having heard and received evidence, and heard argument of attorneys, and being fully advised in the premises, finds that:

1. All parties who may be affected by the proposed changes in points of diversion have been duly notified, as by law required, and that the following named persons and corporations, in written instruments filed with the Clerk of this Court, acknowledged service upon them on the dates set opposite their respective names, of a printed copy of the notice issued by the Clerk of this Court:

Gertrude M. Grant, August 22, 1938.

The Farmers Irrigating Ditch and Reservoir Company, a corporation, by T. M. McKee, President, August 24, 1938.

Florence E. Kistler,
by Clarence L. Ireland, her attorney, August 26, 1938.

Alice G. Henry, August 27, 1938.

The Eaton Investment Company, a corporation,
by Robert G. Smith, its attorney, September 1, 1938.

2. The Petitioner, United States of America, is now the lawful owner of and is entitled to exercise the rights in and to, said adjudicated priorities numbered 57, 58, and 68, in Water District No. 4, within and for the State of Colorado, having acquired said rights as appurtenances to land purchased by it from Pieter (Peter) Hendius in the years 1923, 1924 and 1932, which said lands are described in detail in the petition filed herein, and which said conveyances are more particularly described as follows:

Warranty deed dated September 22, 1923, filed for record as Instrument No. 269762 in the office of the County Clerk and Recorder of Larimer County, State of Colorado, on April 8, 1924, and recorded in Book 481, page 101 of the public records of said county.

Warranty deed dated May 8, 1924, filed for record as Instrument No. 274366, in the office of the County Clerk and Recorder of Larimer County, State of Colorado, on June 19, 1924, and recorded in Book 481, page 360 of the public records of said county.

Warranty deed dated February 18, 1932, filed for record as Instrument No. 390196, in the office of the County Clerk and Recorder of Larimer County, State of Colorado, on March 15, 1932, and recorded in Book 623, page 424 of the public records of said county.

The Petitioner has made continuous use of the full amount of water authorized to be taken under and by said priorities numbered 57, 58, and 68, except as to Priority Right Number 57. Under said priority right number 57, it has continuously used nine hundred and eighty three one thousandths (0.983) of one cubic foot of water per second upon eleven and eight-tenths (11.8) acres of land. It has not used and is not entitled to use water under said priority right upon any more land than 11.8 acres.

3. The changes in points of diversion sought in the petition to be made will not injuriously affect the rights of any water users in said Water District No. 4.

Authority should, therefore, be granted to the petitioner to make the changes in points of diversion as prayed, but with a proviso and condition that, in taking water from the new points of diversion, the rights of the petitioner to water shall not become superior with respect to the matter of priority to any rights that are now senior thereto. In other words, a condition should be made to the effect that no greater priority right shall be obtained by reason of making a domestic or other use of the water taken from said new points of diversion than such right or rights as are now held in connection with the use of water taken under said adjudicated rights for irrigation purposes.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that authority be and the same is hereby granted to the United States of America to make the following changes in points of diversion of a portion of the water authorized to be taken under said priority rights numbered 57, 58 and 68, in Water District No. 4, State of Colorado, the points of diversion, the new use, and the amount of water in both second feet, and acre feet per annum, to be used from both the original and new points of diversion, being stated as follows:

PRIORITY NUMBER 57.

THE JONES DITCH.

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(1) Springs tributary to Fall River in the Northwest quarter (NW $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section 21, Township 5 North, Range 73 West of the Sixth Principal Meridian from which the Northwest corner of said section bears North 79° 06' West 1236.12 feet.	Domestic supply, sanitation, fire protection, in Aspenglen (Public) Campground.	0.064 second-feet, but not to exceed 11.407 acre-feet per annum.
*The Sixth Principal Meridian is hereafter referred to as the 6th P. M.		
(2) On the right or South bank of Hidden Valley Creek, a tributary of Fall River, in the Southwest quarter (SW $\frac{1}{4}$) of the Southeast quarter (SE $\frac{1}{4}$) of Section 18, Township 5 North, Range 73 West of the 6th P. M. from which the Southeast corner of said section bears South 85° 02' East 2309.1 feet.	Domestic supply, sanitation, fire protection, at camp in Little Horseshoe Park and adjacent (Ashton) ranch, and public campground to be built and established.	0.044 second-feet, but not to exceed 10.493 acre-feet per annum.
		<u>Quantity hereafter to be used from original point of diversion.</u>
		0.875 second-feet, but not to exceed 13.5 acre-feet per annum.

PRIORITY NUMBER 58.

THE HORSESHOE DITCH.

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(1) Three springs, being headwaters of Sundance Creek, a tributary of Fall River, in the Northwest quarter (NW $\frac{1}{4}$) of Southwest quarter (SW $\frac{1}{4}$) of Section 16, Township 5 North, Range 74 West of the 6th P. M., and from which the Southeast one-sixteenth (1/16) corner of Section 14, Township 5 North, Range 74 West of the 6th P. M., bears as follows: From Spring No. 1, South 86° 24' East 13,319 feet. From Spring No. 2, South 85° 54' East 13,328 feet. From Spring No. 3, South 86° 15' East 13,304 feet.	Domestic, sanitation and fire protection at the Trail Ridge Road Maintenance Camp.	0.004 second-feet, but not to exceed 1.35 acre-feet per annum.
(2) On the right or South bank of Hidden Valley Creek, a tributary of Fall River, in the Southeast quarter (SE $\frac{1}{4}$) of the Southeast quarter (SE $\frac{1}{4}$) of Section 18, Township 5 North, Range 73 West of the 6th P.M. from which the Southeast corner of said section bears south 85° 02' East 2309.1 feet.	Domestic supply, sanitation, fire protection, in Little Horseshoe Park and adjacent (Ashton) ranch, and public campground to be built and established.	0.145 second-feet, but not to exceed 34,499 acre-feet per annum.
(3) The North side of a nameless tributary at the headwaters of Fall River in the Northeast quarter (NE $\frac{1}{4}$) of the Northeast quarter (NE $\frac{1}{4}$) of Section 1, Township 5 North, Range 75 West of the 6th P.M., and from which point the Northeast corner of said Section 1 bears North 21° 48' East 549 feet. (The corner being a scribed stone of GLO survey of 1882).	Domestic, sanitation and fire protection at Fall River Pass Museum, public comfort station and parking area.	0.100 second-feet, but not to exceed 16,947 acre-feet per annum.

THE HORSESHOE DITCH - (Continued)

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(4) Chiquita Creek, a tributary of Fall River, in the Southwest quarter (SW $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of section 11, Township 5 North, Range 74 West of the 6th P. M., at a point from which the Southeast corner of said section bears South 58° 53' East 5173.6 feet.	Domestic, sanitation, fire protection, at Endovalley Campground.	0.118 second-feet, but not to exceed 20.736 acre-feet per annum.
		Quantity hereafter to be used from original point of diversion.
		4.633 second-feet, but not to exceed 181.468 acre-feet.

PRIORITY NUMBER 58.

THE HUFFS AND BEAVER DITCHES.

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(1) Springs tributary to Big Thompson River in the Northwest quarter (NW $\frac{1}{4}$) of the Northeast quarter (NE $\frac{1}{4}$) of Section 34, Township 5 North, Range 73 West of the 6th P. M., from which the North quarter corner of said Section 34 bears North 85° 44' West 376 feet.	Domestic, industrial and fire protection, in Park Utility and employees' residential area.	0.015 second-feet, but not to exceed 11.16 acre-feet per annum.
(2) South or right bank of Big Thompson River in the Northeast quarter (NE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section 4, Township 4 North, Range 73 West of the 6th P. M., at a point from which the Southeast corner of Section 33, Township 5 North, Range 73 West of the 6th P. M. bears North 78° 26' East 1069 feet.	Domestic, sanitation, fire protection, for a lodge, store and housekeeping cabins at Camp Woods and Big Thompson River Entrance to Park.	0.300 second-feet, but not to exceed 85.973 acre-feet per annum.

THE HUPPS AND BEAVER DITCHES (Continued)

<u>New Points of Diversion.</u>	<u>New Use.</u>	<u>Quantity to be Used from New Point of Diversion.</u>
(3) Springs tributary to Bear Lake, which is tributary to Big Thompson River through Glacier Creek, in the Northeast quarter (NE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section 14, Township 4 North, Range 74 West of the 6th P. M., from which point the N55W 1/256 corner of Section 7, Township 4 North, Range 73 West of the 6th P. M. bears North 77° 46' East 10,696 feet. (Corners of Section 14 burned out about 1896.)	Domestic sanitation, fire protection, for hotel, museum, ranger station, and parking area at end of motor road at Bear Lake.	0.086 second-feet, but not to exceed 24,658 acre-feet per annum.
(4) Right bank of Boulder Brook, a tributary of Big Thompson River through Glacier Creek, in the Northeast quarter (NE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section 10, Township 4 North, Range 73 West of the 6th P. M., from which the North quarter (N $\frac{1}{4}$) corner of said Section 10 bears North 50° 15' East 1332.6 feet.	Domestic, sanitation, fire protection, at Sprague's Hotel, Glacier Basin Camp-ground, and Mountain side Lodge.	0.589 second-feet, but not to exceed 112,242 acre-feet per annum.
(5) Springs tributary to Fern Lake, which is tributary to Big Thompson River through Fern Creek, in the Southwest quarter (SW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$) of Section 3, Township 4 North, Range 74 West of the 6th P. M., at a point from which the Southeast corner of Section 35, Township 5 North, Range 74 West of the 6th P. M., bears North 51° 14' East 9346.94 feet.	Domestic, sanitation, fire protection, at Fern Lodge and Fern Lake Ranger Station.	0.081 second-feet, but not to exceed 18,277 acre-feet per annum.
(6) East or right bank of Fern Creek, a tributary of Big Thompson River in Lot one (1) of the Northeast quarter (NE $\frac{1}{4}$) of Section 3, Township 4 North, Range 74 West of the 6th P. M., at a point from which the Southeast corner of Section 35, Township 5 North, Range 74 West of the 6th P. M., bears North 81° 46' East 3956.1 feet.	Domestic, sanitation, fire protection, at Forest Inn.	0.081 second-feet, but not to exceed 13,297 acre-feet per annum.
		<u>Quantity hereafter to be used from original points of diversion.</u>
		2.848 second-feet, but not to exceed 94,393 acre-feet per annum.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the authority hereby granted is subject to the condition hereby made, that in making the said changes in points of diversion, United States of America, and all future owners of the water rights under which water shall be diverted from said new points of diversion, shall acquire no greater or different priority rights by reason of making a domestic or other use of the water so diverted than if the water so diverted were used for irrigation purposes, as authorized in the general adjudication decree made and signed by this Court on June 29, 1916.

DONE IN OPEN COURT this 30th day of January, 1939.

FREDERIC W. CLARK
JUDGE.

Book 685 Page 540

STATE OF COLORADO,)
COUNTY OF BOULDER.) SS.

I, C. W. ATKINSON, Clerk of the District Court in and for said County, in the State aforesaid, and as such Clerk custodian of the files and records of said Court, do hereby certify that the foregoing is a full, true and correct copy of FINDINGS AND DECREE, in Case No. 10050, duly entered on the 20th day of January, A. D. 1939, IN THE MATTER OF PRIORITY OF WATER RIGHTS IN DISTRICT NO. 4, ON PETITION OF THE UNITED STATES OF AMERICA TO CHANGE POINTS OF DIVERSION OF A PORTION OF THE WATER HERETOFORE AUTHORIZED TO BE TAKEN AND USED UNDER PRIORITIES NUMBERED 57, 58 and 68, as the same appears of record in this Court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and
affixed the Seal of said Court, at my office in
Boulder, this 16th day of February, A. D. 1939.

(SEAL)

/s/ C. W. Atkinson
Clerk.

No. 4862.

STATE OF COLORADO,)
COUNTY OF BOULDER.) ss.

1912
*re-written by order
Supreme Court. Colo. 60, P. 535
J.E.W.*

IN THE DISTRICT COURT.

IN THE MATTER OF PRIORITIES OF WATER RIGHTS IN
WATER DISTRICT NO. 4, UPON THE APPLICATION OF THE
TOWN OF LOVELAND.

FINDINGS AND DECREE.

Signed and filed March 10th, 1912.

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STATE OF COLORADO,)
COUNTY OF BOULDER.) SS.

IN THE DISTRICT COURT.

IN THE MATTER OF PRIORITIES OF
WATER RIGHTS IN DISTRICT NO. 4
UPON THE APPLICATION OF THE
TOWN OF LOWLAND.

No. 4662.

FINDINGS AND DECREE.

Now on this 18th day of March, A. D. 1918, this matter coming on for final hearing, before the court upon the evidence heretofore produced before W. M. Robinson, Referee, and by him taken and extended and filed herein concerning the several ditches, canals, pipe lines and reservoirs mentioned herein, as well as upon the findings recommended decree and report of said Referee filed herein, and the various exceptions thereto made and filed herein, and the various exceptions thereto made and filed herein, and the various exceptions thereto made and filed herein, by divers claimants; and also upon the evidence heretofore produced before Christian A. Bennett, Referee, to whom said matter was referred by orders of this court made and entered March 4, A. D. 1907, and November 4, A. D. 1907, and by him taken and extended and filed herein concerning the several ditches, canals, pipe lines and reservoirs mentioned therein, as well as upon the findings, recommended decree and report of said Referee filed herein, and the various exceptions thereto made and filed herein by divers claimants; and the court having considered the same as well as the several notices, certificates of publication, affidavits and certification of each of said

Referees that the testimony returned by each of said Referees and upon which each Referee made his findings returned and filed in court herein was taken upon due and lawful notice in all respects according to the statutes of the State of Colorado in such cases made and provided; and the rules and the several orders of this court in that behalf made and entered, and that notice of the filing of said reports, findings and recommended decrees and of the time set for final hearing upon said reports, findings and recommended decrees and each and all of the exceptions thereto, has been duly given and served upon all parties entitled to notice as by law, rules and orders of this court provided in relation thereto, and further that all persons and corporations interested in this matter and entitled to notice in any stage of the proceedings herein have at all times been duly notified according to law and the orders of this court; and the court having duly considered all of said matters and the exceptions filed herein, doth over-rule each and all of said exceptions ~~filed herein~~, both to the findings and recommended decrees of Referee Robinson and the findings and recommended decrees of Referee Bennett, and doth approve said findings and recommended decrees of each of said Referees, save and except insofar as the same are changed, modified or set aside by this findings and decrees of the Court, made and entered herein.

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The Court having now fully considered the evidence heretofore taken before each of said Referees and their respective reports, findings and recommended decrees, together with the various exceptions filed thereto, and having heard the arguments of counsel for the respective parties, doth find and decree as follows concerning the respective ditches, canals and reservoirs that the same and each thereof are subject to the following ten provisions, to-wit:

1st. No part of this decree shall in any case be taken, deemed or held to confirm, impair or in any manner affect any claim of right or property held or claimed by any person, association or corporation in or to any ditch, canal or reservoir, or any part thereof, or the land or any part thereof on which any such of the same may be situate, or the land held or claimed as right of way of any of them, or any right, interest or claim, of property whatever in or relating to any of them.

2nd. No part of this decree shall be taken, deemed or held as affecting in any manner any question or claim of right between the owners or claimants of any ditch, canal or reservoir, as between each other; whether as part owners or shareholders therein, or as stockholders in any corporation or joint stock company claiming or to claim the same or any part thereof, nor shall it affect the rights, interests or claims of any consumers of water, whether as part owner, lessee, shareholder, or stockholder in any corporation holding or controlling the same or as purchaser of water therefrom, as against the rights, interests or claims of any other party or parties interested, or claiming interest or right in or

to such ditch, canal, pipe line or reservoir as owner, lessee, or part owner thereof, or as shareholder or stockholder in any corporation claiming the same or as purchaser of water therefrom--neither shall it affect any claim or priority made or resisted as between parties using water ~~for~~ for said purposes from the same ditch, canal, pipe line or reservoir, as to such water.

3rd. This decree shall not affect any claim, interest or right of any corporation as to the right of any property in any ditch, canal, pipe line or reservoir, or the ground on which the same may be situated, or any question which may arise between the stockholders thereof or between them and the state, people or any party; upon the dissolution of such corporation by expiration of its charter or otherwise as to any appropriation of water or right secured by condemnation proceeding by such corporation during its legal existence.

4th. No part of this decree shall affect in any way any right, claim or interest now or hereafter held or claimed to any appropriation of water, made after the closing of testimony touching the construction or enlargements of the ditch, canal, pipeline or reservoir by means of which such appropriation may have been made.

5th. No part of this decree shall be taken or held as adjudging to any claimant, or present or future representatives of any claim to any ditch, canal, pipe line or reservoir, or party holding, using or controlling the same, any right to take and carry away by means of any canal, ditch, pipe line or reservoir herein mentioned, or by virtue of any appropriation herein adjudged, any

water from any natural stream except to be applied to the use for which such appropriation has been made, nor allow any excessive use or waste of water whatever; nor allow any diversion of water except for lawful and beneficial uses.

5th. This decree shall be taken, deemed and held as determining and establishing the several priorities of right, by appropriation, to the use of water from the natural streams of said Water District No. 4, for Agricultural, Domestic and Mechanical purposes, incident to the several ditches, canals, reservoirs and pipe line in said Water District, each according to the construction, enlargement or extension thereof, with the amount of water held to have been so appropriated.

7th. Except as otherwise expressly adjudged, this decree shall be deemed, taken and held to operate as a denial and dismissal of each and every claim on file herein of right to divert water for strictly domestic purposes as distinguished from those rights which are or may be incidental to appropriations for other purposes.

8th. Nothing in this decree contained shall be deemed, construed, taken or held to deny, or in any manner whatever, impair or derogate from the right of any claimant to divert, as he, she or it has been wont or habituate, water for such domestic purposes as were or are incident to the appropriation for agricultural purposes established by any decree of this Court heretofore rendered in relation to the ditch, canal, pipe line or reservoir of any such claimant.

9th. Nothing in this decree contained shall be

decree, taken or held to impair, in any manner, any right to the use of water for irrigation established by that decree of this Court rendered "In the Matter of a certain petition for adjudication of the priorities of right to the use of water for irrigation in Water District No. 4" on the 20th day of May, A. D. 1903, or any such right established by that other decree of this Court rendered "In the Matter of a certain petition for Adjudication of the Priorities of right to the Use of Water for Irrigation in Water District No. 4" on the 22nd day of March, A. D. 1890; or be deemed, taken or held to establish any right to the use of water for irrigation adverse or antagonistic to any right for the same purpose established by either of said decrees so heretofore rendered, but all such rights established by this decree shall, at all times, be deemed, taken and held to be subject and subordinate to those established by said former decrees or either of them--any date of appropriation found in this decree to the contrary notwithstanding.

10th. Whenever the dimensions of any ditch, or of any feeder to a reservoir, are found, or the height to which any reservoir may be filled is stated in this decree, such dimensions shall be deemed and taken to control the statement of the estimated carrying capacity thereof, and such height shall be deemed and taken to control the statement of the estimated storage capacity of any such reservoir.

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Concerning each ditch, pipe line and reservoir for which a priority of appropriation has been found and determined herein, the Court doth find that each ditch and each reservoir and the priority of appropriation for each thereof should be numbered in consecutive order, beginning with the next consecutive number of the ditch or reservoir and the number of the priority thereof awarded the last or junior ditch or reservoir in the former decrees of this Court, made and entered May 20, 1883, and March 22, 1890, instead of adopting a new system of numbering as recommended by the Referees herein.

It is therefore ordered that the ditches herein be numbered consecutively, and that the priorities herein awarded thereto be numbered consecutively, beginning with the next consecutive number following the junior ditch in the decree of May 20, 1883, and that the reservoirs herein be numbered consecutively and that the priorities herein awarded thereto be numbered consecutively, beginning with the next consecutive number following the junior reservoir in the decree of March 22, 1890; and that the numbering of the priorities of appropriation shall determine the priority of right in the successive decrees.

Concerning each and all of the reservoirs, pipe lines and ditches herein, the Court doth find and decree as follows:

RESERVOIR CLAIMANT NUMBER THREE.

The Boulder and Larimer County Reservoir.

1st. The elements of this reservoir are The Boulder and Larimer County Irrigating and Manufacturing Ditch Company

DITCH CLAIMANT NUMBER THIRTY-FOUR.

The Hupps Ditch and the Beaver Ditch.

1st. The claimant of these ditches is Peter Mundius of Larimer County, Colorado.

2nd. These ditches were constructed and they have been kept and maintained for taking, diverting and conveying water for agricultural purposes, and have been operated as one system for the diversion and distribution of water originally appropriated through the said Hupps Ditch.

3rd. The natural stream from which water has been diverted by means of these ditches is Beaver Creek, a tributary of Big Thompson river.

4th. The headgate of said Hupps Ditch is located in the northwest quarter of the southwest quarter of section twenty-nine (29), township five (5) north, range seventy-three (73) west. The headgate of said Beaver Ditch is located in the southwest quarter of the northeast quarter of section thirty (30), township five (5) north, range seventy-three (73) west of the 6th P. M. These ditches do not depart more than one-fourth ($\frac{1}{4}$) of a mile from the channel of the said Beaver Creek.

5th. The size and dimensions of these ditches are: width on top five (5) feet; width on bottom three (3) feet; depth five (5) feet; grade, heavy; and the carrying capacity of each one is estimated at four (4) cubic feet per second.

6th. The work of construction of the said Hupps Ditch was commenced on the 5th day of May, 1876 and was prosecuted

to completion with reasonable diligence.

7th. Within a reasonable time after the completion of the said Hupps Ditch water was diverted thereby to the extent of its carrying capacity and the same was thereafter applied to the irrigation of one hundred and twenty (120) acres of land lying under said Hupps Ditch and the Beaver Ditch.

8th. Three (3) acre feet of water per acre per annum, and no more, is reasonably required for the irrigation of the land mentioned in paragraph 7 hereof.

9th. As a matter of law the claimant is entitled to a decree to the effect that there be permitted to flow out of said Beaver Creek and into either of these ditches, under and by virtue of appropriation as by original construction, so much water as will flow in a ditch having the dimensions found in paragraph 5 hereof, - in quantity estimated at four (4) cubic feet per second, for the use and benefit of the party or parties entitled to the enjoyment thereof for immediate use in direct irrigation, with Priority No. 68, as of the 5th day of May, A. D. 1876; Provided such decree be so limited in its operation as not to authorize the diversion of more than three hundred and sixty (360) acre feet of water per annum.

IT IS THEREFORE, ADJUDGED AND DECREED BY THE COURT that, for agricultural purposes and under and by virtue of appropriation as by original construction, and for the benefit of the party or parties entitled to the enjoyment thereof, there be permitted to flow out of said Beaver

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Creek and into either of these ditches so much water as will flow into a ditch having the dimensions found and stated in paragraph 6 hereof of the finding inserted in this section, estimated at four (4) cubic feet per second, with Ditch Priority No. 58; subject to the general and paramount provisions of this decree, the appropriation of which water may be deemed to have taken effect on, and said Priority No. 58 to date from the 5th day of May, A. D. 1876.

It is further ordered by the Court that nothing in this decree contained shall be deemed, taken or held to authorize the diversion, under said Priority No. 58 of more than three hundred and sixty (360) acre feet of water per annum.

IT IS FURTHER ORDERED BY THE COURT that the residue of the costs and expenses of taking and extending the evidence herein not heretofore paid by the respective claimants, and the costs and expenses of the Clerk of this Court in filing, indexing and recording the finding and decrees herein, as well as the costs and expenses of rewriting said decrees in order to have the same conform numerically to the preceding decrees in said water district, amounting to \$175.00, which amount is hereby allowed and approved by the Court, and said amount is hereby ordered to be paid by the Counties of Boulder, Larimer and Weld, being all the Counties in said water district number four, in equal amount as provided by law, said costs and expenses to be certified by the Clerk of this Court to the respective counties for allowance and payment by the boards of county commissioners of said counties.

IT IS FURTHER ORDERED BY THE COURT that all the evidence heretofore taken by said referees in this matter, and by them extended and filed in this Court, including all the exhibits being part of said evidence, be and the same are hereby made a general bill of exceptions herein, and any party or parties aggrieved by any finding or provisions of this decree are hereby granted two years from date of the entry of this decree in which to make and tender a particular bill of exceptions involving such matters as they ^{may} desire to have reviewed by the Supreme Court, said bill of exceptions to be made from what is hereinbefore described as a general bill of exceptions herein, and when so made, may be then tendered, signed, and sealed by any judge of said Court and shall be filed herein as of this date.

IT IS FURTHER ORDERED BY THE COURT that the sum of \$185.00 be, and the same is hereby allowed as the expenses of rewriting and re-entering said decree pursuant to the orders of the Supreme Court, and that said sum be taxed as costs in this proceeding, and the same, together with the costs and expenses of the Clerk of this Court, in filing, indexing and recording, the same, and making certified copies hereof as by law required, be also taxed as costs, and are hereby allowed and approved by the Court, and all of said costs are hereby ordered to be paid by the Counties of Boulder, Larimer and Weld, being all of the Counties in said water district number four, in equal amount as by law provided, said costs and expenses to be certified by the Clerk of this Court to the respective counties for allowance and payment by the boards of County Commissioners of said County.

IT IS FURTHER ORDERED BY THE COURT that the residue of the costs and expenses of taking and extending the evidence herein not heretofore paid by the respective claimants or by the several Counties, and the costs and expenses of the Clerk of this Court in filing, indexing and recording the finding and decree herein, as well as the costs and expenses of rewriting said decree as recommended by Joseph T. Atwood, the referee herein, in order to have the same conform numerically to the preceding decrees in said water district, amounting to the sum of \$250.00, be and the same is hereby allowed and approved by the Court, and said amount is hereby ordered to be paid by the Counties of Boulder, Larimer and Weld, being all the Counties in said water district number four in equal amounts, as provided by law, said costs and expenses to be certified by the Clerk of this Court to the respective Counties for allowances and pay-

ments by the board of county commissioners of said Counties.

IT IS FURTHER ORDERED BY THE COURT that all the evidence heretofore taken by the several referees in said matter and by them extended and filed in this Court, including all the exhibits, being part of said evidence, be and the same are hereby made a general bill of exceptions herein, and any party or parties aggrieved by said findings or by any of the provisions of this decree are hereby granted one year from the date of the entry of this decree in which to make and tender a particular bill of exceptions, involving such matters as they may desire to have reviewed by the Supreme Court, and said bill of exceptions to be made from what is hereinbefore described as a general bill of exceptions herein, and when so made may be then tendered, signed and sealed by the Judge of said Court and shall be filed herein as of this date.

Done in open Court this 9th day of April, A.D. 1933.

BY THE COURT

Neil F. Graham

Judge

State of Colorado
County of Boulder

I, Fred W. Burger, Clerk of the District Court of Boulder County, State aforesaid, do hereby certify that the above and foregoing is a true, complete and perfect transcript and copy of the FINDINGS AND DECREE had and entered in a certain WATER ADJUDICATION in said Court lately pending entitled "IN THE MATTER OF PRIORITIES OF WATER RIGHTS IN WATER DISTRICT NO. 4, UPON THE

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APPLICATION OF THE TOWN OF LOVELAND, NO.4862", as the
same now remains on file and of record in this office,

Witness my hand and the seal of the said Court at
the Court house in Boulder, County and State aforesaid,
this 24th day of April, 1925.

Frederic W. Burger

Clerk

By

E. H. McBride

Deputy

State of Colorado)
County of Boulder.) ss.

No. 4 6 6 2.

IN THE DISTRICT COURT.

In the Matter of the Priorities
of Water Rights in Water Dis-
trict No. 4, Upon the Appli-
cation of the Town of Loveland.

ORDER AND DECREE.

NOW, on this 5th day of October, A. D., 1925, the same being one of the regular juridical days of the October term A. D., 1925, of this Court, this matter came on for final hearing and determination, pursuant to the remittitur of the supreme court of the state of Colorado, and the judgment and opinion of said Court in cause No. 10,939, of said Court, wherein The Greeley and Loveland Irrigation Company, et al., were plaintiffs in error, and The Handy Ditch Company, et al., were defendants in error, wherein the decree heretofore entered by this Court in the above entitled proceeding, on the ninth day of April, A. D., 1923, was reversed, annulled, and altogether held for naught, and said cause remanded to this Court which is directed to re-instate the decree of June 29, 1916, made pursuant to the former opinion of this Court, in the matter of The Greeley and Loveland Irrigation Company v. Huppe, et al., as reported in 60 Colo. 535, and in conformity with the views expressed in the opinion of the supreme court in said cause, numbered 10,939, aforesaid, decided on the 15th day of June A. D., 1925, and reported in the 77th Colo. . . .; and the Court having consid-ered said remittitur and said opinion of the supreme court, and its mandate, doth find:

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I.

That the decree of this Court in said entitled proceeding has been by the supreme court reversed, annulled, and altogether held for naught.

II.

That all orders, judgments and decrees of this Court, made and entered herein, subsequent to the final findings and decree herein made and entered on June 29, 1916, and particularly all orders, judgments and decrees made and entered herein of and concerning the petitions for reargument and review of the said decree of June 29, 1916, on behalf of The Handy Ditch Company, and other claimants herein, were improperly and illegally made, and should be set aside and held for naught; that each and all of the petitions for reargument and review made and filed by The Handy Ditch Company, and other claimants, are insufficient, and were unlawfully granted, and said petitions and each of them should be denied and dismissed.

III.

That the findings and decree of this Court heretofore made herein on the 29th day of June, A. D., 1916, should be reinstated, and be, and remain, as the final findings and decree of this Court, in the above entitled adjudication proceedings, as of the date thereof.

IV.

That a certified copy of this order and decrees should be transmitted to the state engineer of the state of Colorado and to the irrigation division engineer of water division No. 1 of the state of Colorado, to the end that they and each of them may be informed that said decree entered herein on April 9, 1923, has been reversed, annulled and held for naught, and that the decree herein

made and entered on the 29th day of June, A. D., 1916, has been re-instated, and is in full force and effect as of the date thereof, pursuant to said mandate of the supreme court and the provisions hereof.

N O W, T H E R E F O R E, pursuant to said remittitur and opinion of the supreme court, and the mandates therein contained, and pursuant to the findings now made in relation thereto, IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS, to-wit:

1. That said decree of April 9, 1923, made and entered herein, has been set aside, annulled and altogether held for naught. JEW

2. That all orders and judgment made and entered in this proceedings subsequent to the decree of June 29, A. D., 1916, upon or in relation to the petitions for reargument and review, made and filed herein, by claimants, The Handy Ditch Company, and all other claimants be and the same are hereby set aside and held for naught, and said petitions for reargument and review of said decree of June 29, 1916, filed by The Handy Ditch Company, and other claimants, are each and all denied and dismissed.

3. That the findings and decree of this Court heretofore made and entered herein on the 29th day of June, A. D., 1916, are hereby re-instated and made the final findings and decree of this Court in the above entitled adjudication proceedings, as of the date of the entry thereof.

4. That the Clerk of this Court is ordered to prepare and transmit to the state engineer of the state of Colorado and to the irrigation division engineer of water division No. 1, of the state of Colorado, each a certified copy of this order and decree, re-instating the decree of June 29, A. D., 1916, as the final findings and decree in this adjudication proceedings. Also that the Clerk

of this Court make proper indices and cross-references in the records of this Court showing that said decree of April 9, A. D., 1923, and all proceedings resulting in the same have been set aside and held for naught, and that said decree of June 29, A. D., 1916, has been re-instated as the final findings and decrees herein as of the date thereof.

DONE IN OPEN COURT this 5th day of OCTOBER A. D., 1925.

____ Claude C. Coffin ____ JUDGE.

STATE OF COLORADO,)
- ss.
County of Boulder.)

I, AMOS A. MAHAN, Clerk of the District Court of Boulder County, in the State aforesaid, do hereby certify the above and foregoing to be a true, perfect and complete copy of the ORDER AND DECREE entered in the above entitled cause on the 5th day of October, A. D., 1925, said cause being entitled "In the Matter of the Priorities of Water Rights in Water District No. 4, Upon the Application of the Town of Loveland", and numbered 4862, as the same is of record and on file in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Boulder, this 8th day of October, A. D. 1925.

AMOS A. MAHAN, Clerk.

By M. J. Coffin
Deputy.

712

L54

February 11, 1993

Julia D. Draper, Paralegal Specialist
General Litigation Section
U.S. Department of Justice
Environment & Natural Resources Division
999 18th Street - Suite 945
Denver, CO 80202

Dear Ms. Draper:

Re: Water Division No. 1
Case Nos.: 85CW344, 85CW345, 85CW347 & 85CW384

Dear Ms. Draper:

We have reviewed the FINDINGS AND RULING OF THE REFEREE in the
above-captioned cases.

We find them to be acceptable as written.

Sincerely,

Signed

Ken Czarnowski
Hydrologist

cc:
Canaday
Williams



U.S. Department of Justice

Environment and Natural Resources Division

WMC:JDDraper
90-1-2-892

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

Commercial Number
(303) 294-1900
FIS/330-1900
Telefax Number
(303) 294-1931
FIS/330-1931

February 2, 1993

Ralph O. Canaday, Esquire
U.S. DEPT. OF INTERIOR
Office of the Solicitor
Rocky Mtn. Region
P. O. Box 25007
Denver, CO 80225

Mr. Owen Williams
Chief, Water Resources Division
NATIONAL PARK SERVICE
1201 Oakridge Drive
Suite 250
Fort Collins, CO 80525

Mr. Kenneth Czarnowski
NATIONAL PARK SERVICE
Division of Resources Management
Estes Park, CO 80517

Re: Water Division No. 1
Case Nos.: 85CW344, 85CW345, 85CW347 & 85CW384

Gentlemen:

Enclosed please find copies of FINDINGS AND RULING OF THE
REFEREE . . . in the above-captioned cases. Please let us know
by **February 15, 1993**, whether these Rulings are acceptable.

Respectfully,

Julia D. Draper
Paralegal Specialist
General Litigation Section

enclosures



IN REPLY REFER TO:

L54-RL

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

October 2, 1962

Reg. Director	
Admin. Asst.	
Asst. to	
Adm. Asst.	
Cons.-Int.-Use	
Res. Plann.	
Prog. Coord.	
Info. & Publi.	
Field Solic.	
<i>X Aiton</i>	<i>10/4/62</i>
<i>X Mott</i>	
Action taken	
File	

Memorandum

To: Regional Director, Midwest Region
From: Chief, Branch of Water Resources

Subject: Utility Area-Moraine Museum Area Water System, Docket No. 3
(and 32), Rocky Mountain

Dockets No. 3 and 32 were combined in accordance with my suggestion and the concurrence by Mr. Aiton's memorandum of September 16, 1960. A request for the Regional Office to prepare new folders for all offices was included in my memorandum of January 31, 1961.

I have been reviewing docket assemblies with Mr. Edwin W. Reed, who has transferred from U. S. Geological Survey to be my replacement when I retire in January. We note that no new folder has been prepared. A number of other details have come to my attention. Accordingly, we are distributing new folders with copies of this memorandum, but with the understanding that further revision of either the folder or its contents may be desirable.

The docket should contain a new map showing the complete water system from all sources, and this may alter the rest of the assembly. The quantity of water to which the Park legally has a right should be shown on the map at each point of diversion. Our records suggest that the Utility Area is served by the local spring or well, to which Hupps-Beaver Ditch rights were transferred in the adjudication of changed points (original Dockets No. 1 and 32). They also suggest that the Moraine Museum water system (former Docket No. 3) has been extended as the main supply, and that the Well No. 4019 on the left bank of the Thompson River has been added to that system. Dockets No. 4 and 13 also includes records of rights to supplement the supply from the Hondius-Beaver pipeline.

Drawing No. 5094 G, of June 11, 1959, in the Master Plan shows no connection from the local spring. It also seems to lack the former plan of the Moraine Museum area, suggesting that that area of use has been, or is to be eliminated. Drawing No. 5094 G also shows no supplemental lateral from the Hondius-Beaver pipeline, but such a connection from the lower pipeline to the new reservoir could be in existence beyond the field of the drawing. I assume that the portion

of the system from the Moraine Museum area is winterproofed, and the old local spring supply was an all-weather system. The original lateral from the Hondius-Beaver pipeline was only for summer use, like the rest of that pipeline.

The name of the water system may need revision to eliminate the implied use at the Moraine Museum area. There should also be a statement at the top of Part I-Utility Area Spring and Well, to record whether the source has been abandoned, or is only maintained as a standby supply. A statement should also be added above the decree in Part B, Docket No. 4, to indicate that the Buck Creek Lateral to the Utility Area has been abandoned or relocated, depending on the facts.

Fortunately, the decreed rights do not lapse through non-use in Colorado. Unfortunately, the Department of Justice has not agree to take the United States into the State District courts since the close of the 1939 adjudications, but it might agree to do so in a special adjudication to change points of diversion under previously decreed rights. All unexercised rights in Water District No. 4 should be amended in such an adjudication. Meantime, the docket records should show the unexercised rights with date of termination of use, and the present water systems to which they should be transferred in a future adjudication.

Docket No. 4 also needs a supplemental statement including a list of all private lands which were served by the Hondius-Beaver pipeline which have been acquired by the United States since 1939. Technically, the United States should claim additional portions of the rights appurtenant to that system for the portion of the total water use on each such tract. The chances are, however, that the present owner of the private interests in that pipeline has contracted to supply more water to the remaining private lands if those owners have subdivided and constructed additional residences. There should be a thorough analysis and determination of what portion of the 0.33 c.f.s. is now sold to private land owners, and whether that infringes on the portion to which the United States is entitled. If the present owner of private interests in the pipeline can supply additional private homes with no present conflict with Federal needs we should consider how his permit from this Service should be revised.

Plotting the new Well No. 4019 on Drawing No. 6994, in the docket shows it to be on the left bank or north bank of the Thompson River about 300 feet west of the road to the south side of the river, and about 650 feet west of the road to the museum. The permit states that the well is 16 feet deep whereas the log states that it is 15 feet deep. In either case, the well probably derives its supply from the subsurface flow of the river. The application and Permit No. 4019 do

not indicate whether the source is such subsurface flow, to which surface-water right laws might be applicable, or is percolating ground-water. The proximity of the well to the river is not even indicated.

This well right is apparently still in permit form. I have not read the relatively new ground-water law sufficiently to determine whether such well rights are to be adjudicated or not. Our records do not indicate whether they were included in a general adjudication in the spring of 1961. The next normal time for an adjudication will be next spring.

Messrs. Reed, Mott and a member of the Superintendent's staff should review the ground-water law. If it is silent about adjudication of ground-water rights, further information should be obtained from the State Engineer. Before doing so, however, a map should be provided with the log, to show the relation to the subsurface flow of the river, and we should also determine whether the State Engineer considers that the records should be amended for a different classification of the source.

If the right were to be adjudicated to establish a priority in the surface-water series, we should consider adjudicating a transfer of decreed rights from an abandoned system rather than establishing a needless junior right with only a 1959 priority.

Messrs. Reed, Mott and I should evidently have a conference in December or January, to iron out this and other problems. Meantime, however, we shall appreciate a clarification of as many of the points in this memorandum as possible.


A. van V. Dunn

Enclosure

cc:
Superintendent, Rocky Mountain, w/c enc.
Chief, WDC (2), w/c enc.



RECEIVED
REGION TWO OFFICE

UNITED STATES
DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE
WASHINGTON 25, D.C.

IN REPLY REFER TO:
L57-081

FEB 2 AM 10 09

January 31, 1961

Memorandum
NATIONAL PARK SERVICE
OMAHA, NEBRASKA

To: Regional Director, Region Two
From: Chief, Water Resources Section

Subject: Moraine Museum - Utility Area Water System, Docket 3,
Rocky Mountain

SEC. DIRECTOR
ASST. SEC. DIRECTOR
CHIEF, DIV. OF ADMIN.
CHIEF, DIV. OF OPERATIONS
CHIEF, DIV. OF INTERP.
CHIEF, REC. RES. PLANNING
CHIEF, RANGER ACTIVITIES
FIELD SOLICITOR
<i>Mott</i>
<i>Mott</i>
ACTION TAKEN
FILE

I have just had occasion to note that our assembly of Docket 3, as combined with Docket 32 in accordance with the index of table of contents of September 12, 1960, is still in an old folder which does not include a proper outline along the tab. I suggest that you prepare the new folders for all offices so that they will be identical. See the Superintendent's memorandum of August 12, 1960, and Mr. Aiton's memo of September 16, 1960.

The water system obtains some water from the well or spring in the Utility Area to which part of the decreed rights in the Hupps-Beaver Ditch, with priority of May 5, 1876, were transferred by the adjudication recorded in Docket 1. It includes the Moraine Museum Spring with priorities of June 30, 1906, November 10, 1916, and September 1, 1933, based on Filings 11820 and 16550 and reference to the general adjudication recorded in Docket 13. You have more recently introduced the new well in the Moraine Museum area. There was also, for a while at least, a supply from the Hondius Beaver Pipeline, whose records should be retained in Docket 4, but should be cross referenced in Docket 3 if still applicable. Only Mr. Mott or Mr. Lloyd can decide what formal and further revision of the index and assembly is proper at this time, but I will be pleased to comment on the proposed changes if problems arise.

I have also just seen the W.O. copy of Special Use Permit 14-10-0235-510 to the Charles F. Scott Estate. I assume that the row of cottages, including that of Scott and the late William Allen White, may all still be served from the Moraine Museum area sources. The revised docket should include a Part Permissive Use, which should include copies of the Special Use Permits. It would not be necessary to substitute each renewal of each permit, but there should be a set of the earliest permits which give the current conditions. These copies and the divider should be distributed by your office to be sure that all assemblies are identical.

A. van V. Dunn
A. van V. Dunn
Chief, Water Resources Section

Copy to: Superintendent, Rocky Mountain
Chief, WODC (2)

154

Rocky Mountain National Park
and
Shadow Mountain National Recreation Area
P. O. Box 1086, Estes Park, Colorado

August 12, 1960

Memorandum

To: Regional Director, Region Two

From: Superintendent

Subject: Combining Water Rights Now Serving Utility Area Into One Water Right Docket, Water Right Dockets 3 and 32, Rocky Mountain National Park.

Mr. A. van V. Dunn, in his memorandum of May 10, 1960, to you with copy to us, suggested that the content of Water Right Docket No. 13 and No. 32 be combined into one docket to cover all water rights used in the recently completed water supply system for this National Park's Utility Area and the new Beaver Meadow Entrance Station. We believe he intended that Docket No. 3 (Moraine Park Museum Water System) and No. 32 (Utility Area Water System) should be combined, as Docket No. 13 covers procedures and decrees in Water Rights Adjudication Case No. 10077 of November 14, 1939.

The spring, well and collection pipeline from Buck Creek, covered in Water Right Docket No. 32, are no longer connected into the Utility Water Supply System, because of unsatisfactory quantity and quality of the water.

We have placed the content of Water Right Docket No. 32 in Water Right Docket No. 3 under a divider labeled Part 1, Utility Spring and Well. The former content of Docket No. 3 remains in Docket No. 3 now under a divider labeled Part 2, Moraine Museum Spring, and we have placed two copies of the State Engineer's Ground Water Well Permit No. 4019 under a divider labeled Part 3, Moraine Park Well No. 1. We have placed a transfer slip and a notice of discontinuance of use in Water Right Docket No. 32 folder. Please advise if this arrangement is not satisfactory.

As soon as the pressure of work will permit, our Engineering division will prepare a map showing the whole water supply system for the Utility Area and the Beaver Meadow Entrance Station.

to WOC

Enclosed are three marfax copies of Completion Report U-114, covering the Moraine Park Well No. 1 and the Pipeline extending to the Moraine Park Museum Water System Reservoir. Also enclosed are three marfax copies of Completion Report U-116, covering the Pipeline extending from the water main, connecting the Moraine Reservoir and the Utility Area Reservoir, and the Beaver Meadow Entrance Station. We have placed a copy of each in Water Right Docket No. 3.

(SGD) James V. Lloyd

James V. Lloyd
Superintendent

✓ In triplicate. With copies of attachments.

L54-CBL

May 10, 1960

Memorandum

To: Regional Director, Region Two

From: Chief, Water Resources Section

Subject: Approved Permit No. 4019 for Moraine Park Well No. 1,
Utility Area Water System, Rocky Mountain National Park

This was done about 1950. Dm

The well log and memorandum of August 4, 1959, from the Superintendent, which Mr. Harvey forwarded on April 20, seem to leave a gap in our records. I seem to recall that the Moraine Museum Water System, Docket 13, has already been extended to the Utility Area. If I am correct, Dockets 13 and 32 should have been combined before now. Present Docket 13 should have become Part II of the combined docket and Docket 32 would become Part I. No water right amendment would be needed under the Colorado water laws, but a map of the pipeline from the Moraine Museum Water System to the Utility Area should be added to said Part II.

The docket number could be either 13 or 32, or 13 and 32. If a single number is used, a record should be made to use the abandoned number for a new water system and claim. The abandoned number might be used for the Beaver Meadows Water Entrance water system, unless it is also a reconstruction or enlargement of an old system with records in an existing docket.

We are filing the attachments with Mr. Harvey's memorandum in Docket 32, as suggested, until we receive a reply to the above suggestions. If the above is correct, this new well supply will become Part III of the combined docket. Each part of the docket should be labeled as well as numbered. Part I should be "Utility Well". Part II, if combined should be "Moraine Museum Spring". Part III would then be Moraine Museum Well No. 1. A map of the water system from the latter to the existing Utility Area pipeline should be filed with the well log.

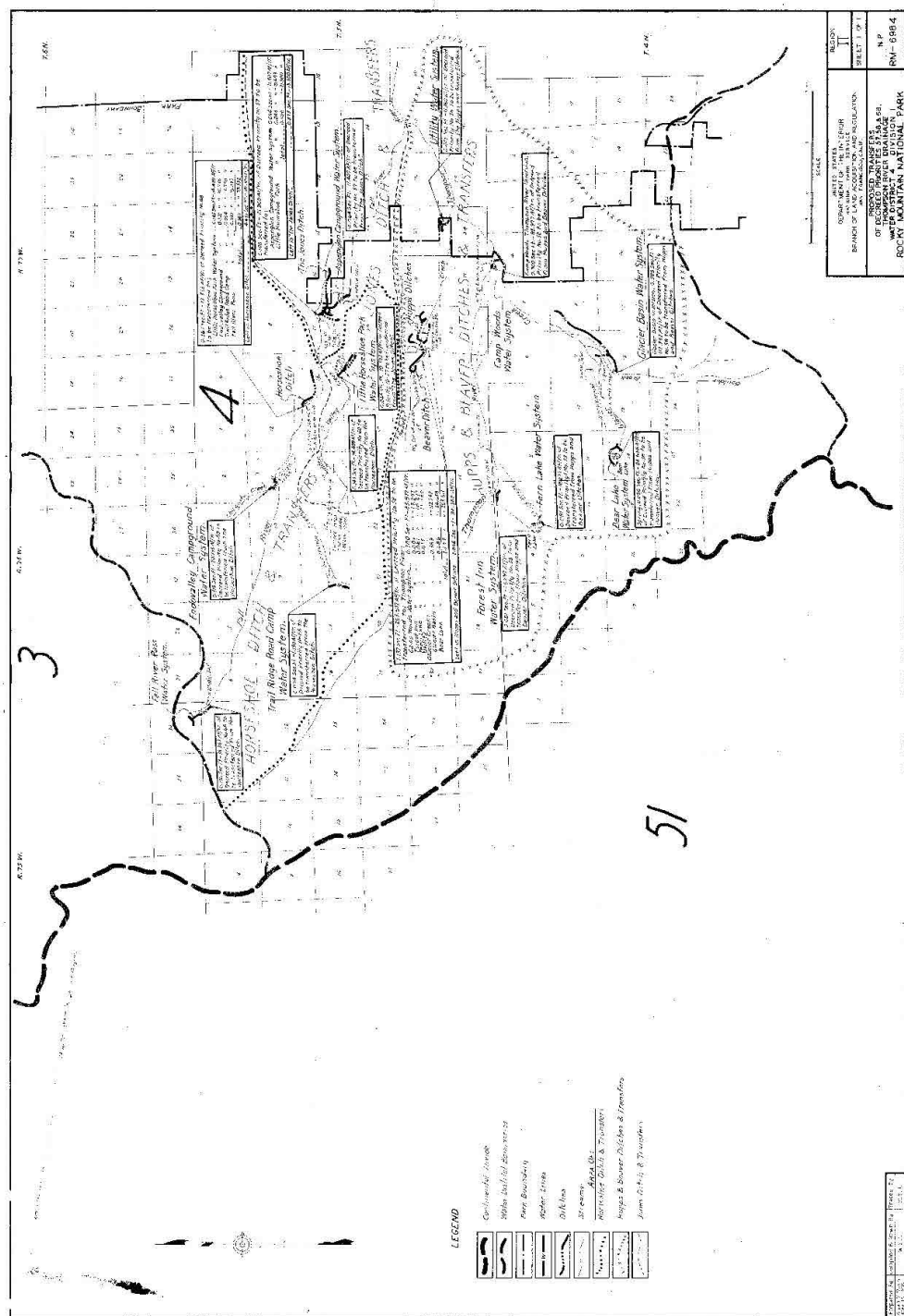
We have just reviewed the completion reports for this water system extension under U-114, and the Beaver Meadows Entrance Water and Sewer Systems under U-116, which were approved by Mr. Rutter on March 29. Whether the latter needs the new docket suggested above or not, copies of the completion reports should be in the assemblies for the two systems, and should be supplemented with records of the installed pump units. A map and well log are also needed for the latter assembly.

A. van V. Dunn
Chief, Water Resources Section

Copy to: ~~Superintendent, Rocky Mountain~~
Chief, WODC

COPIES
SEEC
EMCH
CH
SEEC
VDW
CNE
MAY 18 1960
M O D C

Maps and Miscellaneous Information



Docket Compiled: 6/25/2012