Sequoia & Kings Canyon National Park (see also: KICA)

Docket No: 1

SYCAMORE CREEK WATER SYSTEM

Preliminary Docket Information

01-12-2015: Memo to file: Refer to Other Supporting Information for the Drought Assessment

January 12, 2015

MEMO TO FILE

In 2014, the State of California suffered the third consecutive year of extreme drought. In January 2014, the Governor declared a drought emergency. The State Water Resources Control Board issued projections for the summer of 2014 as to likely calls for curtailment in the state's major watersheds.

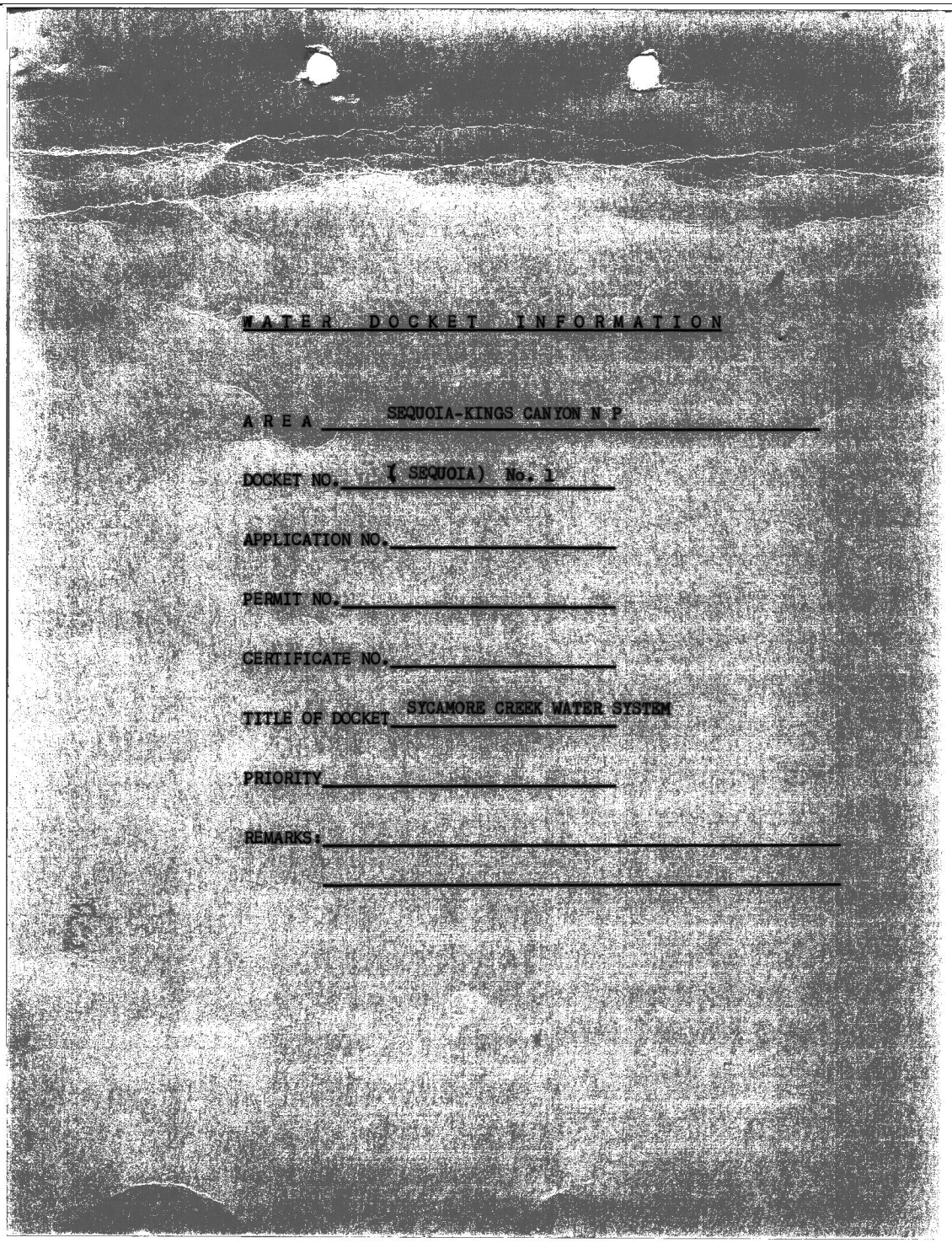
In response, WRB contacted all of the NPS units in California regarding the drought and offered WRB's services to assist in preparations for potential calls for curtailment. A few parks responded, and WRB prepared drought assessments for SEKI, YOSE, and LAVO, and also worked with PINN and WHIS. The drought assessments included an inventory of the park's rights and uses, an assessment of the relative seniority of the parks rights, and an estimation of the likelihood of the park's rights being called for curtailment. In spring 2014, WRB sent to SEKI, YOSE, and LAVO the drought assessments with recommendations to ensure that park water needs were protected.

In summer 2014, the Board did issue calls for curtailment of post-1914 rights in order to protect the diversions of senior rights (pre-1914 and riparian). In addition, the State legislature passed laws regarding the management of groundwater—the first legislation regarding groundwater in the State's history. As a result of these developments, WRB updated the drought assessment and provided a final hardcopy to SEKI, LAVO, and YOSE, reflecting these developments.

Given the size of the drought assessment, one hard copy was put into Docket #1 of each park listed above in the section "Other Supporting Information". In the remaining dockets, this Memo to File has been placed, referring readers to the drought assessment located in Docket #1.

In addition, the Drought Assessment is cross referenced as a .PDF in IRMA (Code No. 2242660) in each applicable docket.

Eric Lord
Water Rights Specialist
January 2015



WATER DOCKET INFORMATION

AREA SEQUOIA-KINGS CANYON N P

DOCKET NO. (SEQUOIA) No. 1

APPLICATION NO.

PERMIT NO.

CERTIFICATE NO.

TITLE OF DOCKET SYCAMORE CREEK WATER SYSTEM

PRIORITY

REMARKS:

Supporting Hydro Data

SEQUOIA NATIONAL PARK

WATER SYSTEMS

Branch of Engineering
San Francisco, California
March 13, 1935

Revised list based on information supplied in letters from Acting Superintendent to Director February 26, 1935 and to Chief Engineer February 27, 1935 and March 11, 1935.

DRAINAGE

The western portion of the Park is drained by Kaweah River. The entire flow of Kaweah River is used for irrigation in Tulare County.

The eastern portion is drained by Kern River, which flows into Buena Vista Lake Reservoir in Kern County.

A very small area at the south is drained by the North and Middle Forks of Tule River. Tule River water is used for irrigation in Tulare County.

WATER SYSTEMS
(Existing unless otherwise designated)

1. Ash Mountain Dwg. SEQ-4981,5062

Serves: Park Headquarters, employees' residences, utility area, tree nursery, barn and public camp ground. Domestic use, sanitary, lawn sprinkling, fire protection and water for livestock.

Source of Supply: Spring tributary to Alder Cr., which is tributary to Kaweah River.

System: Dam in Alder Cr. impounding 140,000 gallons; 6" supply line to reservoir; 50,000 gal. concrete storage reservoir; 4" and 3" main; 2" and smaller laterals.

Notes: Estimated flow of springs Nov. to May, 40,000 gal. per day (0.062 sec. ft); May to Nov. 20,000 gal. per day (0.031 sec.ft).

Future use: 100,000 gal. per day (0.155 sec.ft.)

2. Ash Mountain (Proposed)

Source of Supply: Middle Fork of Kaweah River.

System: Three miles of pipe line from diversion dam of Southern California Edison Co. to existing reservoir at Ash Mountain; new distribution system.

3. Southern California Edison Co.

Privately owned hydroelectric plant.

Source of Supply: Middle Fork and Marble Fork of Kaweah River.

System: Diversion dams in both forks; flumes; penstock and power house located outside the boundary below Ash Mountain.

Notes: Water rights acquired and land leased about 1911 by Mt. Whitney Power Co.

4. Potwisha CCC Camp

Possible future campground.

Source of Supply: Southern California Edison Co., Marble Fork flume.

System: Wood storage tank and distributing lines.

Notes: Approx. use, 7,500 gal. per day, sanitary and domestic.

5. Hospital Rock Dwg. SEQ-3047B, 4602.

Serves: Ranger station and campground; operator buildings and cabins.

Source of Supply: Spring tributary to Middle Fork of Kaweah River.

System: Supply line from spring; storage tank; distributing lines.

6. Giant Forest Dwg. SEQ. 4920,4973,4977

Serves: Government administrative buildings and residences; public campgrounds; lodge, cabins, stores and other concessions; and comfort stations in Giant Forest area; comfort station and drinking fountains at Sherman Tree; and Wolverton CCC Camp. Also would serve proposed Wolverton campground.

Source of Supply: Wolverton Creek, which is tributary to Marble Fork of Kaweah River. Additional supply, if ever needed, is available in Silliman Creek.

System: Diversion dam; four miles of supply line which is part 6" steel pipe and part 5" wood stave pipe; two 20,000 gal. wood storage tanks; G.I. distributing lines, sizes 3-1/2" to 3/4".

Plans based on an estimated future use of 205,000 gal. per day propose to increase the supply by diverting additional water from Wolverton Cr. and tributaries, replacing the wooden supply line with

a steel pipe, constructing two 100,000 gal. concrete storage tanks and replacing present inadequate distributing system.

See report by R.W. Lincoln, Feb. 1933 and Dwg. SEQ 4939.

Notes: Estimated average use, May to Oct. inclusive, 80,000 gal. per day (0.124 sec. ft.); Nov. to Apr., inclusive, 4,000 gal. per day (0.006 sec.ft.).

For information as to flow of Wolverton Cr. and tributaries and water diverted during season 1932, see drawings SEQ-4963, 4964.

7. Lodgepole Dwg. SEQ-5021

Serves: Government residential and utility areas, ranger station, public campground, comfort stations, and sewage disposal plant.

Source of Supply: Silliman Cr., which is tributary to Marble Fork.

System: Diversion dam; 4" and 3" C.I. supply line; two 10,000 gal. storage tanks; 6", 4" and 3" C.I. mains; 3" and smaller laterals.

8. South Tokopah and North Tokopah Campgrounds

Source of Supply: Spring tributary to Marble Fork.

System: 10,000 gal. tank and distributing lines.

9. Cabin Creek (Proposed)

To serve: Ranger residence, public comfort station, etc. Possible campground site.

Source of Supply: Dorst Cr., which is tributary to North Fork of Kaweah River.

10. Dorst Creek Campground (Proposed)

Source of Supply: Springs tributary to Dorst Cr., which is tributary to North Fork of Kaweah River.

11. Colony Mill Ranger Station

Source of Supply: Spring, tributary to Cedar Cr., which is tributary to Yucca Cr., which is tributary to North Fork of Kaweah River.

System: Piped by gravity to collecting tank; pumped to storage tank; piped from storage tank to ranger station.

12. Marble Fork CCC Camp

Piped from a creek tributary to Marble Fork.
This site was formerly a public campground and will undoubtedly become one again when the CCC camp is abandoned.

13. Moro Rock Parking Area

Piped from Soldier Creek, which is tributary to Middle Fork of Kaweah River.

Serves comfort station and drinking fountain.

14. Crescent Meadow Parking Area

Pumped by hand from shallow well.

15. Kern Ranger Station

Piped from Coyote Cr., a tributary of Kern River. 600 ft. of 1" pipe. It is proposed to enlarge the system and supply water for a camp ground.

16. Moss Spring

Spring tributary to Marble Fork, developed to make water available for cars on Generals Highway.

17. Slide Spring

Spring tributary to Marble Fork, developed to make water available for cars on Generals Highway. The spring dries up by midsummer and water is then hauled from Giant Forest.

18. Granite Spring

Spring tributary to Middle Fork of Kaweah River, developed to make water available for cars on Generals Highway. The spring dries up by midsummer and water is hauled from Giant Forest.

19. Big Fern Spring

Spring tributary to Middle Fork of Kaweah River, developed to make water available for cars on Generals Highway.

20. Atwell Ranger Station

Piped from springs tributary to East Fork of Kaweah River.

21. Yucca CCC Camp

Piped from Yucca Creek, a tributary of North Fork of Kaweah River.

22. Buckeye CCC Camp (Located outside Park)

Takes water from flume of Southern California Edison Co.

23. Shrieber Flat CCC Camp (Located outside Park) Dwg. SEQ - 5111

Source of Supply: North Fork of Kaweah River.

System: Pumped through 2" line to 10,000 gal. storage tank; 2" main with 3/4" laterials.

24. Cain's Flat CCC Camp (Located outside Park)

Piped from East Fork Kaweah River or a tributary.

25. Bearpaw Meadow

Piped from spring tributary to Middle Fork of Kaweah River.

Supplies operator camp for trail parties.

N.P.S. barn is not connected with water system but uses water from same source.

26. Salt Creek Ridge (Proposed. Outside Park).

Development of springs and water holes along truck trail, tributary to East Fork and South Fork of Kaweah for fire protection and to supply camping parties.

27. Salt Creek CCC Camp (Located outside Park)

Piped from Salt Cr. or tributary. Salt Cr. is tributary to Kaweah River.

28. Buckeye Flat Campground

Piped from Middle Fork of Kaweah River. 1/2 mi. of 2" G.I.pipe

29. Hockett Ranger Station

Pumped from well.

30. Quinn Ranger Station

Source tributary to Soda Cr. which is tributary to Little Kern River.

31. Lookout Ranger Station

Hauled from Cold Springs which are tributary to East Fork Kaweah River.

32. Willow Meadow Camp Ground (Proposed)

Source will be tributary to Silliman Cr. which is tributary to Marble Fork of Kaweah River.

33. Redwood Meadow Ranger Station

Piped from Cliff Cr. which is tributary to Middle Fork of Kaweah River.

34. West Boundary and Colony Mill Roads

It is proposed to develop three springs in this vicinity with a 1,000 gal. storage tank at each for fire protection.

35. Oriole Lake (Privately owned summer houses)

Water obtained from sources tributary to East Fork Kaweah River.

36. Camp Lewis

Government property leased on annual permit to Jules Conterno. Water is diverted through a ditch from Coyote Cr., a tributary of Kern River.

37. Clough Cave Ranger Station

Piped from South Fork Kaweah River. 1,000 ft. of 3/4" pipe.

38. Chagoopa Falls Patrol Station

Dipped from Kern River.

39. Hidden Spring Patrol Station

Dipped from spring tributary to Cow Cr. which is tributary to North Fork of Kaweah River.

40. Atwell Camp Ground

Piped from stream tributary to East Fork of Kaweah River. (System installed for CCC Camp)

41. Bearpaw Ranger Station (Proposed)

To be pumped from spring tributary to Middle Fork of Kaweah River.

42. Kern Hot Springs (Proposed)

Construction of a bath house to utilize the waters of the hot springs is proposed.

43. Ash Mountain CCC Camp

Pumped from Middle Fork of Kaweah River. This camp is also connected with the Ash Mountain water system and draws its water from that source when the supply is adequate.

44. Slapjack Cabin (Shelter cabin for tourists)

Piped from spring tributary to East Fork of Kaweah

45. Red Fir Camp

Piped from spring tributary to Marble Fork.

System installed for contractor's camp is available for proposed public campground.

46. Halstead Meadow

Supply for picnic ground is piped from Halstead Cr., a tributary of Marble Fork.

47. Cabin Cove

Private cabins of squatters on Park Service land obtain water from springs tributary to East Fork of Kaweah River.

48. Lost Grove (Proposed)

Water for new checking station, comfort station, etc., will be piped from a spring tributary to Dorst Cr. which is tributary to North Fork of Kaweah River.

49. Trangers

Piped from spring tributary to East Fork of Kaweah River.

50. Conifer Club (Private holdings)

Approximately 20 buildings supplied with water piped from springs tributary to East Fork of Kaweah.

51. Crabtree Meadow (Proposed ranger station)

Water to be piped from Whitney Creek, a tributary of Kern River.

52. Junction Meadow (Proposed ranger station)

Water to be piped from Kern River or a tributary.

53. Little Baldy Fire Lookout (Proposed)

Water may possibly be pumped from a well 1/4 mile distant.

03-11-1935: letter to branch of engineering from acting superintendent regarding information on water supplies for the outposts

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SEQUOIA NATIONAL PARK
SEQUOIA NATIONAL PARK, CALIF.

OFFICE OF
THE SUPERINTENDENT

March 11, 1935.

MAR 12 1935
KITTREDGE
BURNEY
ACCOUNTS
Taylor
CAMPS
NICKEL
ROAD DIARY
JOB DIARY
ANSWERED
3/13/35

Chief Engineer F. A. Kittredge,
Branch of Engineering,
National Park Service,
409 Underwood Bldg.,
San Francisco, Calif.

Dear Mr. Kittredge:

This is in reply to your letter of March 7, and furnishes the information on water supplies for the outposts mentioned in your letter:

Buckeye Flat Campground: Approximately 1/2 mile of 2" galvanized pipe was installed last year to bring water direct from the Middle Fork of the Kaweah River.

Hockett Ranger Station: A well was dug and pump installed under ECW developments last season. Previous to this water was dipped with a pail from Whitman Creek which passes the station.

Redwood Meadow: Water is piped from Cliff Creek to the old dilapidated ranger station at this point. I believe 3/4" line was used and approximately 600' of pipe laid. It is probable that with the construction of a new ranger station at Bearpaw Meadow this old ranger station at Redwood will be torn down, or at least not occupied.

Clough Cave Ranger Station: Approximately 1000' of 3/4" pipe brings water to this cabin from the South Fork of the Kaweah River.

Camp Lewis: This is government property leased on annual permit to Jules Conterno. Water is secured by diversion ditch from Coyote Creek.

Kern Ranger Station: Approximately 600' of 1" pipe brings water to the cabin from Coyote Creek.

Chagoopa Falls Patrol Station: Water is not piped at this point, but the Kern River is only approximately 100' from the campsite and water is dipped as needed.

Hidden Springs Patrol Station: There is no water piped at this point, and the domestic supply is secured from a small spring adjacent to the cabin.

The two CCC camps intended to be abandoned were Marble Fork and Atwell Mill. However, we have just recently taken up with the Army and the Wash-

ington Office the question of abandoning Wolverton in place of Marble Fork Camp, as the camp facilities at the latter camp are much superior to those at Wolverton. Unquestionably our recommendations will be approved. Both of these sites are within the Sequoia National Park and on government land. The water supply system developed for the Atwell Camp will be useful for the public campground constructed there year before last, and at Wolverton there is always some small use of this area.

Very truly yours,

Daniel J. Tobin,
Acting Superintendent.

CC: Director

03-07-1935: letter to superintendent from assistant chief engineer regarding compilation of water systems for the use of mr. taylor,

FILE COPY

Ag 820

March 7, 1935

Col. John R. White
Superintendent
Sequoia National Park
California

Dear Colonel White:

With reference to the compilation of water systems for the use of Mr. E. E. Taylor, Attorney, there were several locations indicated in the list previously sent you on which we had no information, and we neglected to secure it while you were here.

Please furnish us with any information you have as to the source of supply and method of obtaining water at the following places:

Buckeye Flat Camp Ground
Hocket Ranger Station
Quinn Ranger Station
Redwood Meadow Ranger Station
Clough Cave Ranger Station
Camp Lewis (On Kern River)

We listed Kern Ranger Station as obtaining its water through a pipe line from Coyote Creek. Information at hand indicates that this is only a proposed system. What is the present supply?

What about patrol stations, such as Chagoopa Falls and Hidden Spring?

You intimated that one or more of the CCC camp sites might be abandoned. Please indicate the ones, both inside and outside the park, at which there will be no further use of water for any purpose connected with the park.

Sincerely yours,

A. W. Burney
Assistant Chief Engineer

AWB:RG

cc Mr. J. H. Diehl

02-27-1935: letter to branch of engineering from acting superintendent regarding statistical data

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SEQUOIA NATIONAL PARK
SEQUOIA NATIONAL PARK, CALIF.

OFFICE OF
THE SUPERINTENDENT

February 27, 1935.

Chief Engineer Kittredge,
Branch of Engineering,
National Park Service,
409 Underwood Bldg.,
San Francisco, Calif.

Dear Mr. Kittredge:

Referring to your letter of February 25, there is going out to you today, separately, a copy of letter to the Director inreply to his of February 7 on the same subject. I have gone over your statistic data with Mr. Diehl and have the following comments to make:

Under the heading "General" you state that the Kaweah River drains and sinks into Tulare Lake Basin in Kings County. This is probably not true, however, as all of the water in the Kaweah River is taken out in irrigation ditches long before it reaches Kings County, and is spread out over a very wide territory.

Under the "Ash Mt" Heading it might be wise to amplify your records to show that the water impounded by the Alder Creek Dam totals 140,000 gallons. This is additional, of course, to the 50,000 gallons in the concrete storage tanks and can be used in case of emergency. However, because of the disagreeable taste of the water resulting from standing in the reservoir we have never put it into the main line, and probably will not do so until some method of chlorination has been provided.

Under the "Giant Forest" heading you indicate that the wooden section of the Wolverton - Giant Forest supply line should be replaced with 3" steel pipe. We question the advisability of putting in such a small pipe, and feel that a 4" line should be the minimum and probably a 6" line installed. There is always a possibility of one or both of the two 100,000 gallon tanks being drained for fire purposes, and a 3" line would not replenish the tanks in sufficient time to provide proper domestic service. You also omit from this head the small Sherman Tree installation. We have here a comfort station and one or more drinking faucets, and the water is secured from the main Wolverton line.

Under the "Cabin Creek" heading you indicate that probably one-half mile of 1½" pipe will be required. Mr. Diehl feels that if any campground development is made at Cabin Creek water should be taken from Dorst Creek and that two miles of line will be required. The outline you submit is entirely adequate for Government development, but doubtless would not serve the needs in any substantial camp development here.

Under the "Dorst Creek" heading, where you state that Dorst Creek will be the source of supply, Mr. Diehl advises me that there are a number of springs much more accessible which even during the extreme dry season of 1934 would have filled a six inch pipe line. Spring water, naturally, would be superior to water from the Creek, and this will probably be the ultimate source of supply.

Under "Moro Rock Parking Area" you state that it is proposed to extend the Giant Forest water system to this point. I hardly think this will ever come about, or that it will be necessary, as we have here only one comfort station and the only addition will probably be a drinking fountain. I believe the present supply from Soldier Creek will, except in very unusual years, be adequate to cover these needs.

Under the heading "Crescent Meadow Parking Area" you also state that it is proposed to extend the Giant Forest water system to this point. While this was held in view some years ago, the plan will probably never be carried out. In fact, in the Public Works program now before the Washington Office we have estimated for a chemical type comfort station. There might be water available from Log Creek a short distance away, but Colonel White is very strongly opposed to any diversion of it because of the effect it would have on the beautiful Log and Crescent Meadows.

Under the heading "Slide Spring" the comment should be made that every year by the middle of the summer this spring completely dries up. Water is hauled after this date from Giant Forest.

Under heading "Granite Springs" the same comment may be made.

Under the heading "Lookout Ranger Station" you indicate an existing water line. As a matter of fact there is no water whatever and all domestic needs along this line are met by hauling water from Cold Springs approximately a half mile below Lookout Point. I know of no possibility of getting water to Lookout Point.

Under "Bearpaw Meadow" heading you indicate the water is piped from a stream. It is piped from a spring instead.

The following comments are made on other points where small water systems are available but which are not covered either in your report or in the report forwarded to the Director from this office:

Slapjack Cabin on the Mineral King Road. Water is piped to the cabin from a spring along the roadside. This cabin is a tourist shelter.

Red Fir Camp. There is a possibility of developing a campground at this point which, as you know, has been used for the past several years by various road contractors in constructing the Generals' Highway. At present water is piped from springs but the second-hand pipe used by the contractors should be replaced if any permanent development goes in here.

Halstead Meadow. A small picnic area installation hasbeen made, but during a large part of the year no water is available. It is possible that a well might be developed.

Cabin Cove. This little settlement is along the park boundary east of Atwell Mill. For many years there was dispute as to whether or not it was in the park or Forest Service territory. Finally decision was given in favor of the park. There are a number of private cabins located here which have about the same status, or rather lack of status, that the old semi-permanent campers had at Giant Forest. Water is piped to the various cabins from springs.

Lost Grove. This is the new checking station entrance near the west boundary on the new Generals' Highway. A checking station has already been erected and a comfort station is proposed in the new Public Works Program. In addition, radiator filling hydrants will doubtless have to be installed, and possibly a drinking fountain. Water can be piped from a spring approximately half a mile distant; 1½" pipe should be used.

Ash Mt. CCC Camp. The CCC Camp at present uses water pumped from the Middle Fork of the Kaweah River, but last year a line of second-hand pipe was run from our main Ash Mt. system to this point. However, the limited supply of water from the Alder Creek spring made it necessary to cut off this supply, and at present there is no use of the Alder Creek water at this point except at out barn and corral.

Traugers. Water is piped to the cabin from a nearby spring. Traugers is just off the Mineral King Road above Lookout Point. Formerly it was a private holding but was acquired by the Government.

Conifer Club. This is a private holding just off the Mineral King Road a short distance below Atwell Mill. There are approximately twenty cabins or buildings of various sorts and water is piped to these from nearby springs.

Grabtree Meadow. The new Public Works Program includes our estimate for a ranger station and barn at this point. Water may be piped a short distance from Whitney Creek, which drains into the Kern River.

Junction Meadow. A ranger station is estimated for this point in the new Public Works Program. Depending upon the exact location of the building, water can be piped from either Wallace Creek, which drains into the Kern River, or from the Kern River proper.

Little Baldy Fire Lookout. Plans are in course of preparation for construction of a fire lookout under Public Works at this point. There is a meadow approximately one-quarter mile below the peak and a test well was developed there last fall by CCC crews. It might be possible to supply the lookout tower by installing a pump at the meadow and providing necessary line to the tower. This is the only one of our five lookouts where there is any possibility of water being directly supplied: at all the other lookouts it must be packed in.

Mr. Diehl is leaving for your office tomorrow morning and can personally give you any additional information which you may desire on any of these developments.

The map which you sent is being returned and I suggest that if any additional notes are required thereon you have Mr. Diehl do the work while he is at the office.

Very truly yours,

Daniel J. Tobin,
Acting Superintendent.

CC: Director

02-26-1935: letter to director from acting superintendent regarding report on water supply

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF NATIONAL PARKS, BUILDINGS, AND RESERVATIONS
SEQUOIA NATIONAL PARK
SEQUOIA NATIONAL PARK, CALIF.

OFFICE OF
THE SUPERINTENDENT

February 26, 1935.

MAR 1 1935
KITTREDGE
BURNEY
EQUIPMENT
ACCOUNTS
Taylor
3/11
NICKEL
ROAD DIARY
JOB DIARY
ANSWERED

The Director,
National Park Service,
Washington, D. C.

Dear Mr. Director:

This is the report on water supply called for in your letter of February 7, 1935.

In Sequoia N tional Park the water supply condition for domestic and human need has been so far sufficient, even in the driest years, although there have been occasions, both at Giant Forest and Ash Mountain Headquarters, when the greatest economy had to be used to prevent shortage. But the increase in visitors and expansion of Ash Mountain headquarters area make it advisable for fire protection and future needs to rebuild distribution systems installed years ago.

As long as commercial interests are prevented from further inroads on the park watersheds, we can feel assured of sufficient water, with extension of present supplies.

Below are listed, in order of priority preference, answers to questions in your letter of February 7:

ASH MOUNTAIN AREA

1. Present source of supply - Alder Creek Springs. Reservoir and tank storage capacity - 200,000 gallons. Average daily supply from springs, November to May, inclusive, estimated 40,000 gallons; May to November, inclusive, 20,000 gallons.

2. Present supply sufficient for <u>domestic use only</u> of headquarters population. Future expansion, increase in personnel, and present fire protection and landscape improvement require definite increase of supply to not less than 100,000 gallons daily.

3. Additional supply may be obtained from Middle Fork of Kaweah River, some water rights to which are held by Southern California Edison Company. Park rights to take water should be cleared up. Also there are rights of irrigationists in valley to be considered.

4. At Ash Mountain Headquarters, No. Elsewhere, Yes, with extensions.

5. Yes. Refer to 3.

6. Construction of three mile pipe line to Edison Company flume intake. Approximate construction cost of pipe line $55,000, and new distribution system at Ash Mountain $20,000. Total $75,000.

7. Diversion of waters from Middle Fork of Kaweah River and East Fork of Kaweah by Southern California Edison Company for power development, and thence into canals and flumes for irrigation purposes, does not interfere with park needs. This does not interfere with possible location of fish hatcheries or retaining ponds in the park, several sites for which have been looked into by California State Fish and Game representatives.

8. There are no known records of the government's title. Refer to data relative lease of park lands and water to Mt. Whitney Power Co. (now Southern California Edison Co.) about 1911.

GIANT FOREST AREA

This includes Giant Forest Village, tourist free camps at Paradise, Sunset Rock, Firwood, Highland, and Hazelwood; and the concession areas, Giant Forest Lodge, Camp Kaweah, and Pinewood. The government summer utility operation has been moved from this area and is now located at Lodgepole Camp.

1. Present source of supply is Wolverton Creek brought to two 20,000 gallon wood storage tanks at Giant Forest through a four mile main pipe line, part of which is 6" riveted steel pipe, and the balance 5" wood pipe. Distribution through the area from the storage tanks is handled by galvanized pipe, dimensions from 3/4" to 3-1/2". Supply at present is ample for domestic and human need, but inadequate for fire protection to concession and government property. Source of supply is ample to provide fire protection and care for maximum demands by combining additional stream sources, constructing concrete storage tanks of 200,000 gallon capacity, and rebuilding distribution system.

2. No accurate measurement has been taken as to daily consumption and use, but with the open season May to October, inclusive, when we have peak days of 5000 or more visitors, we might assume a daily average of 2000 people, and 80,000 gallons of water average use. From November to April, inclusive, winter months, the average daily number would probably not exceed 100, or say 4,000 gallons of water. I do not think the average a good basis for comparative requirement except in a storage capacity. We should make provision for peak consumption and peak fire protection.

3. The Wolverton source of supply comes from an area that at one time was private holdings and was deeded to the park with certain restrictions not affecting domestic use of water. So. Cal. Ed.

4. Yes.

5. Silliman Creek could also be piped to a connection with the main line from Wolverton Creek to Giant Forest.

6. An estimate of approximately $56,000 has been submitted under the Public Works program for rebuilding mains, distribution and storage system.

7. The streams in this area are tributary to the Marble Fork and Middle Fork of the Kaweah River, and hence subject to certain water rights of the Southern California Edison Company. The season run off is sufficient not to require impounding in reservoirs.

8. The Wolverton area below source of supply would be a good location for fish retaining ponds.

LODGEPOLE AREA

At present this is our largest single free camp area and also the summer utility area for government maintenance operations. A water system was completed in 1934, providing ample supply for all purposes, camp and government use, except for about 100 camp areas in new sites laid out by ECW during 1934 season.

A rough estimate of $15,000 would be required to complete a main line connection between these camp areas and the storage tanks of the main supply.

The source of supply is Silliman Creek, where sufficient run off in the driest year (1934) has failed to show need of an impounding reservoir. Silliman Creek is also a tributary of the Marble Fork and Middle Fork of the Kaweah River.

Construction report and plans of the Lodgepole Camp water and sewer project should give any additional information or data desired.

DORST CREEK CAMP AREA

This is a proposed future camp area likely to be constructed during the season of 1935 by ECW.

1. Water supply is available from spring streams adjacent and will require construction of storage tanks and distribution pipe lines.

2. The supply available will be ample to provide water for domestic and sanitary needs for about 1000 camps.

3. Dorst Creek is a tributary to North Fork of the Kaweah River, and the status of water rights is undetermined.

4. Yes.

5. Yes. Dorst Creek and Cabin Creek.

6. Storage tanks and pipe line construction not surveyed, but will require at least $15,000.

7. No impounding reservoir is necessary. This is another good location for fish retaining ponds.

OUTLYING DISTRICTS

Hospital Rock is an old historical Indian land mark, at which point the concessionaire maintains a general store, curio shop and several overnight cabins. A ranger residence and camp sites for one dozen camps are also located here.

Water supply is provided from a spring stream across the Middle Fork of the Kaweah River and piped to a storage tank for distribution.

The area is small and has been improved to full capacity. No improvement of the present water system is necessary.

ATWELL RANGER STATION

The ranger residence is supplied with water from springs a short distance away. Northerly from the station less than 1/2 mile is a fine camp area developed by the Atwell CCC camp. This camp area and the present CCC camp, which can later be converted into tourist camp sites also, is supplied by a 2-1/2" main line with water from a small mountain stream.

For the present the pipe line is holding up all right, but the cheap second-hand pipe purchased by the army will probably need to be replaced inside of five years. If considered opportune to request funds at this time, the amount of $3000 would be ample to rebuild for permanent use.

WOLVERTON CAMP

Another possible camp location beyond Sherman Tree, embracing areas sufficient for several hundred camp sites. Parallel and adjacent to the Wolverton-Giant Forest main water line, these areas can be easily served from this main, and the construction might be included as a part of Giant Forest project, with the addition of $3000 for this portion.

BEARPAW RANGER STATION

Excellent spring water is available in the vicinity of this station, which is going to be an important trail point in our mountain area. A small gasoline pump, storage tank and galvanized water pipe will be needed for this location. The amount of $1000 should be ample for the project.

KERN RANGER STATION

The headquarters of the ranger in charge of this outlying section of the park. The area is also ideal for campers. Water supply can be obtained from Coyote Creek adjacent, and a gravity line can be cheaply constructed to serve all needs. The amount of $1000 would do the work.

KERN HOT SPRINGS

A spot midway in Kern Canyon between the north and south boundaries of the park, where it is a pleasure to travelers on the trail to bathe in hot mineral water. Conditions can be greatly improved by constructing concrete tiled basins with drains, and a suitable frame building enclosure, as the trail is alongside the springs. The amount of $5000 would put this in a very satisfactory condition.

Very truly yours,

DANIEL J. TOBIN,
Acting Superintendent.

DJT:MF

Copy to Mr. Kittredge.

02-07-1935: letter to superintendent from acting director regarding funds for needed and important additional developments in the

UNITED STATES

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

WASHINGTON

February 7, 1935.

The Superintendent,
Sequoia National Park,
California.

Dear Sir:

In view of the President's announced policy of expeditiously putting three and one-half million idle men to work on useful projects, I am naturally thinking about the possibilities of securing funds for really needed and important additional developments in the parks.

We have no assurance whatever of being able to obtain any appreciable sum for this purpose, and it is needless to say there will be a terrific avalanche of demands for many times all the money Congress makes available for that purpose, and the time of making and the really meritorious nature of the applications are of the utmost importance.

With that thought in view, I am writing to you and other western superintendents regarding the present and future water supply for your and all the other parks. It goes without saying that an abundant supply of good water is of the utmost importance to the future attractiveness, development and use of the parks, and, if the Government does not now own and have a clear title to that amount of water in every park, and at all seasons, a sufficient natural flow or ample reservoirs, conduits and other appliances for park needs, I am in hopes this may be an opportune time to acquire them.

Throughout the arid region, water is becoming more and more scarce and more and more valuable. While the public generally accepted with good nature the unprecedented drouth of last summer and fall, nevertheless, I am advised that there was considerable disappointment and some complaints about the adequacy of the use of water afforded the public in some of the parks.

I wish you would, as expeditiously as you reasonable can, furnish me with a report upon:

1. The sources of the supply and the condition of the present reservoirs, ditches, canals and other appliances for use of water in your park.

2. The average amount ~~either~~ either in acre feet or in cubic feet per second of time measurement of the annual amount of water used during each month of the tourist season.

3. What kind of title, if you know, has the Government to the waters in this park? Have the Governments priority rights to that water been been properly ajudicated in the courts and does the Government have water right decrees on record for those rights?

4. Is the present available amount of water sufficient in your judgment, in its present form, to fully supply the proper and convenient requirements for the health and comfort of all the visitors to the parks now and for future years, including bathing, sanitation and all other proper uses?

5. If not, are there other available sources for an additional and adequate supply?

6. If so, give me your best judgment upon the probable sources of additional water and the amounts and prodedure necessary to acquire it. That is, as to ditches, canals, flumes, reservoirs, etc., for strictly park needs and your rough estimate as to the cost of all.

7. Are the flood waters in the park all appropriated, is the run-off in the spring sufficient, if impounded in reservoirs, to supply the parks without requiring the Government to purchase additional water?

8. Give me such information or memoranda as you can readily obtain concerning the Government's record title to the water that we are using and hope to use. If convenient, furnish the books and pages and dated of the records. Of course, I do not want you to go into an exhaustive research.

Another matter, in addition to the above data, please give me your judgment as to the possibility, feasibility and desirability of putting in an up-to-date fish hatchery, with the necessary retaining ponds and other incidental appliances to additionally stock any streams or lakes

02-07-1935: letter to superintendent from acting director regarding funds for needed and important additional developments in the

that may afford some fishing possibilities for the park visitors. That kind of a development is a very attractive feature in the parks and I would like to know if these are practical in your park for that purpose.

We now have employed an attorney, Mr. Joseph E. Taylor, who is stationed at the San Francisco Office, and who will follow up with the various superintendents the necessary action to establish legal title to the waters required for proper administration of these areas.

Therefore, if any of the above developments are needed, I shall, as soon as possible, send Mr. Taylor and an engineer, if needed, to cooperate with you and make a detailed investigation and definite check-up upon which to make a formal application for funds sufficient for whatever development along the above lines we can furnish ample justification.

It is needless to say this information is confidential. We have no assurance of what amount of funds, if any, may be available for this purpose, and we do not want to create hopes that it may be utterly impossible to carry out, or cause the cost of additional water or rights-of-way or reservoir rights for park needs to be sky-rocketed in anticipation of any possible work of this nature.

I want this preliminary information from you as soon as possible for a starting point. Also, advise me, if you know, what, if anything, the Bureau of Fisheries is doing or contemplating doing in your park.

The report requested herein should be prepared in duplicate, one copy to be sent direct to this Office and one copy to the San Francisco Office.

Sincerely yours,

A.E. Demaray,
Acting Director.

SEQUOIA NATIONAL PARK

WATER SYSTEMS

Revised

Branch of Engineering
San Francisco, Calif.
February 25, 1935.

GENERAL:

The western portion of the Park is drained by Kaweah River which sinks in Tulare Lake Basin in Kings County.

The eastern portion is drained by Kern River, which flows into Buena Vista Lake Reservoir in Kern County.

A very small area at the south is drained by the North and Middle Forks of Tule River. Tule River sinks in Tulare Lake Basin in Kings County.

1. Ash Mountain (Existing) Dwg. SEQ.4981, 5062.
Source of Supply: Spring on Alder Creek, which is tributary to Middle Fork of Kaweah River.
System: Water impounded by dam in Alder Creek; 6" supply line; 50,000 gal. storage reservoir; 4" and 3" main; 2" and smaller laterals.
Supplies Park Headquarters, employees' residences, Utility Area, tree nursery, public campground and Ash Mountain CCC camp.

2. Ash Mountain (Proposed).
Source of Supply: Middle Fork of Kaweah River.
System: Diversion dam 3/4 mile above Potwisha; 6" and 4" supply line to existing reservoir at Ash Mountain; 6" main from reservoir.

3. Southern California Edison Co. (Existing) Privately owned hydro-electric plant.
Source of Supply: Middle Fork and Marble Fork of Kaweah River.
System: Diversion dams in both forks; flumes; penstock and power house located outside the boundary below Ash Mountain.

4. Potwisha CCC Camp (Existing). Possible future public campground.
Source of Supply: Southern California Edison Co. Marble Fork flume.
System: Wood storage tank and distributing lines.
Use: Approximately 7500 gal. per day, sanitary and domestic.

5. Hospital Rock (Existing) Dwg. SEQ. 3047B, 4602.
Source of Supply: Spring tributary to Middle Fork of Kaweah.
Supplies National Park Service buildings, public campground and operator buildings and camp.

6. Giant Forest (Existing) Dwg. SEQ.4920, 4973 and 4977.
Source of Supply: Wolverton Creek, which is tributary to Marble Fork of the Kaweah.
System: Diversion Dam; 6" steel pipe to Sherman Creek; 4" wood stave pipe to Giant Forest; storage tank; distributing mains.
Supplies operator and Government buildings, campgrounds, comfort stations, et cetera, and Wolverton CCC Camp.
Proposed: Plans, based on an estimated future use of 205,000 gal. per day; propose to increase the supply by diverting additional water from Wolverton Creek and tributaries; replacing the wooden supply line with 3" steel pipe; constructing two 100,000 gal. concrete storage tanks; laying 11,000 feet of 8", 6" and 4" C.I.mains, and extending lines to serve Moro Rock, Bear Hill, Soldier Camp and Crescent Meadow. (See report by R. W. Lincoln February, 1933, and Dwg. SEQ. 4939). For information as to flow of Wolverton Creek and tributaries and water diverted during season 1932, see Drawings SEQ. 4963 and 4964.

7. Lodgepole Utility Area and Campground (Existing) Dwg. SEQ.5021.
Source of Supply: Silliman Creek, which is tributary to Marble Fork.
System: Diversion Dam; 4" and 3" C.I. supply line; two 10,000 gal. storage tanks; 6", 4" and 3" C.I. mains; 3" and smaller laterals.
Supplies employees' residences, ranger station, utility area, campground and chlorinating plant for sewage.

8. South Tokopah and North Tokopah Campgrounds (Existing).
Source of Supply: Spring tributary to Marble Fork.
System: 10,000 gal. tank and distributing lines.

9. Cabin Creek (Proposed)
Source of Supply: Spring on Cabin Creek, which is tributary to Dorst Creek, which is tributary to North Fork of Kaweah River.
System: Approximately $\frac{1}{8}$ mile $1\frac{1}{2}$" G.I.pipe; 2000 gal. wood storage tank.
To supply ranger residence, public comfort station, et cetera.

10. Dorst Creek Campground (Proposed)
Source of Supply: Dorst Creek or tributary. Dorst Creek flows into North Fork of Kaweah River.
System: Concrete diversion dam; approximately $1\frac{1}{8}$ miles 4" and 3" C.I.main; one 5000 gal. and two 10,000 gal. redwood tanks; 1" and 3/4" laterals.

11. Colony Mill Ranger Station (Existing).

Source of Supply: Spring tributary to Cedar Creek, which is tributary to Yucca Creek, which is tributary to North Fork Kaweah River.
System: Piped by gravity to collecting tank; pumped to storage tank; piped from storage tank to Ranger Station.

12. Marble Fork CCC Camp (Existing).
Piped from a creek tributary to Marble Fork. This site was formerly a public campground and will undoubtedly become one again when the CCC camp is abandoned.

13. Moro Rock Parking Area (Existing)
Piped from Soldier Creek, which is tributary to Middle Fork of Kaweah River.
Supplies comfort station and drinking fountain.
It is proposed to extend Giant Forest water system to this point.

14. Crescent Meadow Parking Area (Existing).
Pumped from shallow well.
It is proposed to extend Giant Forest water system to this point.

15. Kern Canyon Ranger Station (Existing).
Piped from Coyote Creek, which is tributary to Kern River.

16. Moss Spring (Existing)

17. Slide Spring (Existing)
Springs along Generals Highway, tributary to Marble Fork, developed to make water available for cars.

18. Granite Spring (Existing)

19. Big Fern Spring (Existing)
Springs along Generals Highway, tributary to Middle Fork of Kaweah River, developed to make water available for cars.

20. Atwell Ranger Station (Existing)
Atwell CCC Camp and public campground supplied from same system.
Piped from stream tributary to East Fork of Kaweah River.

21. Yucca CCC Camp (Existing)
Piped from Yucca Creek.

22. Buckeye CCC Camp (Existing). Located outside Park.
Takes water from flume of Southern California Edison Company.

23. Shrieber Flat CCC Camp (Existing). Located outside Park.
Dwg. SEQ. 5111.
Source of Supply: North Fork of Kaweah River.
System: Pumped through 2" line to 10,000 gal. storage tank; 2" main with 3/4" laterals.

24. Cain's Flat CCC Camp (Existing). Located outside Park.
Piped from East Fork of Kaweah River or a tributary.

25. Bearpaw Meadow (Existing).
Piped from stream tributary to Middle Fork of Kaweah River.
Supplies operator camp for trail parties.
National Park Service barn located at this point is not connected with water system, but uses water from same source.

26. Salt Creek Ridge (Proposed). Outside Park.
Development of springs and water holes along truck trail, tributary to East Fork and South Fork of Kaweah River, for fire protection and to supply camping parties.

27. Salt Creek CCC Camp (Existing). Located outside Park.

28. Buckeye Flat Campground (Existing).

29. Hockett Ranger Station (Existing).

30. Quinn Ranger Station (Existing).

31. Lookout Point Ranger Station (Existing).

32. Willow Meadow Campground (Proposed).

33. Redwood Meadow Ranger Station (Existing).

34. West Boundary and Colony Mill Roads (Proposed).
It is proposed to develop three springs in this vicinity with a 1000 gal. storage tank at each for fire protection.

35. Oriole Lake (Existing). Privately owned.

36. Camp Lewis (Existing). Privately owned.

37. Clough Cave Ranger Station (Existing).

Ag 320

REPORT ON WATER RIGHTS

SEQUOIA NATIONAL PARK

The Western portion of Sequoia National Park, that is, the most of the area west of the line between ranges 30 and 31 E, as well as that east of said range line lying within range 31 E in T 18 S M.D.B.M, was withdrawn from public entry and set apart as forest reservation by the Acts of September 25, 1890 (26 Stat. 478) and October 1, 1890 (26 Stat. 650).

In so far as waters are concerned, a riparian right attached to the above-mentioned area as of those dates (See General Report - "Withdrawal From Public Entry"). The remainder of the area within the present boundaries of Sequoia National Park obtained a riparian right as of July 3, 1926 (44 Stat. 818). This would mean that park uses would be subject to valid appropriations made upon any public lands of the Federal Government under any laws of the United States and upon the same stream systems prior to that date. They would also probably be subject to any valid appropriations made upon State lands between 1911 and 1926 which involved the same streams (See pages 4, 6 - 7, General Report).

However, all present or contemplated park uses within this newer area are very small domestic uses, and are such that there is or will be no appreciable diminution in the water supply. The country is high country and only summer use for ranger stations, trail purposes and campers who travel afoot or horseback is possible. The policy of the National Park Service, to maintain this area in its wild state without providing access by means of roads, is an indication of the minute quantity of water which will be used in the future. The drainage of the eastern portion of this area is into the Kern River, which has its source within the park. The greater portion of this river drains through fairly rugged country in the park and in Sequoia National Forest, which is inaccessible except by trail. As it flows out into the foothills and into the lower San Joaquin Valley, it is extensively used for irrigation, partially by riparian owners but principally by appropriators.

Although the waters of the Kern River as well as those of the Kaweah River are extensively used for irrigation mainly in the Valley Region, it is not conceivable that the comparatively minute quantity diverted for park use will in any wise interfere with such lower uses.

Examination of reports at the office of the Division of Water Resources, even though based upon fragmentary information, indicates that early filings upon the waters of this river greatly exceeded the flow of the river. (See Bulletin No. 9, "Water Resources of Kern River and Adjacent Streams and Their Utilization" - State of California, pages 38-39; a publication of the State of California, Department of Engineering.) It is impossible to tell what

proportion of the filings were followed by beneficial use or have lapsed or for some other reason have failed to establish priority, but it is quite possible that sufficient rights were perfected as early as the 1880's so that there would be nothing left to which to attach a riparian right. Such being the case, it would seem that any park use of water from within the drainage area of the Kern River would be a technical infringement upon the rights of lower users; but, as stated above, that use is so small that damage cannot be shown and objections are not being made. If any attempt were made to file upon the waters of the Kern River on behalf of the Park Service, the effect probably would be that a multitude of protests would be filed by persons possessing rights having priority to that of the national park, and it would be demonstrated that there was no water available upon which the park could base a filing. The whole thing would thus be stirred up, whereas now there are no protests to these small uses and it would be impossible of proof for any protestant to show a damage which would justify an injunction against park officials.

If major developments should be proposed in this area at some time in the future, that would be time enough to consider the possibility of condemnation or purchase otherwise of water rights to support those developments.

The Kaweah River nominally constitutes a part of the San Joaquin River drainage, but actually the full flow is used by irrigationists directly or filters into the ground to supply an artesian basin in the Kaweah Delta, from which water is pumped for irrigation and municipal use. While no definite figures are available, from a comparison of the development of the area supplied by water from the Kaweah River to the development along the San Joaquin River, and assigning a similar proportion of early use of water for that development, it would seem that approximately half of the uses of water from the Kaweah River below the park line will probably be found to be based upon appropriative filings made after the formation of the Water Commission in 1914. The exact amount of appropriations having priorities earlier than 1890 can be determined only by a search of the records in the various counties through which the river and its tributaries flow, supplemented by individual inquiries among the persons making diversions. Prior to December, 1914, (the effective date of the Water Commission Act), an appropriative right might be established either by actual diversion and completed by application of the water to a beneficial use, or the right might be initiated by posting a notice at the point of diversion and be completed by filing a copy thereof in the office of the County Recorder and proceeding further as provided in the civil code. From this it will be seen that some early rights can exist without recordation, but any such rights undoubtedly constitute only a very small percentage of existing rights.

Because the riparian right of the United States was reserved to the park before the greater portion of the waters of the Kaweah River were diverted, it is not thought necessary to determine the individual diversions prior to the time of withdrawal, since the total of these would probably be the smaller percentage of the flow of the stream. Thus the exercise of a riparian right which would attach in so far as the remainder of the flow is concerned would

permit of reasonable park uses without interference with existing rights of the main stream.

The only places where appreciable park uses are now made are at Ash Mt., Giant Forest and Lodgepole, and to a minor degree at Potwisha and Hospital Rock. While the sources of supply are from different springs and streams, all of these springs and streams flow into a common stream, the Kaweah River, before passing outside the park boundaries, and they may therefore be considered as having a common source of supply in so far as water rights are concerned.

The diversion and uses being made are a valid exercise of a riparian right which attached in 1890, and are superior in right to any appropriative rights acquired since that date.

The same may be said of any reasonable extensions or additional uses. I understand it is proposed to supplement the Ash Mt. supply by obtaining water from the Middle Fork of the Kaweah River, and such an addition were put to a reasonable use would be within the park's power without any necessity for acquiring an additional right. However, it has been suggested by park authorities that if the Southern California Edison Company is to be allowed a reduction in the amount of compensation it is paying the United States for its permit to operate a power house, a condition could be imposed allowing the Park Service to divert water from their flume for use at Ash Mt. area, should such a plan prove advisable. Thus the Government would not be required to expend a larger sum of money for constructing a pipe line to a diversion point near the Company's diversion dam.

The agreement between the United States (by E. A. Hitchcock, Secretary of the Interior) and the Mt. Whitney Power Company, a corporation of California, under date of February 25, 1907, was made pursuant to the right of way act of Congress February 15, 1901 (31 Stat. 790), and to the permit granted under that Act on February 28, 1906. The agreement conveyed no right, easement or interest in, to or over park or public lands, and the use by the Company of the land rests solely upon the permission granted in the agreement. The use of the water by the Company is subject to subordination to any rule, order or regulation of the Secretary of the Interior covering use by the park. Consequently, additional uses for the park will in no way violate the terms of the agreement to which the Southern California Edison Company is a successor in interest.

The same general rules which would allow additional diversions at Ash Mt. would also apply to extensions proposed at Giant Forest and Lodgepole areas.

Proposed developments which may require appreciable amounts of water are Cabin Creek and Dorst Creek campground. The contemplated location for sources of supply for these areas on Dorst Creek and springs tributary thereto are within the park boundaries as established in October, 1890, and they therefore stand on an equal footing with those others within the original boundaries. The fact that no prior use was made does not affect the

right to make any reasonable use of that water when such a course is determined upon.

In regard to all other water projects within the older portion of the park, they may be classified under the same heading and the same language applied to them, with the exception of the Salt Creek Ridge development which is outside of the park. If this latter proposed development is to be made by the Park Service, an application should be filed with the State Division of Water Resources to appropriate the water, and either a use permit or right of way over the intervening land should be acquired. As to the other projects, it may be said that the spaces are limited and only small camping areas are available. The uses of water would be comparatively negligible and almost entirely for domestic purposes, and the uses are all within the riparian right. Possible limitations of the rights throughout the park imposed by existing private rights nearby are considered here~~2~~after.

PRIVATE HOLDINGS

Group 1. Two areas of 160 acres each partly inside the park boundary and partly outside, just north of Yucca Creek at its confluence with the North Fork of the Kaweah River, are owned respectively by A. B. Burdick and Harold Hengst. The Burdick property is used as a ranch and residence, the water from Yucca Creek is used to irrigate an apple orchard.

The Harold Hengst property and two other areas of 160 acres each, owned by M. E. Hengst and Walter Braddock and M. E. Hengst, are used only for grazing and some water from the North Fork is used for live stock. However, the only Government use now made or proposed in this area is that of the CCC Camp located partially on a portion of these private holdings.

Neither of these present uses conflicts with the other, but because of a possibility that a Dude Ranch might be established on these private areas should the Government fail to purchase them for addition to the park, it would be wise to have a filing made with the proper State authorities in the name of the United States to protect the CCC uses.

Group 2. A tract of 320 acres within the park, being the E 1/2 of the N/E 1/4 and the N 1/2 of the S/E 1/4 of S 7, and the S/W 1/4 of Section 8, all in T 17, S,R 30 E, M.D.B.M, is owned by the Oriole Lodge Co. This area is used by members for summer residence, and water for domestic uses is obtained from Squirrel Creek, a tributary of the East Fork of the Kaweah River. No park uses are made of this area and none are contemplated, consequently there is no conflict in water rights and no necessity for any apportionment in time of low water.

Two other tracts which are contiguous to the Oriole Lodge Company's property are owned by Geo. L. Reese (44.65 acres) and Mrs. Cora Williams and J. Luther Davis (160 acres). The former is not on any stream system and no use is made of the property except for a truck trail. The area

is steep and unsuited to agricultural purposes. The Williams-Davis property supports a small apple orchard but only week-end use is made of the property, and only a small use of water. Park use of this area is confined to the use of the truck trail leading through the property to the lookout. Although there has been an intimation from the husband of Mrs. Williams that unless they can sell the Williams - Davis property for $2300 they will let the bank foreclose on the outstanding mortgage, there is little possibility of any conflict in use of the water as between the Government and any successors to the present owners, and the rights would be correlative. (See General Report "The Riparian Right").

Group 3. There is another group of private holdings in the vicinity of the East Fork Road. The Conifer Club now owns 160 acres with title recorded under the name of Edgar Kirk of Exeter, Calif. Approximately twenty buildings are supplied with water piped from springs tributary to the East Fork of the Kaweah River, but the water is used merely for domestic purposes and no park use from the same source of supply is contemplated.

Another 40 acres, divided into four separate tracts, is owned by the Estate of Ira Grissman (10 acres); C. B. Brown, W. V. Baird and G. G. Baldan jointly (10 acres); Mary Brown and Frank Atwood (10 acres); and J. McFadden and J. Brill (10 acres). This area procures water from a small unnamed stream but only domestic use is possible because of the steepness of the country. Inasmuch as park use is not contemplated, interference with the private users is not necessary.

Group 4. A tract of land consisting of 160 acres in and near Cahoon Meadows is owned by the McClure Corporation, Kate E. Hannah and Cora E. Miller. This land, located in the S/W 1/4 of S 2 and parts of Sections 3, 10 and 11, all in T 18 S, R 30 E, M.D.B.M., is partially meadow and partially timber land. It is accessible only by trail and probably its only use other than as summer residence would be for grazing purposes. Any use of water from Horse Creek, a tributary of the East Fork of the Kaweah River, would not interfere with park use either present or prospective.

From the findings made in connection with the use of water in Sequoia National Park, it appears that all contemplated future developments fall within a valid exercise of the park's riparian right, and there should be no necessity for enlisting local private cooperation for the purpose of protecting the Government's right or securing additional rights.

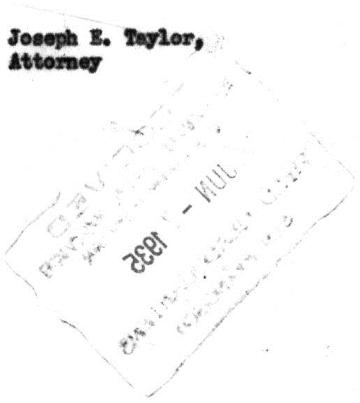
Because of the fact that all the rivers to which the park streams are tributary are utilized for irrigation and other beneficial uses in their entirety, that is, the total low flow and practically all of the flood flow,

any attempts to make filings for additional water on behalf of Sequoia National Park would avail the park nothing. If the time should come when the riparian right would not be adequate for all park uses, purchase or condemnation of additional rights would be necessary. However, that step should not be taken until essential, and it is not thought that the necessity will ever arise.

Respectfully submitted,

Joseph E. Taylor,
Attorney

JET-FLD



Sheet 1 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-2- Location (By Township & Range or Other)	-3- Source of Supply (If a Spring, name Stream which is Trib.)	-4- Location of Point of Diversion	-5- Places Where Water is Used	-6- Nature of Use (Domestic, Sanitary, Fire, etc.)	-7- Method of Diversion	-8- Cond. of System	-9- Place, Amount and Condition of Return. Is there Pollution?
Unsurveyed T16S R29E	Spring tributary to Alder Creek.	Unsurveyed T16S, R29E	Park Hdqtrs., Residences, Utility Area, Camp Ground.	Domestic, Sanitary Fire Protection, Lawn Sprinkling	Dam and Pipe Line	Good	Middle Fk. Kaweah Riv. Indirect Return No Pollution
Unsurveyed T16S, R29E	Middle Fork Kaweah Riv.	Unsurveyed T16S, R29E	Park Hdqtrs., Residences, Utility Area, Camp Ground	Domestic, Sanitary, Fire Protection, Lawn Sprinkling	Dam and. Pipe Line	—	" " " "
Sec. 4 T17S, R29E	Middle & Marble Forks of Kaweah Riv.	Unsurveyed T16S, R29E	Hydroelectric Plant	Power	Dam and Flumes	Good	Middle Fk. Kaweah Riv. No pollution
Unsurveyed T16S, R29E	Calif. Ed. Co. Marble Fork Flume	Unsurveyed T16S R29E.	Potwisha CCC Camp	Domestic, Sanitary	Pipe	Good	Marble Fk. Kaweah Riv. Indirect Return Possible Pollution
Unsurveyed T16S R29E	Spring tributary to Middle Fk. Kaweah	Unsurveyed T16S, R29E	Ranger Sta., Comp Ground, Operator Buildings.	Domestic Sanitary Fire protection	Pipe	Good	Middle Fk. Kaweah Riv. Indirect Return Possible Pollution
Giant Forest and vicinity	Wolverton Creek	Unsurveyed T15S, R30E	Govt. & Operator Bldgs., Camp Ground, Comfort Stations,	Domestic, sanitary Fire Protection	Dam and pipe line.	Fair	Marble Fk. Kaweah Riv. Indirect Return No Pollution
Unsurveyed T15S, R30E	Silliman Creek	Unsurveyed T15S, R30E	Govt. Residential & Utility Areas Camp Ground, Comfort Stations	Domestic sanitary Fire Protection	Dam and pipe line	Good	" " "
Unsurveyed T15S, R30E	Spring tributary to Marble Fork	Unsurveyed T15S, R30E	Camp Ground	Domestic Sanitary	Pipe line	Good	" " " Possible Pollution
Unsurveyed T15S, R29E	Dorst Creek	Unsurveyed T15S, R29E	Ranger Sta., Comfort Sta. Future Camp Ground.	Domestic, Sanitary		—	No. Fork Kaweah Riv. Indirect Return Possible Pollution
Unsurveyed T15S, R29E	Springs tributary to Dorst Cr.	Unsurveyed T15S, R29E	Future Camp Ground	Domestic Sanitary		—	" " " "
Unsurveyed T16S, R29E	Spring tributary to Cedar Creek	Unsurveyed T16S, R29E	Ranger Station	Domestic	Pipe line.	Good	Small Use Indirect Return No Pollution
Unsurveyed T15S, R29E	Creek tributary to Marble Fork.	Unsurveyed T15S, R29E	CCC Camp. Future Camp Ground	Domestic Fire Protection	Storage dam. Pipe line	Fair	Marble Fk. Kaweah Riv. Indirect Return Possible Pollution
Unsurveyed T16S, R29E	Soldier Creek	Unsurveyed T16S, R29E	Parking Area.	Drinking water Sanitary.	Pipe line	Good	Middle Fk Kaweah Riv Indirect Return No Pollution
Unsurveyed T16S, R30E	Well	Unsurveyed T16S, R30E	Parking Area.	Drinking water	Hand Pump.	Good	No Pollution
Sec. 21 T18S, R33E	Coyote Creek	Sec. 21 T18S, R33E	Ranger Station Future Camp Ground	Domestic	Pipe line	Good	Kern Riv. Indirect Return Possible Pollution
Unsurveyed T16S, R29E	Spring tributary to Marble Fork	Unsurveyed T16S, R29E	Roadside	For Autos	Collecting Basin	Good	Small Use No Pollution
Unsurveyed T16S, R29E	Spring tributary to Marble Fork	Unsurveyed T16S, R29E	Roadside	For Autos	Collecting Basin	Good	small Use " "

Note: In answering, please refer to Letter of the Director under Date of Feb. 7, 1935.
When space in column is inadequate, write information on separate sheet and indicate in column by "Note A", "Note B", etc.

06-00-1932: tabulation of data for study of water rights

Sheet 2 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-10- Give Ownership of Water System	-11- Approx. Date Park Use Commenced-Use Continuous or Interrupted?	-12- Actual amount of Park Use during Tourist Season Unit Used Thousand Gallons daily												-13- Storage Cap. of System (Gal. or Acre Ft)	-14- Has Gov't. Water Rgt? Give Quant.	-15- Recorded			
		Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.			Where	Book	Page	Date
National Park Service.	1920	20	20	20	25	30	35	40	40	40	30	20	20	Dam 140,000 Res. 50,000 Gal	yes				7
National Park Service.		50	50	50	60	80	100	100	100	100	80	60	50	170,000 Gal per day	"				1
Southern California Edison Co.															No				1
National Park Service	May 1933	Approx. 7500 gal. per day.												5,000 Gal Tank	5				
National Park Service		1	1	1	1	1	1	1	1	1	1	1	1	2,000 Gal Tank	yes				1
National Park Service.						(Year 1932)			0.25	0.25	0.17	Sec. Ft.		2 Tanks 40,000 Gal.	yes				1
National Park Service	June 1934	1	1	1	1	5	10	15	15	10	5	1	1	2 Tanks 20,000 Gal.	yes				1
National Park Service		x	x	x	x	1	2	2	2	1	x	x	x	Tank 10,000 Gal.	yes				
National Park Service.					Very small Ranger Quarters Only									1,000 Gal Tank	yes				
National Park Service		x	x	x	x	Possible 30	30	30	Average 30	30	x	x	x	30,000 Gal storage	"				
National Park Service			Ranger Quarters Only											500 Gal tank	"				
National Park Service	May 1933	x	x	x	Approximate x	10	10	10	10	10	10	x	x	Dam 15,000± Gal.	"				
National Park Service.		x	x	x	x	Sanitary Purpose Only						x	x	2,000 Gal Tank	"				
National Park Service.		x	x	x	x		"			"		x	x	None	"				
National Park Service		x	x	x	x	Very small Ranger Quarters only						x	x		"				15
National Park Service			Automobile Service only												"				16
National Park Service					"				"		"			"	"				

06-00-1932: tabulation of data for study of water rights, page 2cont

Sheet 3 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-16- Government Rights Subject to What Known Priorities?	-17- Give so far as Known Private Holdings Possibly Affected by Park Use of Water.	-18- Total Measured Flow of Stream or Spring at Point of Diversion. Unit Used.												-19- Is Supply Adequate?		-20- If Additional Supply Necessary, Give:	
		Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Yes	No	Probable Source	Amount
	None	← 40,000 gal. per day or .062 Sec. Ft. →				← 20,000 g.p.d. or .031 sec. ft →						40,000 g.p.d. or .062 sec. ft.		No	No	Middle Fk. Kawcaw Riv.	1200 Gals
	"		No data											Yes	Yes	"	Ample
	"	303	285	1935 360	daily Sec. ft. 27th day of month 1934 804	1099	310	59	43	30	24	172	116				
	"	44	65	1935 104	daily Sec. ft. 27th day of month 1934 473	789	52	20	5	17	18	31	31				
	"	No definite data. Not less than 3,000 gallons daily												Yes	Yes	Springs	Ample
	"				(Year 1932)			0.72	0.55	0.33	Sec. Ft.			Yes	No	Additional diversion and storage.	Ample
	"	No definite data. Not less than 100,000 gallons daily.												Yes	Yes	Silliman Creek	Ample
	"	No definite data.												"	"	Springs Streams	Ample
	"	"	"			"								"	"	Cabin Creek	"
	"	"	"			"	Not less than 100,000 gallons daily							"	"	Springs Streams	"
	"	"	"			"	very small							"	Yes	Springs	Ample
	"	"	"			"	Not less than 25,000 gallons daily							"	Yes	Suwanee Creek	Ample
	"	"	"			"								"	Yes	Springs	Ample
	"	"	"			"								"	Yes	Well	Ample
	"	"	"			"								"	"	Coyote Creek	"
	"				very	small								"	"	Springs	"
	"		No flow after midsummer											No	No		

06-00-1932: tabulation of data for study of water rights, page 3cont

Park or Monument: Sequoia N. P. (1) — Sheet 4 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-1- General Name of Water System	-21- Procedure Necessary to Secure it. Probable Cost etc. (See Quest. 6 of Dir. Letter 2-7-35)	-22- Flood Waters (See Quest. 7 of Dir. Letter 2-7-35)	-23- Fish Hatcheries (See paragraph following Quest. 8 of Dir. Letter 2-7-35)	-24- If any Water is Used for Agricultural Purposes. Give legal Descrip. & Acr. of Land Irrig. near as possible	-25- If Water is Used for Power, Give: Nature of Works	Head	Amount of Water Utilized	Use to Which Power is to be Applied.
1 Ash Mountain	Const. 3 miles of pipe line			None				/
2 Ash Mountain (Proposed)				"				/
3 Southern California Edison Co.				"	Dams, flumes, pipestock, hydroelect. plant			Commercial electricity /
4 Potwisha CCC Camp				"				
5 Hospital Rock				"				/
6 Giant Forest				"				/
7 Lodgepole				"				/
8 Tokopah Camp Grounds				"				
9 Cabin Creek (Proposed)				"				
10 Darst Creek (Proposed)			Possible	"				
11 Colony Mill				"				
12 Marble Fork Bridge				"				
13 Moro Rock				"				
14 Crescent Meadow				"				
15 Kern Ranger Station				"				
16 Moss Spring				"				
17 Slide Spring				"				

P.G.-5110

06-00-1932: tabulation of data for study of water rights, page 4cont

Sheet 1 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-2- Location (By Township Range or Other)	-3- Source of Supply (If a Spring, name Stream which is Trib.)	-4- Location of Point of Diversion	-5- Places Where Water is Used	-6- Nature of Use (Domestic, Sanitary, Fire, etc.)	-7- Method of Diversion	-8- Cond. of System	-9- Place, Amount and Condition of Return. Is there Pollution?
Unsurveyed T16S, R29E	Spring tributary to Middle Fk. Kaweah	Unsurveyed T16S, R29E	Roadside	For Autos	Collecting Basin	Good	Small Use No Pollution
Unsurveyed T16S, R29E	Spring tributary to Middle Fk. Kaweah	Unsurveyed T16S, R29E	Roadside	For Autos	Collecting Basin	Good	" "
Unsurveyed T17S, R30E	Springs tributary to E. Fk. Kaweah	Unsurveyed T17S, R30E	Ranger Station	Domestic	Pipe line	Good	Small Use No Pollution
Sec. 12 T16S, R28E	Yucca Creek	Sec. 12 T. 16S, R28E	CCC Camp	Domestic Fire protection	Pipe line	Fair	North Fk Kaweah Riv Indirect Return Possible Pollution
Sec. 4 T17S, R29E	Flume of Calif. Edison Co	Sec. 4 T17S, R29E	CCC Camp	Domestic Fire protection	Pipe line	Fair	Middle Fk Kaweah Riv. Indirect Return Possible Pollution
Sec. 23 T16S, R28E	North Fk. Kaweah River.	Sec. 23 T16S, R28E	CCC Camp	Domestic, Fire protection	Pump, Pipe line	Fair	No. Fk. Kaweah Riv Indirect Return Possible Pollution
T17S, R29E	Tributary of E. Fk. Kaweah Riv.	T17S, R29E	CCC Camp	Domestic Fire Protection	Pipe line	Fair	East Fk Kaweah Riv. Indirect Return Possible Pollution
Unsurveyed T15S R31E	Spring tributary to Middle Fk. Kaweah	Unsurveyed T15S, R31E	Operators trail camp.	Domestic	Pipe line	Good	Small Use No Pollution
T17 & 18S R29E	Springs trib. to E. & S. Forks of Kaweah	T17 & 18S R. 29E	Along truck trail	Fire protection, Domestic	None.	-	" "
T17S, R28E	Tributary of Salt Cr.	T17S, R28E	CCC Camp	Domestic, Fire protection	Pipe line	Fair	X X
Unsurveyed T16S R29E	Middle Fork of Kaweah River	Unsurveyed T16S, R29E	Camp ground	Domestic	Pipe line	Good	Middle Fk. Kaweah Riv No Pollution
Unsurveyed T18S, R31E	Well	Unsurveyed T18S, R31E	Ranger Station	Domestic	Hand pump	Good	Small Use " "
Unsurveyed T18S, R31E	Tributary of Soda Cr.	Unsurveyed T18S, R31E	Ranger Station	Domestic	Spring	Fair	" " "
Unsurveyed T17S, R30E	Spring tributary to E. Fk. Kaweah Riv.	Unsurveyed T17S, R30E	Ranger Station	Domestic	Hauled	-	X X
Unsurveyed T15S, R30E	Tributary of Silliman Cr.	Unsurveyed T15S, R30E	Camp Ground	Domestic	Pipe line	-	Silliman Creek Indirect Return No Pollution
Unsurveyed T16S, R31E	Cliff Cr.	Unsurveyed T16S, R31E	Ranger Station	Domestic	Pipe line	Fair	Small Use " "
T16S R28 & 29E	Springs tributary to N. Fk. Kaweah Riv.	T16S. R28 & 29E	Roadside	Fire protection	Pipe lines	Fair	" "

Note: In answering, please refer to Letter of the Director under Date of Feb. 7, 1935.
When space in column is inadequate, write information on separate sheet and indicate in column by "Note A", "Note B", etc.

06-00-1932: tabulation of data for study of water rights, page 5cont

Sheet 2 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service,
Office of the Chief Engineer
San Francisco, Calif.

-10- Give Ownership of Water System	-11- Approx. Date Park Use Commenced-Use Continuous or Interrupted?	-12- Actual amount of Park Use during Tourist Season Unit Used__Gallons daily_ Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	-13- Storage Cap. of System (Gal. or Acre Ft)	-14- Has Govt. Water Rgt? Give Quant.	-15- Recorded Where	Bk.	Pg.	Date
National Park Service	Interrupted			very	small									1,000	yes				
National Park Service	Continuous			"		"								1,000	"				
National Park Service	"			"		"								500	"				
National Park Service	" 1933	< 10,000	gallons			daily						→		5,000	"				21
	1934	< "			"		"					→		Tank 5000 gal.	No				
	1933	< "			"		"					→		Tank 10,000 Gal.	No				
	1933	< "			"		"							Tank 5000 (Gal.	No				
	continuous			very	small									None	yes				
	interrupted			"			"							Reservoirs 1000 – 5000	No				
	continuous 1934	< 10,000	gallons			daily								Tank 5000 Gal	No				
National Park Service	continuous 1934				very	small								None	yes				
National Park Service					"		"							Well	"				
National Park Service					"		"								"				
National Park Service					"		"								"				
National Park Service	continuous	< 100,000	gallons			daily						→			"				
National Park Service					very	small									"				33
National Park Service						"		"						3 Tanks 1000 Gal. each	"				

06-00-1932: tabulation of data for study of water rights, page 6cont

Sheet 3 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-16- Government Rights Subject to What Known Priorities?	-17- Give so far as Known Private Holdings Possibly Affected by Park Use of Water.	-18- Total Measured Flow of Stream or Spring at Point of Diversion. Unit Used.												-19- Is Supply Adequate?		-20- If Additional Supply Necessary, Give:	
		Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Yes	No	Probable Source	Amount
	None		No flow after midsummer											No	No		
	"		No data											yes	yes	Springs	ample
	"		"		"									"	"	"	"
	"		"		"									"	"	Yucca Creek	"
	"		"		"									"	"	So. Calif. Edison flume	"
	"		"		"									"	"	North Fk Kaweah Riv	"
	"		"		"									"	"	East Fork Kaweah Riv	"
	"		"		"									"	"	Springs	"
	"		"		"	No flow after Midsummer								?	?	Streams	
	"		"		"									yes	yes	So. Calif. Edison flume	"
	"		"		"									"	"	Middle Fk Kaweah Riv	"
	"		"		"									"	"	Well	"
	"		"		"									"	"	Springs	?
	"		"		"									?	?	?	?
	"		"		"									yes	yes	Silliman Creek	ample
	"		"		"									"	"	Cliff Creek	"
	"		"		"									"	"	Creek Source	"

06-00-1932: tabulation of data for study of water rights, page 7cont

Park or Monument: Sequoia N.P. (3)

Sheet 4 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-1- General Name of Water System	-21- Procedure Necessary to Secure it. Probable Cost, etc. (See Quest. 6 of Dir. Letter 2-7-35)	-22- Flood Waters (See Quest. 7 of Dir. Letter 2-7-35)	-23- Fish Hatcheries (See paragraph following Quest. 8 of Dir. Letter 2-7-35)	-24- If any Water is Used for Agricultural Purposes, Give legal Descrip. & Acr. of Land Irrig. near as possible	-25- If Water is Used for Power, Give: Nature of Works	Head	Amount of Water Utilized	Use to Which Power is to be Applied.
18 Granite Spring				None				
19 Big Fern Spring				"				
20 Atwell Ranger Sta.				"				
21 Yucca CCC Camp.				"				
22 Buckeye CCC Camp (Outside Park)				"				
23 Shrieber Flat CCC Camp (Outside Park)				"				
24 Cain's Flat CCC Camp (Outside Park)				"				
25 Bearpaw Meadow				"				
26 Salt Cr. Ridge (Proposed. Outside Park)				"				
27 Salt Cr. CCC Camp (Outside Park				"				
28 Buckeye Flat			Possible	"				
29 Hockett Ranger Sta.				"				
30 Quinn Ranger Sta.				"				
31 Lookout Ranger Sta.				"				
32 Willow Meadow Camp Ground (Proposed)				"				
33 Redwood Meadow				"				
34 West Boundary and Colony Mill Roads				"				

P.G. 5110

06-00-1932: tabulation of data for study of water rights, page 8cont

Sheet 1 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-2- Location (By Township & Range or Other)	-3- Source of Supply (If a Spring, name Stream which is Trib.)	-4- Location of Point of Diversion	-5- Places Where Water is Used	-6- Nature of Use (Domestic, Sanitary, Fire, etc.)	-7- Method of Diversion	-8- Cond. of System	-9- Place, Amount and Condition of Return. Is there Pollution?
Unsurveyed T17S, R30E	Tributaries of E. Fk. Kaweah River	Unsurveyed T17S, R30E	Summer homes	Domestic	Pipe	Fair	Indirect Return No Pollution
Sec. 21, T18S, R33E	Coyote Creek	Sec. 21 T18S, R33E	Hotel	Domestic	Ditch	Fair	Kern River Indirect Return Possible Pollution
Unsurveyed T18S, R30E	S. Fk. Kaweah Riv.	Unsurveyed T18S, R30E.	Ranger Station	Domestic	Pipe line	Fair	Small Use Indirect Return No Pollution
Sec. 9, T17S, R33E	Kern River	Sec. 9 T17S, R33E	Patrol Station	Domestic	Dipped	-	Small Use No Pollution
Unsurveyed T15S, R29E	Spring tributary to Cow Cr.	Unsurveyed T15S, R29E	Patrol Station	Domestic	Dipped	-	Small Use No Pollution
Unsurveyed T17S, R30E	Stream tributary to E. Fk. Kaweah Riv.	Unsurveyed T17S, R30E	Camp Ground	Domestic	Pipe line	Good	East Fk. Kaweah Riv. Indirect Return Possible Pollution
Unsurveyed T15S R31E	Spring tributary to Middle Fk. Kaweah	Unsurveyed T15S, R31E	Future Ranger Station	Domestic	Pump	Good	Small Use No Pollution
Sec. 4 T17S. R33E	Hot springs tributary to Kern Riv.	Sec. 4 T17S, R33E	Kern Hot Springs	Recreational	Pipe line	-	Indirect Return Possible Pollution
Unsurveyed T16S, R29E	Middle Fork Kaweah River	Unsurveyed T16S, R29E	CCC Camp	Domestic, Fire protection	Pump and Pipe line	Fair	Middle Fk. Kaweah Riv. Indirect Return Possible Pollution
Unsurveyed T17S, R 30E	Spring tributary to E. Fk. Kaweah Riv.	Unsurveyed T17S, R 30E	Shelter Cabin	Domestic	Pipe line	Fair	Small Use No Pollution
Unsurveyed T15S, R30E	Spring tributary to Marble Fork	Unsurveyed T15S R30E	Abandoned Contractor's Camp Future camp ground	Domestic	Pipe line	Poor	Marble Fk Kaweah Riv Indirect Return No Pollution
Unsurveyed T15S, R29E	Halstead Creek	Unsurveyed T15S, R29E	Picnic ground	Domestic	Pipe line	Good	Small Use No Pollution
Unsurveyed T17S, R30E	Springs tributary to E. Fk. Kaweah.	Unsurveyed T17S, R30E	Squatter cabins	Domestic	Various	Fair	Indirect Return Possible Pollution
Unsurveyed T15S R29E	Spring tributary to Dorst Cr.	Unsurveyed T15S, R29E	Checking station, Comfort station	Domestic Sanitary	Pipe line	-	Small Use Indirect Return No Pollution
Unsurveyed T17S, R30E	Spring tributary to E. Fk. Kaweah.	Unsurveyed T17S, R30E	Shelter Cabin	Domestic	Pipe line	Fair	Small Use No Pollution
Unsurveyed T17S, R30E	Spring tributary to E. Fk. Kaweah	Unsurveyed T17S, R30E	Summer cabins	Domestic	Pipe line	Fair	Indirect Return Possible Pollution
Unsurveyed T16S, R33E	Whitney Creek	Unsurveyed T16S, R33E	Future Ranger Station	Domestic	Pipe line	-	Small Use Indirect Return No Pollution

Note: In answering, please refer to Letter of the Director under Date of Feb. 7, 1935.
When space in column is inadequate, write information on separate sheet and indicate in column by "Note A", "Note B", etc.

06-00-1932: tabulation of data for study of water rights, page 9cont

Sheet 2 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-10- Give Ownership of Water System	-11- Approx. Date Park Use Commenced-Use Continuous or Interrupted?	-12- Actual amount of Park Use during Tourist Season Unit Used												-13- Storage Cap. of System (Gal. or Acre Ft)	-14- Has Govt. Water Rgt? Give Quant.	-15- Recorded			
		Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.			Where	Book	Page	Date
Private owners	Interrupted		No	data										No data	$				
Jules Conterno	"					very small								None	yes				
National Park Service	Continuous					"		"						"	"				
National Park Service	Interrupted					"		"						None	"				
National Park Service	"					"		"						None	"				
National Park Service	"					"		"						"	"				
National Park Service	"					"		"						"	"				41
National Park Service	"					"		"						"	"				
National Park Service	Oct 1934	<	10,000 gal.			>	Camp closed					<	10,000 gallons?	Tank 5000 Gal.	yes				
National Park Service	Interrupted				very small									None	"				
" " "	"					< summer months only 10,000 gal. daily >								Tank 2000 Gal.	"				
National Park Service	"					< summer mon. only >		very small						None	"				
"	"					<	"		"	"	>			$	"				
National Park Service	"					<	"		"	"	>			Tank 2,000 gal	"				
National Park Service	"				very small									None	"				49
Private	"					< no data								$	$				50
National Park Service	"				very small									None	yes.				51

06-00-1932: tabulation of data for study of water rights, page 10cont

Sheet 3 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-16- Government Rights Subject to What Known Priorities?	-17- Give so far as Known Private Holdings Possibly Affected by Park Use of Water.	-18- Total Measured Flow of Stream or Spring at Point of Diversion. Unit Used.												-19- Is Supply Adequate?		-20- If Additional Supply Necessary, Give:	
		Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Yes	?	Probable Source	Amount
	None			No data										yes	?	springs	Sample
	"			"		"								"	yes	Coyote Creek	"
	"			"		"								"	"	South Fk Kaweah Riv	"
	"			"		"								"	"	Kern Riv.	"
	"			"		"								"	?	springs	"
	"			"		"								"	yes	springs Streams	"
	"			"		"								"	"	springs	"
	"			"		"								"	"	Kern Riv.	"
	"			"		"								"	"	Middle Fk. Kaweah Riv	"
	"			"		"								"	"	Springs	"
	"			"		"								"	"	springs	"
	"			"		"								"	"	"	"
	"			"		"								?	?	?	?
	"			"		"								Yes	yes	springs	Sample
	"			"		"								"	"	"	"
	"			"		"								?	?	?	? 50
	"			"		"								Yes	Yes	Whitney Creek	Sample

06-00-1932: tabulation of data for study of water rights, page 11cont

Park or Monument: Sequoia N.P. (3)

Sheet 4 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-1- General Name of Water System	-21- Procedure Necessary to Secure It. Probable Cost etc. (See Quest. 6 of Dir. Letter 2-7-35)	-22- Flood Waters (See Quest. 7 of Dir. Letter 2-7-35)	-23- Fish Hatcheries (See paragraph following Quest. 8 of Dir. Letter 2-7-35)	-24- If any Water is Used for Agricultural Purposes, Give legal Descrip. & Acr. of Land Irrig. near as possible	-25- If Water is Used for Power, Give: Nature of Works	Head	Amount of Water Utilized	Use to Which Power is to be Applied.
35 Oriole Lake (Privately owned Summer homes)								
36 Camp Lewis (private)								
37 Clough Cave Ranger Station								
38 Chagoopa Falls Patrol Station								
39 Hidden Spring Patrol Station								
40 Atwell Camp Ground								
41 Barpow Ranger Sta. (Proposed)								
42 Kern Hot Springs (Proposed)								
43 Ash Mountain CCC Camp								
44 Slapjack Cabin								
45 Red Fir Camp								
46 Halstead Meadow								
47 Cabin Cove								
48 Lost Grove (Proposed)								
49 Traugers								
50 Conifer Club (Private)								
51 Crabtree Meadow (Proposed)								

P.G. 5110

06-00-1932: tabulation of data for study of water rights, page 12cont

Sheet 1 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-2- Location (By Township, Range or Other)	-3- Source of Supply (If a Spring, name Stream which is Trib.)	-4- Location of Point of Diversion	-5- Places Where Water is Used	-6- Nature of Use (Domestic, Sanitary, Fire, etc.)	-7- Method of Diversion	-8- Cond. of System	-9- Place, Amount and Condition of Return. Is there Pollution?
Unsurveyed T15S, R33E	Kern River or tributary	Unsurveyed T15S, R33E	Future Ranger Station	Domestic	pipe line	-	Small Use No Pollution
Unsurveyed T15S, R29E	Possibly a well	Unsurveyed T15S, R29E	Fire Lookout	Domestic	Pump and pipe line	-	Small Use No Pollution

Note: In answering, please refer to Letter of the Director under Date of Feb. 7, 1935.
When space in column is inadequate, write information on separate sheet and indicate in column by "Note A", "Note B", etc.

06-00-1932: tabulation of data for study of water rights, page 13cont

Sheet 2 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-10- Give Ownership of Water System	-11- Approx. Date Park Use Commenced-Use Continuous or Interrupted?	-12- Actual amount of Park Use during Tourist Season Unit Used												-13- Storage Cap. of System (Gal or Acre Ft)	-14- Has Govt. Water Rgt? Give Quant.	-15- Recorded			
		Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.			Where	Book	Page	Date
National Park Service	Interrupted				No data									None	yes				
National Park Service	"				"		"							"	"				

06-00-1932: tabulation of data for study of water rights, page 14cont

Sheet 3 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-16- Government Rights Subject to What Known Priorities?	-17- Give so far as Known Private Holdings Possibly Affected by Park Use of Water.	-18- Total Measured Flow of Stream or Spring at Point of Diversion. Unit Used.												-19- Is Supply Adequate?		-20- If Additional Supply Necessary, Give:	
		Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Yes	No	Probable Source	Amount
	None				No	data								yes	yes	Kern Riv	ample
	"				"	"								yes	yes	Well	"

Park or Monument: Sequoia N.P. (4)

Sheet 4 of 4

TABULATION OF DATA FOR STUDY OF WATER RIGHTS

National Park Service
Office of the Chief Engineer
San Francisco, Calif.

-1- General Name of Water System	-21- Procedure Necessary to Secure it. Probable Cost etc. See Quest. 6 of Dir. Letter 2-7-35	-22- Flood Waters (See Quest. 7 of Dir. Letter 2-7-35)	-23- Fish Hatcheries (See paragraph following Quest. 8 of Dir. Letter 2-7-35)	-24- If any Water is Used for Agricultural Purposes, Give legal Descrip. & Acr. of Land Irrig. near as possible	If Water is Used for Power, Give: -25- Nature of Works	Head	Amount of Water Utilized	Use to Which Power is to be Applied.
52 Wuskan Meadow (Proposed)				None				
53 Little Baldy (Proposed)				"				

P.G.-5110

Other Supporting Information

National Park Service
U. S. Department of the Interior
Natural Resource Stewardship & Science
Water Resources Division

1201 Oakridge Dr., Ste. 250
Fort Collins, CO 80525
970-225-3548 phone
970-225-9965 fax

Water Rights Branch

Note to File

Date: July 21, 2017
From: Sally Jordan-Hemming, Research Assistant
File: SEKI Dockets (All)
Subject: Other Supporting Information
1) Sequoia & Kings Canyon National Parks California Drought Assessment

1) Sequoia & Kings Canyon National Parks California Drought Assessment
IRMA – Data Store – Published Report – (Code: 2242660)
https://irma.nps.gov/DataStore/Reference/Profile/2242660

Description

WRB prepared drought assessments for SEKI, YOSE, and LAVO, and also worked with PINN and WHIS. The drought assessments included an inventory of the park's rights and uses, an assessment of the relative seniority of the parks rights, and an estimation of the likelihood of the park's rights being called for curtailment

United States Department of the Interior

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

IN REPLY REFER TO:

March 12, 2015

To: Superintendent, Sequoia and Kings Canyon National Parks

From: Chief, Water Rights Branch-Water Resources Division Wm. R. Hansen

Re: Updated Final Drought Assessment

Please find enclosed the Final Drought Assessment, which updates the assessment you received by email on April 1, 2014. The updates reflect: the calls for curtailment issued by the State Water Resources Control Board, the groundwater legislation enacted in September 2014, and changes to our understanding regarding the Board's ability to call out riparian rights. An updated Executive Summary is also enclosed.

We would like to thank Christine Smith and Paul Schwarz (and probably a few others we're not aware of) of your staff for their help. If you choose to implement the assessment's recommendations, please contact Eric Lord at (970) 225-3526.

Cc (electronic): Forrest Harvey (w/ attachment)
Jay Goldsmith (w/ attachment)
Paul Schwarz (w/ attachment)
Christine Smith (w/ attachment)

SEQUOIA & KINGS CANYON NATIONAL PARKS
California Drought Assessment
Prepared by Eric Lord
Water Rights Specialist
March 2014
Updated December 2014

This assessment was originally issued in March 2014 by email to the Park. At that time, the State Water Resources Control Board (Board) projected that junior water rights would be curtailed due to lack of water. How the Board would administer the curtailments was, at that point, a matter of speculation; this assessment, then, reflected that uncertainty. Since then, there have been significant developments in the State of California relative to the drought, including calls for curtailment and the enactment of groundwater management legislation. This finalized assessment provides brief updates that reflect these significant developments. The updated portions are in italics.

Drought Notice

In January 2014, the Governor of California issued a Proclamation of a State of Emergency due to extreme drought. In turn, the Board issued a Notice of Surface Water Shortage and Potential for Curtailment of Water Right Diversions to all water right holders in the state. An assessment of water rights held by Sequoia & Kings Canyon National Parks (Park) was performed in order to characterize the risk to Park water uses posed by potential curtailment of water uses in the Kings River and Kaweah River watersheds.

Curtailment of a water right, either partial or total, referred to here as a "call", is an order by the Board to stop diverting water until further notice. The administration of a call—i.e., the order in which uses are curtailed—is based on the priority of rights within a watershed. Because California recognizes both riparian and appropriative rights, priority of rights within a watershed must be understood in order to assess the risk of having a water right called for curtailment.

In general, riparian rights[1] and pre-1914 rights[2] are the most senior in a watershed, followed by statutory appropriative rights (aka post-1914 rights).[3] Statutory appropriative rights are prioritized based on the date water is first put to beneficial use by a given right. Federal reserved rights are subject to administration within the state priority system. Accordingly, federal reserved rights will be subject to calls based on the date of the reservation that created the reserved rights. Federal reserved rights held by the Park are discussed below.

[1] Riparian rights are based on land ownership. If a water source is located on or abuts a parcel of land, the owner of that land has the right to reasonable use of that water. There are no procedural requirements—e.g., applications, permits—required to use water pursuant to a riparian right.
[2] Pre-1914 rights are beneficial uses of water established prior to the enactment of the state Water Code in 1914.
[3] In 1914, the state enacted the Water Code which set forth the exclusive means by which an appropriation of water could be made. After 1914, an appropriative right could be obtained only by complying with the procedures set forth in the Water Code.

It is not entirely clear how the administration of calls will proceed, but the following likely can be expected.[4]

- Calls will not occur statewide; rather, calls will be applied based on the severity of the drought in a given watershed. A call may be initiated by the Board, or by a request by water right holders in a given watershed.
- In addition to the severity of drought in a watershed, calls will reflect the degree to which a watershed is appropriated. If the watershed is fully appropriated[5], it is likely more susceptible to a call.
- Calls will likely be applied in succession in the following order: (1) junior statutory appropriators; (2) senior statutory appropriators[6]; (3) pre-1914 rights[7], and (4) riparian rights. At the time of this writing, calls appear to be limited to surface water diversions only.
- Calls will reflect some fashion of adaptive management.
    - Calls may be applied in succession according to the above order depending on the effect of the previous call. For example, if the initial call on the watershed allows remaining diverters to meet their needs, no additional call will be applied. Additional calls on a watershed can be expected if previous calls do not allow senior right holders to meet their needs or the drought conditions worsen.
    - Calls may be removed in the event of significant precipitation in the subject watershed.

At the time of this writing [March 2014], the focus of potential calls is on the San Francisco Bay Delta, and therefore the Sacramento and San Joaquin rivers. The Kaweah River terminates in Lake Kaweah. Though much of the lake's water is conveyed below for irrigation, it does not reach the San Joaquin River. Given this, a call on the San Joaquin River would not affect water rights in the Kaweah watershed. However, should conditions warrant, a call placed specifically on the Kaweah watershed could affect park rights in that watershed.

The Kings River, below Pine Flat Reservoir, enters the Central Valley and divides into multiple channels for irrigation. Portions of the river may then enter the San Joaquin River. Calls on the

[4] Regarding curtailments, the Board's focus has been on the San Francisco Bay Delta and its tributaries. Much of this assessment is based on the Board's approach in the two main watersheds—the Sacramento and San Joaquin rivers—supplying the Bay Delta. Phone Conversation, Eric Lord-WRB, Christine Rico-Delta Water Master Office (Feb. 11, 2014); Notice of Surface Water Shortage and Potential for Curtailment of Water Right Diversions, State Water Resources Control Board (Jan. 17, 2014); Fact Sheet, Water Right Holders Likely to Face Curtailment in 2014, State Water Resources Control Board (updated Jan. 31, 2014).

[5] Both the Kings and Kaweah rivers have been declared fully appropriated. In re Declaration of Fully Appropriated Stream Systems in California, Order WR 98-08, State Water Resources Control Board (1998).

[6] The initial call or calls will affect statutory appropriations first, with the initial call affecting more-junior appropriators. How the Board will determine which priority dates to be called is uncertain. For example, will the first call affect all rights junior to 1965 or junior to 1920? Most likely it will vary based on the severity of the drought in a given watershed, and the nature of the water rights in that watershed.

[7] In general, riparian rights and pre-1914 rights will be presumed to be senior to all statutory appropriative rights, and consequently, such rights will be the last to be called out. Under the most extreme circumstances, the priority of a riparian right may be challenged based on the date the riparian right was first put to use. It is difficult to imagine such a dire situation, so the likelihood of this occurring is remote.

San Joaquin River could affect water rights on the Kings River. Similar to the Kaweah River, a call placed specifically on the Kings River could affect park rights in that watershed.

Update: December 2014

In March 2014, when this Assessment was first issued, there was much uncertainty as to how calls for curtailment would be applied in a given watershed. The Board did issue a number of calls on watersheds around the state, and it turns out that the expected administration of calls set forth above was fairly accurate.

No calls were issued in the Kaweah or Kings rivers watersheds, but calls were issued for post-1914 rights in the Sacramento/San Joaquin (including the Merced River watershed), Russian, Scott, and Eel watersheds. In the Kaweah and Kings rivers watersheds, the Board's projected curtailments of pre-1914 rights and projected flow inadequacies to support even riparian rights did not materialize, due largely to intermittent storm events that maintained adequate stream flow to support pre-1914 and riparian rights. Consequently, the calls for curtailment did not progress beyond post-1914 water rights. In the fall, the Board issued temporary suspensions of curtailments due to the end of irrigation season and storm events, and at the time of this update the suspension of curtailments remained in place. Ultimately, the Park's water rights were not affected by the Board's calls.

Water Right Background

Statutory Appropriative (aka post-1914) Rights

With enactment of the Water Code in 1914, the statutory procedures in the Code set forth the exclusive means by which a water right could be obtained. Upon licensing of a post-1914 right, a priority date is issued which reflects the relative priority of that right within a given watershed. The more senior the right, the more superior the right, and the less likely that right is to curtailed in the event a call is placed on the watershed. Such rights are generally junior to, or inferior to, riparian rights.

Riparian Rights

California recognizes riparian rights as well as appropriative rights. Pursuant to the riparian doctrine, the owner of land that contains or abuts a water source (stream, spring, lake) has the right to reasonable use of water from that source. There are no procedural requirements for such a right, e.g., application process. Riparian rights are "correlative"—this means that among riparian right holders on the same source, shortages and surpluses are shared equally. As stated, riparian rights are generally senior in priority to state appropriative rights.[8]

[8] It should be noted that riparian rights, though normally viewed as correlative, also hold a temporal priority. The likelihood of such a priority becoming operative is very remote and would arise only under the most extreme drought circumstances; however, it is worth noting. Pursuant to federal and state court rulings, in California a riparian right attaches to reserved federal land when such land is first withdrawn from the public domain and reserved for a federal purpose, e.g., a national park. In theory, such riparian rights would be considered junior to

State law distinguishes riparian uses into *natural* uses and *artificial* uses. Natural uses are domestic uses including drinking, cooking, washing, and small amounts of livestock. All other riparian uses are artificial. Natural uses are given preference over artificial uses. Natural uses that are commercialized, i.e., serving paying guests, do not necessarily lose their preference as natural uses, but an excessive degree of commercialization[9] to the prejudice of downstream riparian users may affect the preference.

The California Supreme Court has recognized that the federal government holds riparian rights as owner of reserved federal lands.[10] Thus the Park, as a landowner, holds riparian rights to reasonable use of water within or abutting the reserved federal lands. The Park's uses of water—e.g., visitor center, staff housing, campground, firefighting—can be considered reasonable uses of water consistent with riparian rights.[11]

Overlying Rights (Groundwater)

In California, there are two lines of distinction regarding groundwater use; the lines are (1) land ownership, and (2) the source of the groundwater. Regarding the first distinction, an owner of land has the right to reasonable use of groundwater beneath the land. This is referred to as an overlying right. There are no procedural requirements for such use and the Board generally does not have jurisdiction over such use. In contrast, a statutory groundwater right is not based on land ownership, but is based on procedural requirements, e.g., application to the Board. One need not own land to obtain such a right, but one does need legal access to the land upon which the well will be located.

The other line of distinction regards the source of the water. In California, groundwater is divided into two categories—"percolating" groundwater, and "subterranean streams flowing through known and definite channels." Groundwater is legally presumed to be percolating; the Board has no jurisdiction over such water and no permit is needed to use such water. In contrast, "subterranean streams…", sometimes referred to as stream underflow, are within Board jurisdiction and a permit is needed to use such water.

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state law-based appropriative rights established prior to the reservation of federal land causing riparian rights to attach to the reserved federal land. Moreover, in the case of unexercised riparian rights held by the federal government, the Board may determine that the future riparian right of the US shall have a lower priority than uses authorized by the Board prior to *exercise* of the riparian right by the US. This indicates that the priority date of a riparian right will likely be a function of when it was first exercised, rather than when it attached; and that the United States must apply to the Board whenever it proposes to exercise a riparian right. *In re Water of Hallett Creek Stream System*, 749 P.2d 324 (Cal. 1988), cert denied sub nom *California v. United States,* 488 U.S. 824 (1988). Again, this aspect of riparian rights would come into play only under extreme circumstances.

[9] Excessive commercialization of domestic uses might include swimming pools, ornamental pools, or boating. *Prather v. Hoberg,* 150 P.2d 405 (Cal. 1944).

[10] *In re Water of Hallett Creek Stream System*, 749 P.2d 324 (Cal. 1988), cert denied sub nom *California v. United States,* 488 U.S. 824 (1988).

[11] Though there are some constraints, riparian rights afford the holder flexibility in terms of the amount of use, the purpose of use, timing of use, and location of use. In the event of questions regarding riparian uses, the Water Rights Branch is available for assistance.

The Park uses groundwater to meet some of its consumptive needs. As a landowner, the Park holds overlying rights to such water.[12] The water is legally presumed to be percolating; consequently, the Park needs no permit from the Board[13] to use such water. The Park should be aware, however, that this legal presumption can be overcome by evidence that a given well is drawing from stream sub-flow.[14] In such a situation, a well would then need to file an application for a water right, and would be subject to the Board's jurisdiction.

Update: December 2014

> *In 2014, the State Legislature enacted two bills regulating the State's groundwater for the first time.[15] The Sustainable Groundwater Management Act established a State policy to manage groundwater on a sustainable basis. Existing surface or groundwater rights are not affected by the act, and the Board's authority is not expanded. The act requires the establishment of local groundwater sustainability agencies, and such agencies are required to implement groundwater sustainability plans for high and medium priority basins by 2020. The State will become involved in the process only if the local agency fails to establish a sustainability plan.*
>
> *In December 2014, the California Division of Water Resources prioritized groundwater basins around the state. Based on the Division of Water Resources' determination, the basins underlying the Park are considered to be of very low priority.[16] Consequently, the act should have no effect on the Park's use of groundwater for some time.*

Federal Reserved Rights

Water rights are generally a matter of state law; however, federal reserved rights are an exception. Based on United States Supreme Court rulings, federal reserved rights are created

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[12] Though the California Supreme Court held that the United States holds riparian rights to surface water as a landowner, the case did not address whether the United States holds overlying rights to groundwater as landowner. *In re Water of Hallett Creek Stream System*, 749 P.2d 324 (Cal. 1988), cert denied sub nom *California v. United States*, 488 U.S. 824 (1988). However, the reasoning behind the California Supreme Court's ruling applies equally to overlying rights. 1-15 California Water Law and Policy § 15.16 [citations omitted].

[13] It should be noted that though no permit from the Board is required to use the water, a so-called "water right", a permit to drill and complete the well will be required from the appropriate county. Such does not constitute a "water right".

[14] Such a scenario is unlikely. However, if a Park well is located near a surface stream, there is incentive for a downstream surface water right holder to seek to have the Park well come under Board jurisdiction. This could be accomplished by providing evidence that the well is drawing water from stream sub-flow. The Park would then need to file an application with the Board for a water right; that right would be very junior in the watershed and would be subject to future calls like any other junior surface right.

[15] For a summary of the bills enacted, go to: http://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml (SB 1168), and: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml (AB 1739).

[16] In June 2014, CASGEM (California Statewide Groundwater Elevation Monitoring) prepared a groundwater basin prioritization map for purposes of prioritizing basins in need of additional groundwater monitoring. In December 2014, pursuant to the new groundwater legislation the Department of Water Resources determined that this map would be the initial prioritization of groundwater basins. Based on this map, the groundwater basins beneath the Park are considered to be of very low priority. Consequently, the appropriate county or counties abutting the Park are not required to establish a groundwater sustainability agency or develop a groundwater sustainability plan for the foreseeable future.

when land is reserved from the public domain[17] or acquired[18] for a specific federal purpose, such as a national forest or national park. The reservation of land also reserves sufficient water to meet the purposes of the reservation of land. The priority dates of a federal reserved right are based on the dates that lands were reserved from the public domain for a specific purpose, either national forest or national park. Federal reserved rights doctrine is based largely on rights to surface water; the applicability of the doctrine to groundwater is unsettled, but the trend is toward recognition of federal reserved rights to groundwater.[19]

The federal reserved rights in use by the Park are located in areas with different land reservation histories; consequently, the priority dates of the federal reserved rights differ. Tables 1 and 2 set forth the estimated priority dates for federal reserved rights; the priority dates reflect the following land reservation history in the Park.

Sequoia National Park was created in 1890 by reservation of public land[20]; this reservation did not include the Mineral King Valley or Kings River canyon. In 1893, the Sierra Forest Reserve was created[21]; the Mineral King Valley and Kings Canyon were included in this reservation. In 1910, the southern portion of the Sierra Forest Reserve, including the Mineral King Valley, was separated from the Sierra Forest Reserve and proclaimed the Kern Forest. In 1915, the Kern Forest was abolished and designated as the Sequoia Forest Reserve. In 1926, the Mineral King Valley was reserved as part of the Sequoia National Game Refuge.[22] The lands within the refuge continued to be part of the Sequoia National Forest.[23] In 1965, the Cedar Grove area, containing the South Fork Kings River canyon area, was reserved from national forest into Kings Canyon National Park.[24] In 1978, the Sequoia National Game Refuge was abolished and the land, including the Mineral King Valley, was transferred to the National Park Service (NPS) and incorporated into Sequoia National Park.[25]

Though the contours (amount, purposes, priority, etc.) of a federal reserved right can be conclusively determined only through a court proceeding, it can be reasonably concluded for purposes of this assessment that SEKI holds federal reserved rights for both national forest and national park purposes. The quantity of water so reserved is that quantity sufficient to support the purposes for which the national forest and national park were reserved.

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[17] *Winters v. United States*, 207 U.S. 564 (1908); *Arizona v. California*, 373 U.S 546 (1963).
[18] *United States v. Anderson*, 736 F.2d 1358 (9th Cir. 1984).
[19] See, for example, *Park Center Water Dist. v. United States*, 781 P.2d 90, 95 n.13 (Colo. 1989) (assuming without deciding that reserved rights may include groundwater); *United States v. Washington*, 375 F. Supp.2d 1050, 1058 (W.D. Wash. 2005) (tribal federal reserved rights determined to extend to groundwater).
[20] An act to set apart a certain tract of land in the State of California as a public park, P.L. 51-926, Ch. 926, 26 Stat. 478 (1890). The purpose of the reservation was to dedicate the land "as a public park, or pleasure ground, for the benefit and enjoyment of the people."
[21] Proclamation 348 (Feb. 14, 1893).
[22] An act to revise the boundary of the Sequoia National Park, California, P.L. 69-465, Ch. 744, § 6, 44 Stat. 818 (1926) (amended 1948; repealed 1978).
[23] Id.
[24] An Act to add certain lands to the Kings Canyon National Park in the State of California, and for other purposes, 79 Stat. 446 (Aug. 6, 1965).
[25] National Parks and Recreation Act of 1978, P.L. 95-625, § 314, 92 Stat. 3479 (1978).

There are precedents for recognition of federal reserved rights in support of national forest and national park administrative purposes. The precedents include the California State Water Resources Control Board[26], agreements[27] in Montana and Wyoming, and water court rulings in Colorado[28].

Though this assessment focuses on the Park's consumptive uses of water, federal reserved rights also support instream values within the Parks. As is the case with consumptive uses, these instream values are based on the purposes for the creation of the parks or national forests as set forth in the respective enabling acts and the NPS Organic Act. Because a federal reserved right in support of instream values is non-diversionary, a call would not be operative on such a right.

Park Priorities

Surface Water

The water right records maintained by Water Rights Branch (WRB) and the Board were reviewed to determine what water rights of record are held by the Park. The Park's uses are limited to sources located within the Kings and Kaweah watersheds. The water right abstracts maintained by the Board for the Kaweah and Kings watersheds have no record of Park water uses, with two exceptions.[29] Absent any record filed with the Board indicating statutory appropriative rights, it reasonably can be concluded that Park uses of surface water are supported by riparian rights and federal reserved rights. It is also important to note that a water use can be supported by more than one type of right. The Park's surface water rights and uses are set forth in Table 1.

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[26] The California State Water Resources Control Board has recognized a federal reserved right for the Forest Service for purposes of firefighting and industrial purposes. Findings and Order of Determination, In re Hallett Creek Stream System, California State Water Resources Control Board (1983); Decree No. 16291, Hallett Creek Adjudication (Superior Ct.-Lassen County, 1984).

[27] The Forest Service and the Montana Reserved Water Rights Compact Commission reached draft settlement recognizing reserved rights for fire-fighting and administrative needs and an instream flow right 4-37 Waters and Water Rights Section 37.03.

In a settlement in the Big Horn River adjudication, the federal government was allocated essentially the entire flow of the waters in Yellowstone National Park, mostly to "preserve the natural resources, natural curiosities and public enjoyment" of the park, but also for various administrative and visitor use purposes. The state agreed that the federal water right extended to both surface and groundwater and could not be precisely quantified. 4-37 Waters and Water Rights S 37.04.

[28] Federal reserved rights in support of administrative purposes have been recognized by water courts in Colorado. 4-37 Waters and Water Rights Section 37.03; Decree, In the Matter of the Application of the United States for Reserved Water Rights in Rocky Mountain National Park, Case No. W-8439-76, Dist. Ct., Water Div. No. 1, State of Colorado (1994); Final Decree, In the Matter of the Application of the United States for Reserved Water Rights in Rocky Mountain National Park, Civil Action No. 1768, Dist. Ct., Water Div. No. 5, State of Colorado (2000); Findings of Fact, Conclusions of Law and Decree, Concerning the Application for Water Rights of the United States of America (Reserved Water Rights for Mesa Verde National Park), Case No. W-1633-76, Water Div. No. 7, State of Colorado (1997)(Decree entered pursuant to agreement).

[29] The exceptions are Licenses 961 and 3006. License 961 authorizes use of water from an unnamed spring for domestic, recreational, and firefighting purposes. The right has a priority of 1927. This license authorized use of water for domestic, recreational, and firefighting purposes, but is now used in support of stock. License 3006 supplies water for communal domestic water use in the west Mineral King area. The license authorizes use of up to 1.4 acre-feet per year from an unnamed spring. The priority date is 1941.

Update: December 2014

In general, riparian rights are viewed as the most senior rights in a watershed. As such, they are least vulnerable to a call by the Board. The Park reasonably can continue to divert surface water pursuant to riparian rights. Such use would be vulnerable to a call only in the circumstance that the Board has already curtailed use pursuant to post-1914 and pre-1914 rights.

However, the Park's reliance on riparian rights in support of some consumptive uses comes with a caveat. If riparian rights have been dormant, i.e., not yet exercised, they may be re-prioritized to a very junior status by the Board. Such a re-prioritizing by the Board would usually only occur in the context of an adjudication of a watershed or after adjudication of a watershed. However, the Board may have the authority to re-prioritize unexercised riparian rights even in the absence of an adjudication. That is, the Board may have the authority on its own initiative to re-prioritize unexercised riparian rights to a very junior status. Under such a circumstance, a riparian right could be called out for curtailment as a very junior right. The available authorities are not entirely clear on this issue.[30]

In the event the Park's exercise of its riparian rights is relatively recent—i.e., initiated or claimed in response to having an appropriative right called out for curtailment—the Board may have the authority to determine that such a new riparian right use is unreasonable and thus subject to re-prioritizing to very junior status. (It is important to note that discussion with the Board indicated that the Board is not seeking, at this time, to re-prioritize riparian rights.) In order to minimize this potential vulnerability, it is important for the Park to research its present consumptive uses that are supported by riparian rights, and determine the approximate date such use began. Such information could then be used to refute any assertion that the Park only recently started using riparian rights. WRB recommends that the Park consult with WRB regarding this research.

Though the Park's riparian rights are serving paying guests—i.e., are somewhat commercialized—they do not lose their status as riparian rights. This status can be maintained by ensuring that park uses are limited to basic domestic needs—e.g., drinking, cooking, washing. Given the expected administration of calls in the watershed, the Park's riparian rights would be the last rights affected by calls.

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[30] The California Supreme Court has held that the Board may, in the context of an adjudication, re-prioritize unexercised riparian rights to a very junior status. *In re Waters of Long Valley Creek Stream System*, 599 P.2d 656 (Cal. 1979); *In re Water of Hallett Creek Stream System*, 749 P.2d 324 (Cal. 1988), cert denied sub nom *California v. United States,* 488 U.S. 824 (1988). Though the California Supreme Court has not addressed the issue directly, a recent Court of Appeals case suggests that the Board may have the authority to re-prioritize unexercised riparian rights as part of an enforcement action to prevent unreasonable or illegal uses of water. *Young v. State Water Resources Control Board*, 219 Cal. App. 4th 397 (2013). The trial court in *Hallett Creek* found that future use of water under unexercised riparian rights is unreasonable when supply is inadequate to satisfy all rights set forth in the decree. *In re Waters of Hallett Creek Stream System*, No. 16291, ¶ 18 (Sup. Ct. 1984).

The Park's federal reserved rights are more difficult to characterize in terms of vulnerability to a call. For sake of clarity, federal reserved rights will be divided into two categories—those for national forest purposes and those for national park purposes.[31] Federal reserved rights for national forest purposes have a priority date of 1893. The priority dates of federal reserved rights for national park purposes vary depending upon when a given area was incorporated into the park. Federal reserved rights in Kings River canyon area have a priority date of 1965; those in the Mineral King Valley have a priority date of 1978; and all others have a date of 1890. The federal reserved rights for Kings Canyon National Park and those in the Mineral King Valley are very junior and thus more likely to be affected by an initial call in the watersheds. The remaining federal reserved rights are reflective of the original reservation of land into Sequoia National Park in 1890. Such a date is relatively senior in the Kaweah River watershed and would likely not be affected until a second or third successive call on that watershed.

Though SEKI's federal reserved rights have some vulnerability to a call, it should be remembered that the Park's uses are also supported by riparian rights, and so long as the park uses are "reasonable", the park can continue to use water based on riparian rights. Moreover, the Board has not yet sought to apply the calls for curtailment to federal reserved rights.[32]

The Park holds two statutory appropriative rights. License 961 holds a priority date of 1927, and License 3006 holds a priority date of 1941. These are both junior in the watersheds, and so are vulnerable to calls. Because the Park owns the land on which the water sources are located, the uses are also supported by riparian rights. Should these licenses be called for curtailment, the Park will most likely be able to continue to divert water pursuant to riparian and federal reserved rights.

Update: December 2014

The exercise of dormant riparian rights as a "fall-back" to curtailment of statutory appropriative rights comes with a caveat. This is discussed above at pages 7 – 8.

The application of a call by a state agency on a federal reserved right pursuant to state law is a relatively untested aspect of the prior appropriation doctrine. NPS policy and the weight of existing authority suggest that a park voluntarily curtail use of water pursuant to a federal reserved right in the event of a call.[33]

Groundwater

The Park likely holds both overlying rights and federal reserved rights to the use of groundwater. The Park's overlying rights for groundwater use are not subject to Board jurisdiction. Therefore, a call issued by the Board will have no effect on water use

[31] Exhibit 2 provides a brief summary of the Park's federal reserved rights, reflecting the land reservation history at the locations of water use.
[32] Phone Conversation: Eric Lord-WRB, Barry Hill-Forest Service Regional Hydrologist (since retired)(Sept. 16, 2014. This issue arose in the context of calls for curtailment of rights within Lassen National Forest in June 2014.
[33] NPS Policy Manual § 4.6.2 (2006); *United States v. Denver*, 656 P.2d 1, 35 (Colo. 1982); *United States v. Bell*, 724 P.2d 631, 644 (Colo. 1986); *Federal Youth Center v. Dist. Ct.,* 575 P.2d 395, 400 (Colo. 1978).

pursuant to overlying rights. Though the Park's wells are legally presumed to be drawing "percolating" water not subject to Board jurisdiction, additional assessment of these wells is likely warranted to determine whether they are drawing from stream underflow.[34] *If so, the vulnerability of these wells to calls will change. The Park's federal reserved rights to groundwater use*[35] *have priority dates based on the date a specific area was reserved into a national park or national forest. The Park's groundwater rights and uses are set forth in Table 2.*

Administration of Calls for Curtailment

Estimating the effect of calls on Park uses has uncertainty, due largely to the Board's own uncertainty as to how calls will be applied and unique character of each watershed. The water rights abstracts for the Kings River and Kaweah River watersheds were reviewed, nevertheless, in an attempt to estimate how calls would likely be applied in these watersheds. The abstracts indicate that calls on these watersheds will differ in terms of their effects, though the ultimate effect on Park rights will be similar. In the Kaweah watershed, statutory appropriations—i.e., those to be called out first—constitute a very minor share of total diversions. Consequently, an initial call on these rights will not likely have a large effect on river flow. This suggests that subsequent calls are more likely. The largest diverter in the watershed, Wutchumna Water Company, claims 114,500 acre-feet per year based on a pre-1914 claim with a claimed priority date of 1877. Though this is a relatively senior priority—senior to the Park's federal reserved rights—it is junior to the Park's riparian right uses.

In contrast, the Kings River abstract indicates that a large quantity of water is diverted by third parties pursuant to statutory appropriative rights; the largest diverter is Kings River Water Association for irrigation purposes. A call or calls on statutory appropriative rights, then, would likely have the desired effect, thus reducing the likelihood of additional calls. Another substantial diverter, Fresno Irrigation Company, claims a pre-1914 right with a priority date of 1914. This use would be affected prior to the park's riparian rights and prior to the park's federal reserved right for national forest purposes. In summary, calls on the Kings River watershed would likely curtail very large diversions and thus have the desired effect before the Park's uses would be affected.

Exhibit 1 illustrates how a succession of calls might be applied to a watershed and how such calls might affect Park rights.

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[34] As stated, groundwater is legally presumed to be "percolating" and so not subject to Board jurisdiction. The legal presumption may be overcome by a third party seeking to have the well within the Board's jurisdiction. If under Board jurisdiction, the wells would be subject to calls and would need to obtain permits from the Board. The presumption may be overcome by evidence that a well is drawing from stream underflow. In a drought situation, a downstream water user may seek to have the Board gain jurisdiction over the wells by providing such evidence.

[35] The applicability of the federal reserved right doctrine to groundwater is somewhat unsettled. The U.S. Supreme Court enjoined the pumping of groundwater by third parties in order to protect a federal reservation. *Cappaert v. United States*, 426 U.S. 696 (1978). The Arizona Supreme Court recognized a federal reservation of groundwater in support of federal purposes, *In re General Adjudication of the Gila River*, 989 P.2d 739 (Ariz. 1999), and a federal district in Nevada exempted a military reservation from complying with state requirements to pump groundwater, *Nevada ex.rel. Shamberger v. United States,* 165 F. Supp. 600 (D. Nev. 1958), aff'd on other grounds, 279 F.2d 699 (9th Cir. 1960). However, the Wyoming Supreme Court denied to applicability of Indian reserved rights to groundwater. *In re General Adjudication of the Big Horn Sys.*, 753 P.2d 76 (Wyo. 1988).

Update: December 2014

Contrary to the Board's projections in April 2014, no calls were issued by the Board in the Kaweah or Kings watersheds. The Board did, however, issue calls in other watersheds in the state. From that experience, much can be learned about the Park's vulnerabilities to future calls. The Park's reliance on riparian, federal reserved, and overlying rights provides some degree of protection of Park water uses. Thus far, the Board seems reluctant to seek to curtail riparian or federal reserved rights. Nevertheless, given the volatility of the California climate and projected changes to that climate, efforts should be made to improve the reliability of the Park's water rights setting. This is set forth in the recommendations.

Recommendations

In order to minimize the effect of the Park's consumptive uses on the watershed and in the interest of good public relations, it is important to minimize the park's water use. This can be accomplished by minimizing the amount of water used, ensuring that no water is wasted, reusing water where possible, and making sure unused water is returned to the system. The Park has already identified several things that can be done in its response to enquiries by the Regional Office. By minimizing the Park's water use and maximizing the park's efficiency, the Park reduces the likelihood that either the Board or a downstream user will seek to curtail Park uses.

In addition to the items identified by SEKI in its response to the Regional Office, WRB also recommends the following:

- For those water uses supported by riparian rights, research the history of water use at those given facilities to determine when water use pursuant to a riparian right was initiated. Document that history and record Statements of Water Diversion and Use that reflect that history. Such Statements are required of all surface water uses, and can be used to document its continuing use of riparian rights and federal reserved rights in the event of call, conflict, or adjudication. Should the Park pursue this research, WRB requests that copies be provided to WRB to complete our dockets.
- Regarding License 961, now used in support of stock animals, we recommend that the Park consult with WRB about adding such a use to the license to legitimize that use under the license.
- Ensure that the Reports of Licensee for licenses 961 and 3006 are current and reflect current use.
- Prioritize Park water uses and prepare a contingency plan for curtailment of uses based on those priorities. Given the severity of the current drought, Park uses should be constrained to minimal domestic needs.
- Monitor any developments in adjacent county governments regarding the establishment of an agency tasked to regulate groundwater pursuant to the Sustainable Groundwater Management Act. Consult with WRB regarding the potential effects of any such activity.

TABLE 1: PARK SURFACE WATER USES AND RIGHTS

			FEDERAL RESERVED RIGHTS – SURFACE WATER	
LOCATION OF USE	STATUTORY APPROP-RIATIVE RIGHTS	RIPARIAN RIGHTS	National Forest Purposes	National Park Purposes
Ash Mountain	No	Yes	None	1890
Atwell Mill	No	Yes	1893	1978
Cabin Creek	No	Yes	None	1890
Cold Springs Water System	License 3006 (1941)	Yes	1893	1978
Copper Creek	No	Yes	1893	1965
Dorst	No	Yes	None	1890
Lodgepole	No	Yes	None	1890
Redwood Meadow	No	Yes	1893	1926
Sheep Creek	No	Yes	1893	1965
Silver City	No	Yes	1893	1978
South Fork	No	Yes	1893	1890
Unnamed Spring trib. to Mill Creek	License 961 (1927)	Yes	1893	1940
Wolverton	No	Yes	None	1890

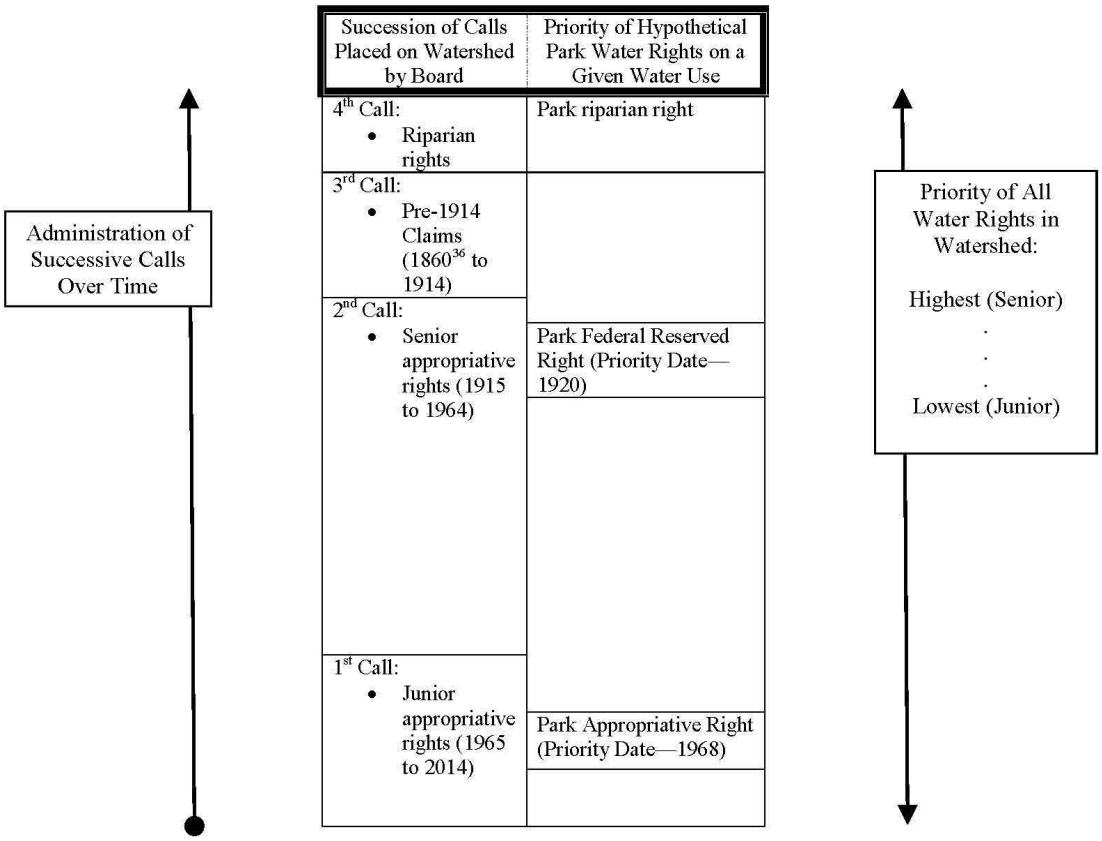
TABLE 2: PARK GROUNDWATER USES AND RIGHTS

		FEDERAL RESERVED RIGHTS – GROUNDWATER	
LOCATION OF USE	OVERLYING (GROUNDWATER) RIGHTS	National Forest Purposes	National Park Purposes
Ash Mountain Water System	Yes	None	1890
Buckeye Campground Water System	Yes	None	1890
Grant Grove Water System	Yes	None	1890
Hospital Rock Water System	Yes	None	1890
Packers Dorm Water System	Yes	1893	1965
Pinewood Water System	Yes	None	1890
Potwisha Campground Water System	Yes	None	1890
Sheep Creek Water System	Yes	1893	1965
Wolverton Water System	Yes	None	1890

EXHIBIT 1: ADMINISTRATION OF CALLS TO HYPOTHETICAL PARK WATER RIGHTS IN A GIVEN WATERSHED

Assumptions:

- Park uses water from a given source at the same location based on a riparian right, a federal reserved right (priority 1920), and an appropriative right (priority 1968)
- State Water Resources Control Board applies calls in succession: (1) junior appropriative rights (1965-2014); (2) senior appropriative rights (1915 to 1964); (3) pre-1914 rights (1860 to 1914), (4) riparian rights.



[36] The 1860 priority date is somewhat arbitrary. It merely represents a date representative of the earliest pre-1914 rights. There are likely some pre-1914 rights established prior to 1860.

Outcome:

In this hypothetical, the Board issues a succession of four calls on the watershed. The 1st call curtails the Park's appropriative right with a date of 1968; however, the Park may continue to use water pursuant to a riparian right for that purpose. The federal reserved right, with a priority date of 1920, is senior to the 1st call and so is not affected by the 1st call. The 2nd call, however, curtails the federal reserved right because that right's priority date is within the priority range of the 2nd call. However, the Park can continue to use water from that source for that same purpose based on its riparian right until the potential 4th call. The 3rd call affects only pre-1914 rights, based on their claimed priority dates. In this hypothetical, the Park holds no pre-1914 rights and so is not affected by this 3rd call. The Park's riparian right does not have a priority date, and is senior to all appropriative rights in the watershed. Assuming the drought is extreme, there may be a 4th call. If so, such a call could affect the Park's uses based on riparian rights.

This begs the question: Of what value is a federal reserved right in tandem with the riparian right if the federal reserved right can be called out with no effect on the riparian right? It is true that a federal reserved right has a priority date based on the date of the federal reservation and that it can be called out. However, a federal reserved right and a riparian right can be used simultaneously for the same purpose at the same place. And the federal reserved right provides some flexibility over the riparian right in terms of place and type of use. In addition, a riparian right can be dedicated to instream use only by petitioning the Board and only after a period of consumptive use for another purpose, e.g. domestic or irrigation; in contrast, federal reserved rights can be used in support of instream values without such requirements. Lastly, continuing to claim a federal reserved right develops a record of such right with the Board, supporting recognition of such a right in the event of an adjudication, conflict, or call.

In the context of groundwater, state law presumes all groundwater to be "percolating"; the Board has no jurisdiction over percolating water. Consequently, a call would not be operative against a Park's groundwater use. Again, this begs the question: Of what value is a federal reserved right to groundwater in tandem with an overlying right if the federal reserved right can be called out with no effect on the overlying right? The answer parallels the above paragraph; a federal reserved right provides some flexibility in terms of location of use. In addition, though state law presumes that wells are drawing percolating water—water that is not subject to Board jurisdiction—if the Park wells were actually drawing water from stream subflow, and proof of this is provided by downstream right holders in the watershed, the Park wells could be required to obtain a statutory water right for the wells. The Board does have jurisdiction over such a right. Should such a water right be obtained, it would likely be very junior and thus subject to call. Alternatively, given that the watershed is considered to be fully appropriated, the likelihood of obtaining a water right for the wells seems remote. In such a case, the Park's federal reserved right could continue to support Park use. But it is important to remember that a federal reserved right may also be called out based on priority date.

It is recognized that the likelihood of the scenarios discussed here are remote. However, given California's susceptibility to drought, climate change, and generally increasing water demand, such scenarios are not out of the range of possibility. Consequently, seeking to record water use based at least in part on a federal reserved right is worthwhile if only as an abundance of caution.

EXHIBIT 2: SUMMARY OF ESTIMATED PRIORITIES OF PARK FEDERAL RESERVED RIGHTS

The park uses water in several different areas—e.g., King River canyon, Dorst, Mineral King Valley, etc. The areas have different reservation histories. Consequently, the priority dates of the federal reserved rights differ based on the location of the use. The following are summaries of the estimated priorities of the water rights currently being exercised in SEKI.

Surface Water Uses:

Sheep Creek:

- Creation of Sequoia National Forest: 1893.
- Creation of Kings Canyon National Park: 1965. The spur containing Cedar Grove to the east almost to Zumwalt Meadow had remained in the National Forest for some time, though NPS had managerial jurisdiction over it for much of that time.
- Conclusion: A federal reserved right for national forest purposes as of 1893; a federal reserved right for national park purposes as of 1965.

Copper Creek:

- Creation of Sequoia National Forest: 1893. It appears that Sequoia National Forest was part of the Sierra Forest Reserve, which was created in 1893. The southern parts of this reserve ultimately came to be Sequoia and Kings Canyon National Parks.
- Creation of Kings Canyon National Park: 1965. The spur containing Cedar Grove to the east almost to Zumwalt Meadow had remained in the National Forest for some time, though NPS had managerial jurisdiction over it for much of that time.
- Conclusion: A federal reserved right for national forest purposes as of 1893; a federal reserved right for national park purposes as of 1965.

Dorst :

- Creation of Sequoia National Park: 1890.
- Sierra Forest Reserve: The reservation creating the Sierra Forest Reserve was not effective as to lands already located within Sequoia National Park.
- Conclusion: The map provided by the park is not entirely clear as to whether the point of diversion was actually within Sequoia National Park's boundaries when it was initially created.
    - A federal reserved right exists for national park purposes with a priority date of 1890 (assuming the point of diversion is within the Sequoia National Park reservation in 1890). If the point of diversion is not within the Sequoia National Park 1890 boundary, a federal reserved right was created upon reservation of the Sierra Forest Reserve in 1893.

Cabin Creek:

- Creation of Sequoia National Park: 1890.
- Sierra Forest Reserve: The reservation creating the Sierra Forest Reserve was not effective as to lands already located within Sequoia National Park.

- Conclusion: Though this is close to the Dorst Creek point of diversion, it appears that the Cabin Creek area was located within the original boundaries of Sequoia National Park.
    - A federal reserved right exists for national park purposes with a priority date of 1890.

Lodgepole:

- Creation of Sequoia National Park: 1890.
- Sierra Forest Reserve: The reservation creating the Sierra Forest Reserve was not effective as to lands already located within Sequoia National Park.
- Conclusion: A federal reserved right exists for national park purposes with a priority date of 1890.

Wolverton Creek:

- Creation of Sequoia National Park: 1890.
- Sierra Forest Reserve: The reservation creating the Sierra Forest Reserve was not effective as to lands already located within Sequoia National Park.
- Conclusion: A federal reserved right exists for national park purposes with a priority date of 1890.

Ash Mountain:

- Creation of Sequoia National Park: 1890.
- Sierra Forest Reserve: The reservation creating the Sierra Forest Reserve was not effective as to lands already located within Sequoia National Park.
- Conclusion: A federal reserved right exists for national park purposes with a priority date of 1890. A federal reserved right also exists for national forest purposes with a priority date of 1893.

Atwell Mill:

- Reservation of land into Sequoia National Park: 1978.
- Creation of Sierra Forest Reserve: 1893.
- Conclusion: A federal reserved right exists for national park purposes with a priority date of 1978. A federal reserved right also exists for national forest purposes with a priority date of 1893.

Silver City (NPS Housing):

- Reservation of land into Sequoia National Park: 1978.
- Creation of Sierra Forest Reserve: 1893.
- Conclusion: A federal reserved right exists for national park purposes with a priority date of 1978. A federal reserved right also exists for national forest purposes with a priority date of 1893.

South Fork (Ranger Station):

- Creation of Sequoia National Park: 1890.
- Sierra Forest Reserve: The reservation creating the Sierra Forest Reserve was not effective as to lands already located within Sequoia National Park.

- Conclusion: A federal reserved right exists for national park purposes with a priority date of 1890. A federal reserved right also exists for national forest purposes with a priority date of 1893.

Redwood Meadow:

- Expansion of Sequoia National Park: 1926.
- Creation of Sierra Forest Reserve: 1893.
- Conclusion: A federal reserved right exists for national park purposes with a priority date of 1926. A federal reserved right also exists for national forest purposes with a priority date of 1893.

License 961:

This license authorizes diversion and use of water from an unnamed spring, which is tributary to Mill Creek and then to Kings River. The purpose of use was changed in 1950 to include domestic, recreation, and firefighting. It is now used in support of pack stock. The priority date is 1927.

License 3006:

This license authorizes diversion and use of water from an unnamed spring, tributary to East Fork Kaweah River. Water from the spring is used for domestic purposes through the Cold Springs Water System from June 1 to October 30. The priority date is 1941.

Groundwater Uses:

The Park uses groundwater in support of the following water systems: Ash Mountain, Potwisha Campground, Hospital Rock Water System, Buckeye Campground, Pinewood, Wolverton, Grant Grove, Sheep Creek, and Packers Dorm. These uses are legally presumed to be drawing percolating water. The Board has no jurisdiction over percolating groundwater; consequently, a call would have no effect on the Park's use of this groundwater.

DATE: April 30, 1979

DOCKET (FILE) TITLE

REGION Western AREA Sequoia National Park

SITE Sycamore Creek Water System

STATE California COUNTY Tulare DOCKET NO WR #1

LOCATION T16S, R29E, Sec. 20 or 29 (location of diversion not exactly known)

REGIONAL BASIN LOCAL BASIN

ACQUIRED BY Reservation

APPLICATION PERMIT CERTIFICATE

ACTION DUE PRIORITY RESERVATION July 3, 1926

QUANTITY USE Fire Protection

STATUS Active SOURCE Surface Water - Stream

REMARKS Hydrologic Unit #18030005

NARRATIVE:

Harry Foster, a park ranger, owned a parcel of land abutting the boundary of park. Foster used Sycamore Creek as his water supply, apparently relying on a riparian right in using the water. A drought caused the creek to dry up before reaching the boundary of the park (and Foster's land), so the Superintendent gave Foster informal permission to divert water from Sycamore Creek from within the park boundaries. Foster constructed a permanent diversion on the creek and ran a pipeline to his property. In 1943 and 1944 Foster sold part of the property to Mary E. Wylie and the rest to Charles and Grace Frary.

Following the sale of the property the Service attempted to stop the diversion of water from inside the park by disconnecting the pipeline. Wylie protested this action, taking her case to U.S. Senator from California, Hiram Johnson. The Superintendent then informed Wylie that the park could not allow her to maintain a diversion within the park, but that the park could run the water to the park boundary, at which point anyone could use it. Such a course of action was questioned by the Acting Director, who stated that the water in Sycamore Creek not necessary for park purposes could be allowed to continue in its course to the park boundary, but that the park could not use artificial means to bring the water to the boundary. No reply was ever recieved to this memo.

In 1948 a court held that the water from Sycamore Creek would have to be apportioned between Wylie and the Frary's in accordance with the grant deeds to their land. The order referred to the "spring in Sycamore Creek", supposedly located near the northwest corner of the Wylie property. There is no indication that this "spring" is actually the water piped to the boundary by the park, as per Superintendent's plan, or if it is a spring located just off park property. In either case no state filings have been made on the source and no riparian right can attach if the diversion is on park property. Any use of the water from Sycamore Creek by a non-park user would be illegal.

In 1978 the park reactivated a diversion on the creek; a catch-basin approximately 500 feet upstream from a dirt road diverts the water through a 1 inch pipe to a cistern near the road. A 2 inch pipe drains this cistern to a valve and faucet (open-pipe) at the roadside for fire control. It is unknown whether this catch-basin-pipeline-cistern operation was once a part of Harry Foster's water system or if any part of this diversion supplies water to off-park users. The park use of the water is valid under the reservation as the land the diversion is located on was withdrawn from the public domain in 1926 for inclusion in the park.

see following page for update

Compiled by T. Kern

Approved by

02-09-1956: memorandum to chief of design and construction from chief regarding drawing np-sk-3153

W Reply
154-L

February 9 1956

Memorandum

To: Chief of Design and Construction
Through: Chief of Lands

From: Chief, Water Resources Section

Subject: Drawing NP-SK-3153, Ash Mountain Residential Addition, Sequoia

Drawing NP-SK-3153 is up for Director's approval this week, as a Master Plan of development of Sycamore Creek area at Park Entrance. I suggest that it be held over for a week or two, until the matter can be discussed with Mr. Scoyen, and the following related problems can be presented to Mr. Wirth:

1. The area is wrapped around lands of Mary E. Wylie and Charles H. Frary, who are trying to obtain firm access and rights to a spring in Sycamore Creek, a few hundred feet within the Park, on the basis that that spring provides the only water economically available to them.

2. The water from said spring is reported to be so small that it disappears in the ground before reaching Park Boundary, and yet the Superintendent's monthly report from December indicates that NPS has also started using it at the old CCC Buckeye Camp because of failure of the Southern California Edison Co. Flume No. 2 from which water was formerly obtained under unspecified agreement.

3. While the Park Service has some justification for demanding water from the Kaweah Flume No. 3 which was constructed in the Park under a 50-year permit of 1912, it has had no sound basis for obtaining any more than emergency supplies of water from the Kaweah No. 2 Flume which has been entirely outside the Park. (Parts of Flume No. 2 may be on land included in the Park extension which also includes the proposed residential addition.

4. The correspondence with Drawing NP-SK-3153 indicates that water for the residential addition will be piped (about a mile) from the Reservoir on present Ash Mountain Water System. The Ash Mountain water supply is already inadequate for the Park Headquarters, particularly with the increasing use of air conditioners.

a. The spring supply has been inadequate for years.

b. The supply from the Kaweah is limited to water released from, or which escapes from the Kaweah No. 3 development of Southern California Edison Company; and the existing permit to company, which does not expire until 1962, does not provide for releases to serve Park needs except by cooperative interpretations. (The Kaweah flow at Park headgate is now unintentionally large because of leakage from the dilapidated Flume No. 3.

5. The construction of any NPS pipeline to proposed residential addition, or public information that such pipeline is proposed, will lead to Wylie-Frary requests for water therefrom.

There is no question about the need for enlarging Park Headquarters facilities. It is also probable that the site on the Park addition is best, but I think a lay-out plan is premature if not supported by adequate plans for water supply, water rights, and sewage disposal.

SIGNED

A. van V. Dunn
Chief, Water Resources Section

Copy to: Associate Director
Mr. Reshoft
Mr. P. Miller
Mr. Cook
Mr. Dunn

AvVDunn:let

02-23-1955: memorandum to director from acting assistant solicitor regarding frary-wylie water dispute involving access to spring

In reply refer to:
L3031-AS

WR Copy

February 23, 1955

Memorandum

To: Director, National Park Service

From: Acting Assistant Solicitor, National Parks

Subject: Frary-Wylie Water Dispute Involving Access to Spring, Sequoia National Park

We have reviewed Regional Director Merriam's memorandum of November 24, 1954, and previous correspondence on the above subject, and have the following comments:

1. The draft of proposed letter to Senator Knowland, prepared by Superintendent Scoyen, appears satisfactory and we see no objection to your signing a letter written substantially along the lines of Mr. Scoyen's draft.

2. There is also no objection to the issuance of permits to Miss Mary E. Wylie and to Mr. and Mrs. Charles H. Frary with the understanding that the permits are not issued in compliance with the decision of the Superior Court of the State of California in the matter of Frary v. Wylie, but are issued under the discretionary authority of the National Park Service to permit temporary use of park property and must be subject to revocation at any time in the event the property is needed for Government purposes.

3. We agree with Mr. Merriam's suggestion that the information requested of former Superintendent White in the memoranda from Mr. Tolson of August 23 and October 30, 1945, together with pertinent information on the value of the Wylie property, be obtained.

The file is returned herewith.

[signature]

Julian H. Golden
Acting Assistant Solicitor
National Parks

Solicitor's Office, National Parks
NPS Files
Mr. Sanders

Attachment
Copy to: Docket Room
Lands Branch, NPS
HKSanders:jm 2/23/55

C
O
P
Y

In reply refer to:
L3031

January 21, 1955

Memorandum

To: Regional Director, Region Four

From: Superintendent, Sequoia and Kings Canyon

Subject: Water Dispute--Frary-Wylie Involving access to Spring Tributary to Sycamore Creek in Sequoia National Park

In reply to your memorandum of January 4 with which you transmitted that of Mr. Allen of December 9, 1954, I find that some facts we should have in determination of this matter will have to wait until the summer months. Briefly, information we now have indicates that use of water from the source in the park is not necessary for either Miss Wylie or Mr. and Mrs. Frary. I find that the former has an adequate supply from a well at the river. The only point seems to be that it may save her a few dollars to pump from the nearer source a few months each year. If this is true, I see no reason for becoming involved in a permit procedure. We will have the answer when we find out if the spring is dry for about 5 months each summer as we have recently been informed.

Mrs. Frary was in yesterday and said she had no interest in the Sycamore Creek supply and did not care about the permit.

If we decide that a permit is necessary, we will assemble the data requested.

/s/ E. T. Scoyen

E. T. Scoyen
Superintendent

WR copy

In reply refer to:
L3031-L

DEC - 9 1954

Memorandum

To: Regional Director, Region Four

From: Assistant Director

Subject: Water Dispute--Frary-Wylie Involving Access to Spring Tributary to Sycamore Creek in Sequoia National Park

Attached are two copies of our letter to Senator Knowland which follows the general approach of the draft by Mr. Scoyen which was forwarded with your memorandum of November 24.

We construe the judgment of April 21, 1948, as binding on the parties thereto, and no others, and subject to permissive use of property which must be obtained from others. It allocates the water between Miss Wylie and the Frarys subject to obtaining the right to use the water in accordance with the State water laws, and subject to right of access which must be obtained from the United States. It assigns a mutual responsibility for action necessary to get the water from the spring to the private land. It implies an assumption that the portion of the water system within the Park is privately owned, and provides for improvements to permit proper diversion of the water.

We agree that it is essential to obtain the information requested in the memoranda of August 28 and October 30 before permits are drafted. It is particularly important to determine that all parts of the water systems in the Park are Federally owned, or exactly what parts are Federally and privately owned.

If the United States owns all of the water system within the Park, a permit may be granted for the use of land and pipeline; for the use of the pipeline only; or for the use of Federal water under rights to be established, delivered at the Park boundary when available. The permit must authorize the use of land and designated portions of the pipeline if any portion of the water system within the Park is privately owned. Any form of permit should have conditions defining responsibility for maintenance and replacement.

A permit for the maintenance and use of only the Federal water system, or for the use of Federal water, would eliminate some undesirable features and have both advantages and disadvantages. The judgment seems to imply that the litigants should modify the pipeline near the spring, to permit better measurement of quantities

of water allotted to each, and to provide separate pipelines therefrom. However, the same division of water and separate pipelines can start where the water enters the private land if only one pipeline is recognized or authorized within the Park.

Letters of October 6 to Mr. Frary and Miss Wylie from Mr. Scoyen suggest that he believes that there is a Federal proprietory interest in the spring water. The State Engineer, on counsel of the attorney in the State Division of Water Resources, does not recognize any Federal riparian rights on Federal land which has not been patented and then reacquired by the United States. Moreover, the United States has filed no claim to the designated water. On this basis, Mr. Scoyen should restrict his considerations of existing status to land use, or right-of-way, at this time, in writing to the claimants.

It also appears to be confirmed that the water development within the Park was originally constructed by the National Park Service, and that Miss Wylie has been permitted to maintain and operate it, with a gate provided in the boundary fence for the purpose. She and the Frarys may have made alterations in accordance with the judgment. From the date of the suit between Nebraska and Wyoming in 1935 until passage of the appropriation act for the Department of Justice for 1953, the United States attempted to assert Federal immunity to the State water laws. It has also attempted to assert that the United States did not abrogate the riparian doctrine under the Desert Land Act of 1877. Since 1953, there has been at least a Departmental trend toward Federal compliance with the State water laws, although representatives of the Solicitor's office advise that they have not reached entire agreement with the Department of Justice. The court decision in the Santa Margarita case in Southern California, about a year ago, strengthened the State Engineer's claim that riparian rights only applied to patented land.

Under these circumstances, the Federal construction of the portion of Miss Wylie's water system within the Park about 1945 may be construed as a Federal appropriation of water under sovereign or riparian rights, based on Federal position prior to 1953, to supply water to her at the Park boundary, or as a Federal water development for which no rights have been established, based on the changing Federal position. We are now attempting to have the Departmental position defined as it relates to water diversions in the California national parks, and no commitments to Miss Wylie, by permit or otherwise, should reflect a final water right position until the Federal position is clarified.

From this, and the lack of an existing special use permit to cover right-of-way in the Park, Mr. Frary and Miss Wylie lack access by which to appropriate the spring water except at the Park boundary. The State Engineer has been very cooperative in recognizing the need for land use permits before water right permits are issued, and in granting water right permits subject to conditions imposed

in the special use permits for land use. For this reason, one of the first matters for decision is whether the National Park Service wishes to grant a special use permit with access to support private appropriation of water at the source, by authorized land use for private development or by authorized use of Federal pipe or pipe capacity; or issue a permit of a type under which the United States will perfect necessary Federal rights and deliver water either at the source or at the Park boundary, when available. No permit should be issued until the water right procedure is decided upon. In the few previous cases of the first type, we required prior Congressional authorization and granted longer permits.

The plaintiff and defendant are bound by the proration of water in accordance with the judgment but there is no reference to their having complied with the appropriative water laws of the State and established any firm rights to waters of the Kaweah River system. It is requested that you obtain confirmation of their lack of water right applications to, or permits from Miss Wylie and the Frarys or the State Engineer, and that you advise the latter of our possible interest in any filing which may be made, until we clarify the status of water claimants and the United States. It will be well to point out to the State Engineer that the 1948 suit suggests that any existing permit may have been granted on incorrect information concerning the Federal ownership of the land at the source, and lack of necessary right-of-way permit, to forestall any pending water right license. Miss Wylie and the Frarys should also be requested not to file any new claims until the matter is settled.

If an application has been filed, the Frarys or Miss Wylie should supply copies of application-permit, map, any applications for, or orders granting extensions of time, and possible licenses. They may purchase photostat copies and prints of maps from the Atlas Blue Print Company through the State Engineer, State Division of Water Resources, P. O. Box 1079, Sacramento, for a few dollars.

It appears that Mr. White prepared one sketch of the system and another was presented in court. Both sketches, the judgment forwarded on November 16, the proposed special use permit, any water right applications, and other significant records, will ultimately be included in a docket or alien water right assembly. Accordingly, please obtain and send to us such instruments as are now available, both for the present study and for their ultimate purpose. All possible instruments should be supplied by Miss Wylie or the Frarys, at their expense, but any purchases you make may be billed to this office under Appropriation 1451033, NPS 1955, 140.3 (143.02).

We see no reason for delaying special use permits to authorize the use of the truck trail for road access for a reasonable period, if the use is satisfactory to the Superintendent. However, the purpose of such a permit is to record that the truck trail is not a public highway and may be closed at our discretion. It may be possible to

issue a single permit to the owner of the tract entered from the Federal land to provide access to the private land in _____¼ Sec._____, T____S, R____E, MDM, to the extent that appurtenant access over her, or their, land is also granted to the other land owners. Individual permits may be granted if preferable.

Individual

(SGD) THOMAS J. ALLEN

Assistant Director

In duplicate

Copy to: Mr. Cutler
Mr. Dunn

AvVDunn:let

12-09-1954: letter to united states senate from assistant director regarding water rights to sycamore creek

WR Copy

In reply refer to:
L3031-L

DEC - 9 1954

Hon. William F. Knowland
United States Senate
Washington 25, D. C.

My dear Senator Knowland:

This is to supplement our letter of November 10 concerning your letter of October 18 from Miss Mary E. Wylie who owns part of a subdivided tract of private land which is traversed by Sycamore Creek and abuts on the boundary of Sequoia National Park in California.

This private land is about one mile west of the Park headquarters at Ash Mountain and near the government recreation hall. The entire area is reached by the West Boundary Truck Trail, which is exclusively an administrative and fire protection road constructed for Federal purposes.

Sycamore Creek is really a dry ravine with some intermittent flow. The spring mentioned by Miss Wylie is in the bed of the ravine, on Federal land, about 100 feet within the Park boundary. Except during wet periods, the spring flow does not extend to the Park boundary on the surface. The spring is reported to have gone dry at times.

During the days of the Civilian Conservation Corps, Miss Wylie's property was occupied by an employee of the National Park Service, who reached his land over the truck trail and through the parking area at the recreation hall. He obtained water through a pipeline which he extended to the spring. There is no record that he ever obtained permission to use the Federal land while he occupied the private land.

The first difficulties arose in 1943 when he sold his property to Mr. and Mrs. Charles H. Frary and Miss Wylie, and the question of rights-of-way over Federal land in the Park was brought to light as possible appurtenances to his land. As stated in our letter of November 10, negotiations were initiated to obtain special use permits, but the Park records indicate that action was suspended pending the resolution of more serious friction between the Frarys and Miss Wylie concerning their proportionate interests in the water system and supply.

Apparently, without the knowledge of the Park Superintendent, the controversy between the Frarys and Miss Wylie led to a suit in

the Superior Court of Tulare County (No. 35016) in 1946, to which other water claimants and the United States were not parties. The judgment in the case, rendered in 1948, allocated the flow from the spring between the two parties, defined their separate and mutual titles to the water system on the private land, and granted both parties the use of the two-inch pipe across the Federal land to the spring. It also provided that both parties should cooperate within 20 days after the judgment in reconstructing the diversion works and pipeline on the Federal land to permit better diversion of the water in accordance with the judgment. The Court was apparently not aware of the Federal property involved.

The judgment did not come to the attention of the Superintendent until this past September, when he also learned that one of the parties contemplated selling their land. In order that there would be no misunderstanding, he pointed out that the portion of the pipeline on the government land was Federally owned, and that any use of the Federal land for either road or water system access was at the sufferance of the United States. The current difficulties arose out of the fact that neither the Superintendent nor the prospective vendor could define the appurtenant interests of the latter without legal counsel which the Superintendent requested through our Regional Office in San Francisco.

There is no intention of denying the private land owners access to their land or the use of the water unless the best interests of the United States make such adverse action necessary. However, I am sure you will agree that it is proper to take all necessary steps to see that rights that do not exist are not assumed and sold with a resulting adverse effect upon the Park. Title to all increments of the water system must be verified and the Federal property rights involved must be determined before its use can be covered by permit. As soon as these matters are clarified, the Superintendent will issue appropriate revocable permit or permits.

Sincerely yours,

(SGD) THOMAS J. ALLEN

Thomas J. Allen
Assistant Director

Copy to: Regional Director, Region Four (2)
Mr. Dunn

AvVDunn:lct 12-7-54

In reply refer to:
L3031-L

DEC - 9 1954

Memorandum

To: Regional Director, Region Four

From: Assistant Director

Subject: Water Dispute--Frary-Wylie Involving Access to Spring Tributary to Sycamore Creek in Sequoia National Park

Attached are two copies of our letter to Senator Knowland which follows the general approach of the draft by Mr. Sooyen which was forwarded with your memorandum of November 24.

We construe the judgment of April 21, 1948, as binding on the parties thereto, and no others, and subject to permissive use of property which must be obtained from others. It allocates the water between Miss Wylie and the Frarys subject to obtaining the right to use the water in accordance with the State water laws, and subject to right of access which must be obtained from the United States. It assigns a mutual responsibility for action necessary to get the water from the spring to the private land. It implies an assumption that the portion of the water system within the Park is privately owned, and provides for improvements to permit proper diversion of the water.

We agree that it is essential to obtain the information requested in the memoranda of August 26 and October 30 before permits are drafted. It is particularly important to determine that all parts of the water systems in the Park are Federally owned, or exactly what parts are Federally and privately owned.

If the United States owns all of the water system within the Park, a permit may be granted for the use of land and pipeline; for the use of the pipeline only; or for the use of Federal water under rights to be established, delivered at the Park boundary when available. The permit must authorize the use of land and designated portions of the pipeline if any portion of the water system within the Park is privately owned. Any form of permit should have conditions defining responsibility for maintenance and replacement.

A permit for the maintenance and use of only the Federal water system, or for the use of Federal water, would eliminate some undesirable features and have both advantages and disadvantages. The judgment seems to imply that the litigants should modify the pipeline near the spring, to permit better measurement of quantities

of water allotted to each, and to provide separate pipelines therefrom. However, the same division of water and separate pipelines can start where the water enters the private land if only one pipeline is recognized or authorized within the Park.

Letters of October 6 to Mr. Frary and Miss Wylie from Mr. Scoyen suggest that he believes that there is a Federal proprietary interest in the spring water. The State Engineer, on counsel of the attorney in the State Division of Water Resources, does not recognize any Federal riparian rights on Federal land which has not been patented and then reacquired by the United States. Moreover, the United States has filed no claim to the designated water. On this basis, Mr. Scoyen should restrict his considerations of existing status to land use, or right-of-way, at this time, in writing to the claimants.

It also appears to be confirmed that the water development within the Park was originally constructed by the National Park Service, and that Miss Wylie has been permitted to maintain and operate it, with a gate provided in the boundary fence for the purpose. She and the Frarys may have made alterations in accordance with the judgment. From the date of the suit between Nebraska and Wyoming in 1935 until passage of the appropriation act for the Department of Justice for 1953, the United States attempted to assert Federal immunity to the State water laws. It has also attempted to assert that the United States did not abrogate the riparian doctrine under the Desert Land Act of 1877. Since 1953, there has been at least a Departmental trend toward Federal compliance with the State water laws, although representatives of the Solicitor's office advise that they have not reached entire agreement with the Department of Justice. The court decision in the Santa Margarita case in Southern California, about a year ago, strengthened the State Engineer's claim that riparian rights only applied to patented land.

Under these circumstances, the Federal construction of the portion of Miss Wylie's water system within the Park about 1945 may be construed as a Federal appropriation of water under sovereign or riparian rights, based on Federal position prior to 1953, to supply water to her at the Park boundary, or as a Federal water development for which no rights have been established, based on the changing Federal position. We are now attempting to have the Departmental position defined as it relates to water diversions in the California national parks, and no commitments to Miss Wylie, by permit or otherwise, should reflect a final water right position until the Federal position is clarified.

From this, and the lack of an existing special use permit to cover right-of-way in the Park, Mr. Frary and Miss Wylie lack access by which to appropriate the spring water except at the Park boundary. The State Engineer has been very cooperative in recognizing the need for land use permits before water right permits are issued, and in granting water right permits subject to conditions imposed

in the special use permits for land use. For this reason, one of the first matters for decision is whether the National Park Service wishes to grant a special use permit with access to support private appropriation of water at the source, by authorized land use for private development or by authorized use of Federal pipe or pipe capacity; or issue a permit of a type under which the United States will perfect necessary Federal rights and deliver water either at the source or at the Park boundary, when available. No permit should be issued until the water right procedure is decided upon. In the few previous cases of the first type, we required prior Congressional authorization and granted longer permits.

The plaintiff and defendant are bound by the proration of water in accordance with the judgment but there is no reference to their having complied with the appropriative water laws of the State and established any firm rights to waters of the Kaweah River system. It is requested that you obtain confirmation of their lack of water right applications to, or permits from Miss Wylie and the Frarys or the State Engineer, and that you advise the latter of our possible interest in any filing which may be made, until we clarify the status of water claimants and the United States. It will be well to point out to the State Engineer that the 1948 suit suggests that any existing permit may have been granted on incorrect information concerning the Federal ownership of the land at the source, and lack of necessary right-of-way permit, to forestall any pending water right licenses. Miss Wylie and the Frarys should also be requested not to file any new claims until the matter is settled.

If an application has been filed, the Frarys or Miss Wylie should supply copies of application-permit, map, any applications for, or orders granting extensions of time, and possible licenses. They may purchase photostat copies and prints of maps from the Atlas Blue Print Company through the State Engineer, State Division of Water Resources, P. O. Box 1079, Sacramento, for a few dollars.

It appears that Mr. White prepared one sketch of the system and another was presented in court. Both sketches, the judgment forwarded on November 16, the proposed special use permit, any water right applications, and other significant records, will ultimately be included in a docket or claim water right assembly. Accordingly, please obtain and send to us such instruments as are now available, both for the present study and for their ultimate purpose. All possible instruments should be supplied by Miss Wylie or the Frarys, at their expense, but any purchases you make may be billed to this office under Appropriation 14X1033, NPS 1955, 140.3 (143.02).

We see no reason for delaying special use permits to authorize the use of the trunk trail for road access for a reasonable period, if the use is satisfactory to the Superintendent. However, the purpose of such a permit is to record that the trunk trail is not a public highway and may be closed at our discretion. It may be possible to

issue a single permit to the owner of the tract entered from the Federal land to provide access to the private land in _____ Sec._____, T_____S, R_____E, MDM, to the extent that appurtenant access over her, or their, land is also granted to the other land owners. Individual permits may be granted if preferable.

(SGD) THOMAS J. ALLEN

Assistant Director

In duplicate

Copy to: Mr. Gutler
Mr. Dunn

AvVDunn:let

11-24-1954: memorandum to director from regional director regarding water dispute, frary-wylie involving access to spring

JR Copy (a)
In reply refer to
L3031

November 24, 1954

Memorandum

To: Director

From: Regional Director, Region Four

Subject: Water Dispute, Frary-Wylie involving access to Spring, Sequoia National Park

In connection with the above you have received copies of Attorney McClellan's opinion of October 20 and our memorandums of October 22 and November 16 to Superintendent Scoyen.

There are now attached copies of the following:

Memorandum of November 16, Supt Scoyen to Regional Director
Draft of letter suggested by Supt Scoyen for reply to Senator Knowland
Letter of November 15, Supt Scoyen to Miss Wylie
Opinion of November 24 Attorney McClellan to Regional Director

Your early comments will be appreciated. It would still appear advisable to this office that the information requested from Superintendent White in Mr. Tolson's memorandums of August 28 and October 30, 1945 should be obtained. It might be helpful, too, if there were submitted some indication of the value of the Wylie property.

Lawrence C. Merriam
Regional Director

Attachments

Copy to Sequoia
w/copy McClellan's memo 11/24

11-10-1954: memorandum to superintendent from acting director regarding use of spring tributary to sycamore creek

WR Copy @

In reply refer to:
L3031-L

NOV 10 1954

Memorandum

To: Superintendent, Sequoia-Kings Canyon National Parks

From: Acting Director

Subject: Use of Spring Tributary to Sycamore Creek, Sequoia National Park

Attached are copies of a letter of October 18 to Senator Knowland from Miss Wylie and our reply to the former, and a resume of the records in our files.

It is not clear whether Miss Wylie has been diverting on her land or within the Park since 1945. If the latter, we assume that Miss Wylie has used the former pipeline of Harry Foster with or without improvements by this Service. We shall appreciate a detailed report and copies of any permits which may have been issued since 1944.

Miss Wylie appears to have riparian rights to water of Sycamore Creek and she should be encouraged to make a diversion on her land if practical. We also see no objection to granting revocable special use permits to use land within the Park for a temporary extension to the source in a dry year and until an adequate riparian diversion can be made but we should prefer to have such permits terminated during periods when the normal flow reaches the suggested diversion on her land.

Of course, if Mr. Carl J. Buehler is appropriating water downstream, to which the spring in the Park is tributary, a continuing special use permit and appropriative filing with the State Engineer would be in the best interest of Miss Wylie if she is to divert within the Park in dry years. However, if Mr. Buehler has filed his application with the State Engineer, Miss Wylie is already too late to establish a prior appropriative right. In that case, her best defense against his conflicting claim would be a permanent riparian diversion on her land with an underground collecting system adequate to intercept sufficient quantities of the flow in dry years.

(SGD) HILLORY A. TOLSON

Acting Director

Attachments 3

Copy to: Regional Director, Region Four with copy of resume
Mr. Cutler
Mr. Dunn

AvVDunn:lct 11-9-54

WR copy

In reply refer to:
L3031-L

NOV 10 1954

Hon. William F. Knowland
United States Senate
Washington 25, D. C.

My dear Senator Knowland:

We have reviewed the letter of October 18 to you from Miss Mary E. Wylie, which is returned herewith, and our records of the correspondence concerning her water system during 1944 and 1945. Suggestions for the relief of Miss Wylie were offered to the Superintendent of Sequoia National Park in 1945 and there has been no further correspondence until now. We do not appear to have copies of the 1951 correspondence between Miss Wylie and the Superintendent, and do not know of the circumstances resulting in Miss Wylie's letter to you at this time.

The source of supply for Miss Wylie's water system appears to be about 100 feet within the boundary of Sequoia National Park. Sycamore Creek, of which the spring is a source or tributary, flows across her land. Her predecessor was apparently able to make riparian surface diversions in years of normal flow but had to extend the pipe to the spring or install an underground diversion where the stream enters the private land to obtain water in dry years.

Miss Wylie seems somewhat confused as to the relative jurisdiction of the United States and the State of California. The National Park Service, as an agency of the United States, may grant a revocable permit for the use of land, if not incompatible with the purposes for which the land was included in the Park. Only the State Engineer can grant the parallel right to appropriate water on that land. Miss Wylie also has riparian rights to the use of the water as it flows over her land in normal years. If practical, her water rights would be stronger and there would be no conflict with Park interests if she were to invest in a proper diversion on her land to recover the surface flow of normal years and underground flow of dry years.

Of course, we would have no authority to sell Miss Wylie a right-of-way across the Park land. There is no similarity between the establishment of private drives over the Federal land after creation of the Park and right of access to the Wilsonia Tracts in Kings Canyon over roads which were established before the latter Park was established. The Secretary lacks authority to grant more than a revocable permit for the use of land for a right-of-way across Park land.

It seems probable that the irregularities were not resolved in 1945 and 1951 as they relate to the water system because of increasing natural flow to the Park boundary, and the present issue arises out of an attempt to restore the old dry year diversion. We are sure that a solution can be reached and will advise you further at a later date. We do not know the nature of the road problem at this time.

Sincerely yours,

(SGD) HILLORY A. TOLSON

Hillory A. Tolson
Acting Director

Enclosure

Copy to: Regional Director, Region Four, with copy of incoming corres. (detached)
Superintendent, Sequoia-Kings Canyon with copy of incoming corres.(detached)
Mr. Cutler with copy of incoming corres.
Mr. Dunn with copy of incoming corres.

AvVDunn:let 11-9-54

10-18-1954: letter to senator from private land owner regarding use of a spring located on government land

C
O
P
Y

Three Rivers, California
October 18, 1954

Senator Wm. F. Knowland
Tribune Tower
Oakland, California

Dear Senator Knowland:

Back in 1945 I asked your predecessor, the late Senator Hiram Johnson, to intercede for me in obtaining the use of a spring located on Government land about 60 or 80 feet north of my property. He did so and I have been using it ever since, feeling that I had the right to use it.

The former land owner had used the spring for years without permission but with full knowledge of the Park Superintendent. In fact it was his only available water supply.

To go into details would be too tedious but last week I had a letter from E. T. Scoyen, Superintendent of Parks. I shall quote briefly from his letter, "In reviewing our file on the matter, I find your letter of March 23, 1951. In this you make inquiry relative to a filing by Carl J. Buehler on a spring in Sycamore Creek and state that if it is the spring in the park above your property, that you wish to protest because I feel that I have prior rights. We answered on March 30 and gave you the information that that particular spring was not involved. However, I think we should have pointed out that the Government has granted no rights to this spring and that we therefore do not recognize any claimed by you or anyone else.

"Just so there will be no misunderstanding on the entire situation, I wish to make record of that fact that the National Park Service does not recognize any rights to use of water from the spring within the Park boundaries. Also access to your property at present is across park lands and through a gate in the Park boundary fence. This is allowed as a convenience to you as long as it causes no difficulty to the National Park Service. It is, however, subject to closure at anytime and you should not assume that it is or can be established as a right not subject to full and exclusive control by the Federal Government."

The land on which this spring is located is a narrow bridge shaped piece and is outside the Park fence. The spring practically dries up every summer and is of no value whatever to the Park but it is invaluable to me. Is there some way of getting a grant of this land for me so that there will be no further question as to whether I have the right to use it. The land is practically straight up and down in a ravine but I shall be glad to buy it if it isn't more than

$50. I am a retired teacher, 75, living on a small (for these days) income. This government of ours, when it is wisely directed, is the best on earth. "Of the people, by the people and for the people." But is it for all the people.

As to the driveway to my home. It lies between my land and highway 198. It is around 1½ miles from the entrance to the Park. It goes to the recreation hall (which others beside park employees use) and the corrals. There is a little settlement inside the park called, I believe, Wilsonia. How do they come and go? Certainly not by air. There is no other access to my property.

It is my belief that the Superintendent of Park is a custodian to see that people use our public domain in the right way and not to deny citizens the right of God given water.

Please, will you take care of this for me as Senator Johnson did, only this time, make it stick.

Sincerely yours,

/s/ (Miss) Mary E. Wylie
P. O. Box 21
Three Rivers, California

Nov. 1954

Resume of Correspondence Concerning Use of Spring
in
Sequoia National Park
by
Miss Mary E. Wylie

It appears that Miss Wylie purchased her property from a former ranger at Sequoia National Park. The property abuts on the Park boundary near the Ash Mountain entrance. The water supply is from a spring a short distance within the Park and the natural drainage through Sycamore Creek traverses a small ravine across her property.

Although the reports of 1944 and 1945 from the Superintendent are sketchy, they suggest that the ranger originally made a riparian diversion from Sycamore Creek on his property. Due to drought, the surface water ceased to flow to the Park boundary and the Superintendent granted the ranger informal permission to extend his pipeline to the spring source with the understanding that the use of Federal park land would cease when the normal average flow returned. Instead of making a temporary installation, the ranger constructed a permanent system.

An issue appears to have arisen in 1944 when the Acting Director, on advice of the Chief Counsel, advised the Regional Director that the Act of March 3, 1921 (41 Stat. 1353) amending the Federal Water Power Act of June 10, 1920, denied authority to grant permission to use land in a national park for water systems without special Congressional approval, and that the pipeline extension should be removed. This statement was corrected by the memorandum of August 28, 1945 to the Regional Director from the Acting Director, which stated that a permit of the type requested by Miss Wylie could be granted, and referring to memorandum RD-138 of April 18, 1945 which advised that the Federal Water Power Act denied the Federal Power Commission authority to grant the use of Federal land in a park, but did not deny the Secretary authority to issue revocable permits at his discretion.

The letter of June 26, 1945 to Senator Johnson from Miss Wylie indicates that she spent "considerable money and heart ache" in an attempt to pump water from the Kaweah River, without success. The memorandum of October 12, 1945 to the Regional Director from the Superintendent suggested that he would "waste water" from the spring to the Park boundary (100 feet) to make the one or two gallons per minute of water available to Miss Wylie without the use of Federal land since the water was not needed in the Park. By memorandum of October 30, 1945, to the Regional Director, the Acting Director questioned the meaning of "waste water" and pointed out that the United States had no authority to make improvements

to deliver water to Miss Wylie, but that it would be proper to permit the water to flow normally to the boundary in the natural channel. The same memorandum recommended the use of a special use permit if improvements were needed and requested more details.

The Washington Office files include no reply to the memorandum of October 30, 1945 or any copy of a special use permit.

10-30-1945: memorandum to regional director from acting director regarding water problems at seki concerning a private land own

54

October 30, 1945.

MEMORANDUM for the Regional Director, Region Four.

Reference is made to your memorandum of October 17 with Superintendent White's suggestions of October 12 with regard to the water problems of Miss Wylie at Sequoia National Park.

Under the riparian doctrine, as recognized in California, any unused water must be allowed to flow, seep, or percolate in its natural channel, and any landowner can divert it and use it when it reaches his property. If, by "wasting", Mr. White proposes that procedure, it is entirely satisfactory.

However, there is some suggestion in his memorandum to the effect that Superintendent White may contemplate some improvement of the channel by this Service to make the water flow another 100 feet on the surface to reach the boundary of Miss Wylie's tract. This Service has no authority to make such improvements for Miss Wylie. If such action is needed, we think it should be done by Miss Wylie under permit, and, before such a permit is authorized, we should have the report requested in our memorandum of August 28.

(SGD) HILLORY A. TOLSON

Acting Director.

AvVD:sh.

In duplicate.

cc: Mr. Dunn.

10-12-1945: memorandum to regional director from superintendent regarding water desired by a private land owner on government

C O P Y

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
SEQUOIA-KINGS CANYON NATIONAL PARK
SEQUOIA NATIONAL PARK, CALIF.

October 12, 1945.

MEMORANDUM for the Regional Director, Region Four:

Referring to your memorandum of September 6 and letter from Acting Director Tolson of August 28, 1945, on the subject of water desired by Miss Wylie from a spring in the bed of Sycamore Creek just inside the park boundary from her land which abuts upon the park: I have this day talked with Miss Wylie and also have visited the source of the water.

Sycamore Creek at this point is a deep gulley about 100' below the surrounding arable land. The creek bed itself is dry at the park boundary but about 100' inside the park boundary there is a seepage of water which probably runs a gallon or two a minute and is of no use whatever to the park. In order to obviate any permit, we propose to waste the water from this spring for the 100' to the park boundary, and if Miss Wylie or anybody else desires to take it at that point that will be their business. This would appear to obviate the necessity for issuance of any permit, and to make this water matter less complicated.

I have discussed this with MissWylie and she is appreciative of anything we can do, and this I think will close the matter.

John R. White
Superintendent

CC: Director.

08-28-1945: memorandum to regional director from acting director regarding use of water by private land owner with diversion just i

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

54

August 28, 1945.

MEMORANDUM for the Regional Director, Region Four.

Enclosed are two copies of a letter of June 26 from Miss Mary E. Wylie of Three Rivers, California, to Senator Hiram Johnson, which relates to the former use of water with diversion just inside Sequoia National Park.

This matter was previously referred to us when you forwarded a memorandum of August 1, 1944, from Superintendent White, to which we replied on August 17, 1944. At that time, we advised you that, under the amended Water Power Act of March 3, 1921 (41 Stat. 1353), this Service did not have authority to grant permits for pipe lines in the national parks and national monuments as they were constituted when that act was passed. Subsequently, our Chief Counsel determined that, through an incomplete quotation of the act and the history relating thereto, we were placing an incorrect interpretation upon it. A revised statement with regard to the act was issued as a Memorandum of April 18, 1945, for the Regional Directors (No. RD-138), the conclusion being that a permit of the type requested by Miss Wylie could be issued in the discretion of the Director.

Our records show that this Service does not contemplate the use of the water and that the portion of the former water system within the park was relatively small. It is also noted that one argument offered by Miss Wylie is that by diverting within the park she expects to obtain water from the source uncontaminated by wandering stock. It also seems possible that her alternate solution of pumping from the Kaweah River is the most expensive one which she could attempt.

We are inclined to believe that some form of annual revocable permit might be granted, if properly qualified to permit its cancellation if it proves to conflict with the paramount use of the land as a part of the park. However, we should like to know whether it is in fact necessary for Miss Wylie to divert water from within the park or whether she could obtain the same results with an underground collection at the park boundary at less expense than is entailed in the pump system from the Kaweah River. We should also like to know whether the development within the park will involve fencing to exclude stock and wildlife and whether a suitable diversion could be made at the park boundary without a pipe line on the parkland if the portion of the stream above that point were so fenced. Any permit should also include a condition that no structures of such permanent type that they cannot be removed on demand shall be installed within the park boundary.



Please give this matter further consideration and let us have your recommendations. Enclosed also is a copy of our reply to the late Senator Johnson's secretary which you should have to complete your records.

(SGD) HILLORY A. TOLSON
Acting Director.

AvVD:sh.
cc: Mr. Demaray.
Mr. Dunn.
Enclosure 294.
In duplicate.

UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
CHICAGO, ILLINOIS

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

54

August 28, 1945.

Secretary,
Office of the Honorable Hiram W. Johnson,
The United States Senate,
Washington, D. C.

Dear Sir:

We are returning the letter of June 26 from Miss Mary E. Wylie to the late Senator Hiram W. Johnson, relating to water problems at the edge of Sequoia National Park.

It is our understanding that Miss Wylie purchased her land when it was served by a pipe line which her predecessor had installed without adequate permission from this Service. Her predecessor had been permitted to make a temporary diversion within the park some years ago when the stream flow became unduly low, with the understanding that this system would be removed as soon as relatively average stream flow returned. Instead of removing the development he later built relatively permanent structures without further permission from this Service. It is unfortunate that Miss Wylie acquired his interests at the time that we were endeavoring to correct this evidence of trespass.

When Miss Wylie requested permission to maintain the pipe line a year ago, we denied it on the assumption that she would restore the diversion at the park boundary which has proved adequate except in a few dry years during a considerable period of time. We were not aware of her attempts to pump from the Kaweah River.

We are referring the matter to our Regional Director in San Francisco and are requesting him to investigate the conditions in order to determine whether Miss Wylie may or may not enjoy her riparian rights on the small stream without extending her water system onto the park land. It is our desire to permit full enjoyment of riparian rights so far as she has them on the stream but, as a matter of policy, we do not favor granting permits for development on Federal land, unless they are really necessary. In no case can such permits be for more than a limited period of time, or other than reasonable in character, and no such permit can become a permanent appurtenance to the private land which it serves.

It is, therefore, evident that, if our present investigations suggest the justification for issuing a permit at this time, Miss Wylie should still consider the ultimate construction of a permanent system to divert either at the park boundary or from the Kaweah River.



AvVD:sh.
cc: Mr. Demaray)with copy of
Regional Director,)Miss Wylie's
Region Four(2))letter of
Mr. Dunn)June 26. (detached).

Very truly yours,
(SGD) HILLORY A. TOLSON
Hillory A. Tolson,
Acting Director.

Enclosure 295.

06-26-1945: letter to senator from private land owner regarding use of water inside government owned land

C O P Y

Three Rivers, Calif.
June 26, 1945.

Hon. Hiram Johnson,
Senator from California,
Washington, D. C.

Dear Sir:

This may be an imposition on my part but I am asking that you read my letter and then perhaps you may be able to help me out of my dilemma.

My home is located next to the Sequoia National Park eight miles beyond Three Rivers. When I bought the place I was told that the water supply came from a spring in the ravine at the back. The man who sold me the place was a former ranger. The spring in question is on the Park property a short distance from my boundary line. And while this ranger did not have permission to develop it the Superintendent of Parks knew for years that he was using it.

I used the spring for a year after I bought and at the end of the year Mr. White, the Superintendent of Parks, had my pipe-line from the spring to my catch basin disconnected and he wrote me a letter saying that I was trespassing. Since then I have spent a considerable sum of money trying to get water from Kaweah River which is about a half mile distant and about 450 feet lower than my property.

It is a heart and purse breaking project largely on account of priorities on pipe, electric wire, and pumps. I bought a used pump but it has broken down. I have burned out three motors. It would be hard enough to engineer this project if I were a man, but being an old woman I am at the mercy of everyone.

As far as this spring is concerned it is of no value to the Park. As I mentioned before it is just over the line from my place, and the water from it drains down a creek in the ravine to Kaweah River. I have a good catch basin there and it would be so much easier and cheaper to bring water from the ravine than from the river. The ravine is open and on account of stock running at large for sanitary reasons I would not dare take water from there.

I have been told that to divert even this small amount of water from the Park permission must be had from Congress. It seems ridiculous for me to ask Congress to pass an Act permitting me the use of this spring that almost goes dry every September, but I see no other way out. I haven't the money to engage the services of a lawyer. This is my home and I like it here. With no water and if I am forced to sell I wouldn't be able to realize even the improvements I have made to say nothing of theoriginal investment.

I know that you are a very busy man but can you possibly do something about this for me? If so, I shall be everlastingly grateful to you.

Sincerely yours,

(Sgd) Mary E. Wylie

(Miss) Mary E. Wylie,
Three Rivers,
Calif.

2 names

Dunn
Taylor
Johnson
Vitta
Wirth
Vint

CHICAGO 54, ILLINOIS

August 17, 1944.

MEMORANDUM for the Regional Director, Region Four.

Reference is made to your memorandum of August 5, with enclosures, relating to a pipe line which Miss Mary E. Wiley has installed in the Sycamore Creek area of Sequoia National Park to serve her property just outside the boundary.

The act of March 3, 1921 (41 Stat. 1353) provides:

"That hereafter no permit, license, or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power within the limits as now constituted of any national park or national monument, shall be granted or made without specific authority of Congress,.. ."

It is also an accepted fact that no individual may obtain a prescriptive right adverse to the United States.

In the third place, the owner of land in California has the right to use water flowing on that land under the riparian doctrine, but has no right to appropriate water in another drainage or where the riparian doctrine does not apply, without perfecting a water right in accordance with the State water code by application, permit, and license. To perfect such a right it is necessary to obtain access to the point of diversion by the acquisition of necessary right of way.

It is assumed that there is no doubt as to the park boundary along Miss Wiley's property and therefore no question as to whether the pipe may or may not extend into the park.

From the foregoing, the Superintendent had no authority to grant Harry Foster such access several years ago, and has no authority to grant such access to Miss Wiley now. Both installations constitute trespass and Miss Wiley, if the present owner, should be advised to remove all development and backfill the trench. She should also be advised that she probably needs a water right permit from the State Engineer to make any diversion on land other than her own and that this Service does not have authority to grant the necessary right of way essential to the perfection of such a water right for diversion within the park.

It is suggested that the matter be explained frankly to Miss Wiley. It would also be desirable to know the location of the diversion by section and township in order to follow the matter with the State Engineer.

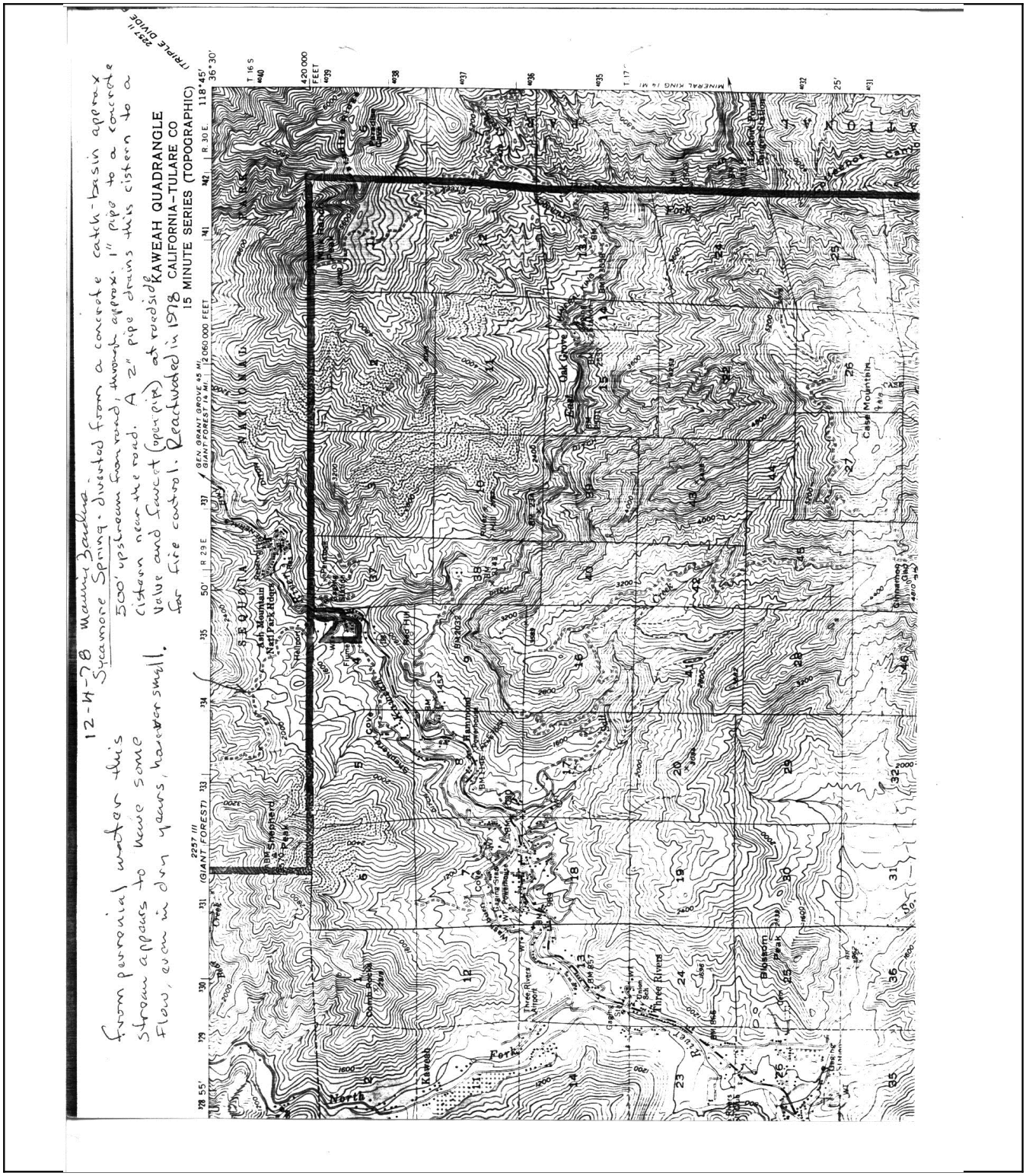
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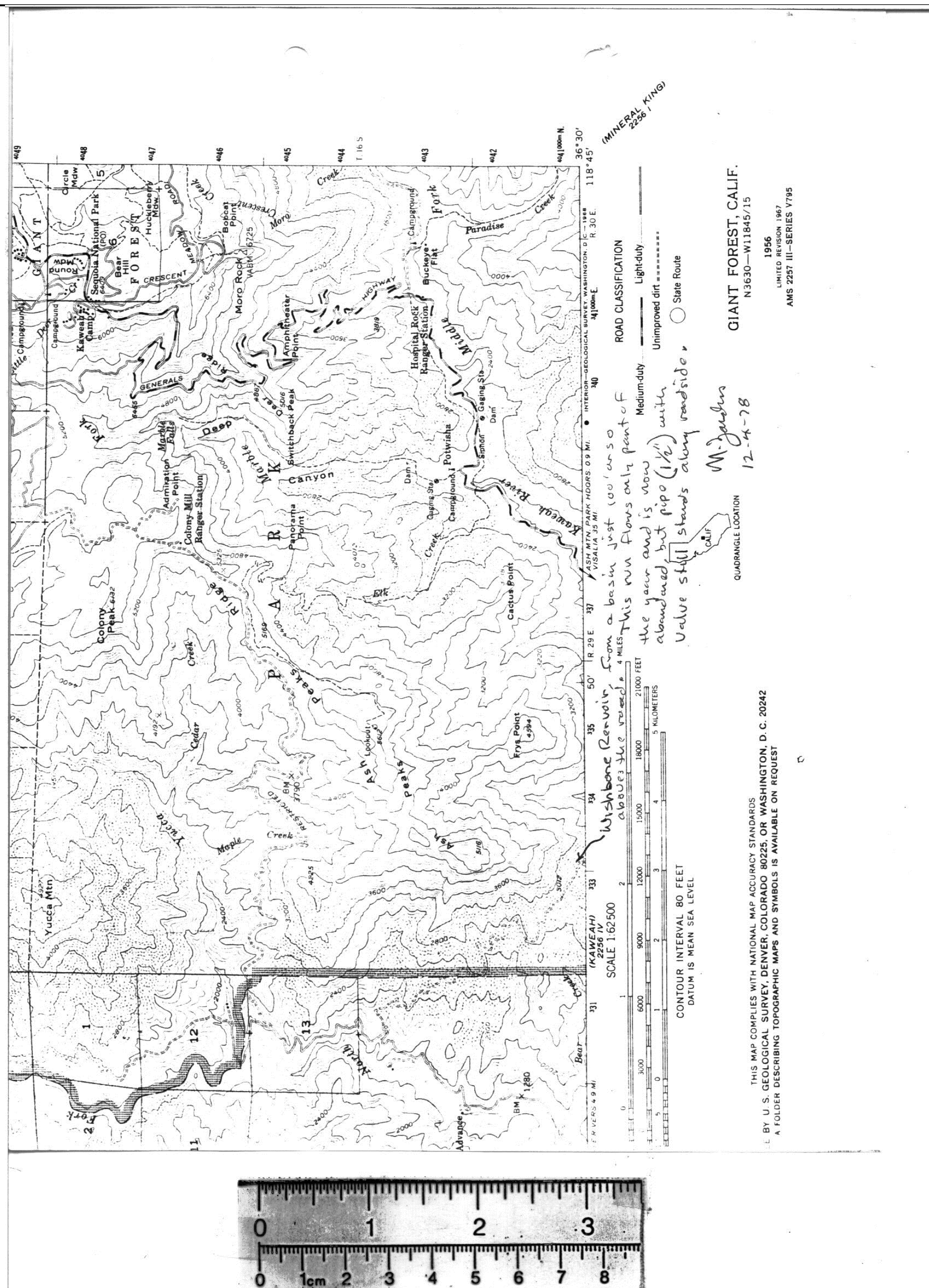
In duplicate.
cc: Mr. Dunn, Room 1145.

(SGD) Hillory A. Tolson
Acting Director.

Maps and Miscellaneous Information

08-17-1944: topographical map of sycamore spring





Docket Information

Number of Documents in Docket 103

Documents Dated from 6/15/1932 to 7/21/2017

Docket Compiled: 7/25/2017