

APPLICATION FOR PERMISSION TO CHANGE POINT OF DIVERSION, MANNER OF USE AND PLACE OF USE OF THE PUBLIC WATERS OF THE STATE OF NEVADA HERETOFORE APPROPRIATED.

Date of first receipt and filing in State Engineer's office \_\_\_\_\_

Returned to applicant for correction \_\_\_\_\_

Corrected application filed \_\_\_\_\_

The undersigned The United States of America, Department of the Interior, National Park Service, by Guy D. Edwards, Superintendent, Boulder  
(Name of applicant.) Dan National Recreational Area

of Boulder City, County of Clark

State of Nevada, hereby makes application for permis-

sion to change the point of diversion, method of conveyance, place and purpose of use

of water heretofore appropriated under Proof No. 01065 under decreed rights to

(State nature of right that is the basis of this

Cave Springs, being part of the adjudication of rights to Baker and Lehman Creeks, decreed  
application, i. e., vested, decreed or permitted right.)

October 1, 1934, and to amend said proof.

1. The source of water supply is Cave Springs, a nameless spring hereafter designated as South Spring, and Lehman Creek. (See rider.)
2. The quantity of water desired to be changed 0.15 second foot (109.5 AF/acraam)  
(Acre foot, second foot.) (See rider.)
3. The water is to be used for domestic and recreational purposes  
(See Remarks 12)
4. The water heretofore used for irrigation (See Remarks 12)
5. Place of use under existing appropriation 7.5 acres in NE $\frac{1}{4}$  NW $\frac{1}{4}$  & NW $\frac{1}{4}$  NE $\frac{1}{4}$   
(Under irrigation give number acres  
Section 15, T. 13 N., R. 69 E., M.D.B. & M. as described in decree and shown on exhibit  
and description in respect to Government Land Survey; under any other use give location as being within a 40-acre  
E-1. Said description is partially in error. (See rider.)  
subdivision.)
6. Proposed place of use under this application SW $\frac{1}{4}$  SE $\frac{1}{4}$  & SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 10;  
(Under irrigation give number  
and NE $\frac{1}{4}$  NW $\frac{1}{4}$  & NW $\frac{1}{4}$  NE $\frac{1}{4}$  Section 15, T. 13 N., R. 69 E., M.D.B. & M. (Also see rider.)  
of acres and description in respect to Government Land Survey; under any other use give location as being within a  
40-acre subdivision.)
7. The water is to be diverted from its source at the following point:  
See rider.  
(Describe as being within a 40-acre subdivision of public survey or by course and distance to a section corner.)
8. The existing point of diversion under the proposed appropriation is  
as follows: See rider.  
(If point of diversion is not changed do not answer.)
9. Number and kind of animals proposed to be watered none.
10. Use will begin about Jan. 1 and end about Dec. 31 of each year.  
(Month) (Month)
11. The water has been used heretofore during the months of January 1  
to December 31. of each year
12. Remarks The decree granted a right to divert water for irrigation purposes only, but Exhibit E-1 showed a reservoir which is designated as "Pond" on accompanying map. The exhibit also shows corrals at southwest corner of orchard, and the water code provides for the normal domestic needs of a rancher under his irrigation rights. From reports of "oldtimers" the pond was used as a fish-pond and for stockwatering in summer, and for ice harvesting in winter long before, and at time of, the adjudicati

(Over)

The Park Service claims that the use has been for general ranch purposes without protest and with the knowledge of the court since prior to the adjudication.

The proposed water use by the Park Service is described as follows:

Domestic - Domestic purposes by the permanent employees at the monument.

Recreational - Sanitary facilities at public comfort stations.  
Culinary purposes at a small lodge operated under Park Service supervision.  
General culinary and sanitary purposes at a public campground.  
Incidental irrigation of shrubs and other vegetation in campground and immediately adjacent to buildings.  
Dust laying in campground and on unpaved roads in immediate headquarters area.  
Maintenance of the "Pond" for fish culture and swimming pool purposes.  
Maintenance of 44,200 gallons of storage for fire protection.

The United States requests the right to divert all or any part of the water decreed under Proof No. 01065 from any of the points of diversion and redirection to be maintained or constructed under this application.

1 (Continued). The source of supply designated in the decree of October 1, 1934, on Proof No. 01065 is Cave Springs, but Exhibit E-1 of that proof shows that waters diverted from the outlet of said Cave Springs at point A were conveyed to a reservoir formed by a dam across the outlet of said South Spring at point E, and that the waters of both springs were there commingled and lost their identity and were released to the united outlet from both springs for rediversion at a small dam at point H.

Further, a ditch was dug from Lehman Creek to a point in the said Cave Spring area before July 1, 1887, and the waters of said Lehman Creek have been continuously diverted thereby since that date, and released on said Cave Springs area where it lost its identity and became commingled with the waters of said Cave Springs and has been diverted and rediverted by the water system described in Proof No. 01065 at said points A and H, as per attached sworn statement by E. B. Robison. This said diversion from Lehman Creek was made during the aforesaid adjudication, and has been made, without protest, continuously since rights under Proof No. 01065 were decreed.

The flow of said Cave Springs is only approximately 0.08 sec. ft., the flow of said South Spring is considerably less, and the outlets to said springs are losing streams. Not over 10 acre feet of storage was provided by reservoirs at E and R on Exhibit E-1. The combined available water supply, without supplemental diversions from Lehman Creek, was less than 85 acre feet per annum, and proof of the beneficial use of 0.15 sec. ft. or 109.5 acre feet per annum in the S $\frac{1}{2}$  of Section 10 or N $\frac{1}{2}$  of Section 15, T. 13 N., R. 69 E., M.D.M., could not have been made, as required to justify the said decree, without supplemental water diverted from said Lehman Creek under a vested right dating from July 1, 1887.

The claim is here made, therefore, that the water right decreed under Proof No. 01065 is to divert the waters of said Cave Springs, South Spring, and Lehman Creek in quantities necessary to provide the decreed duty of water.

2 (Continued). The United States claims the right to the full appropriation by virtue of a deed from the Commissioners of White Pine County to the United States of America, Department of Agriculture, dated September 18, 1934, and recorded in Book 118, pages 221-222 of the records of the County Recorder, which conveyed all of Homestead Entry Survey No. 149, Patent No. 724063, except a parcel previously conveyed to the State of Nevada, and "the waters of Cave Spring, evidenced by proof of appropriation No. 01065 on file in the office of The State Engineer, State of Nevada." The excluded State parcel is above the ditch and not served by it.

Conveyance by said County Commissioners was in accordance with resolutions to convey, adopted on the 5th day of September in 1933 and again on the same date of 1934. Authority for said conveyance was by act of the 35th session of the State Legislature, being Chapter 104, approved March 19, 1931, and appearing on pages 174-175 of Statutes of that year.

Jurisdiction over the above property has since been transferred from the Department of Agriculture to the Department of the Interior, National Park Service.

GENERAL I. PART OF ALLOT. NO. 1000 IS CHAS. COLYER'S AND EXHIBIT E-1  
(Continued) THE BOUNDARY OF SAID SECTION 10 AS DEFINED BY THE PEOPLE OF

5 & 6 (Continued). The original area of irrigation shown on Exhibit E-1, and there defined with relation to the N $\frac{1}{2}$  of Section 15, is actually on a hillside where irrigation is not practical and no evidence of planting exists. The area shown as fenced at the time of the HE Survey of 1917, on accompanying map of Cave Springs Water Claims, is actually planted to orchard older than the monument. It is also the area now devoted to public picnic and campground. The fenced area is nominally the area shown as planted to orchard and alfalfa on Forest Service map of survey of August 30-31, 1933, as shown on accompanying map. The Park Service therefore claims the right to amend the place of use to include parts of Section 10 as well as originally claimed Section 15, as herein noted.

By change of manner of use, the Park Service claims the right to reduce the duty of water and reduce the area of irrigation, applying the surplus quantity of water, or any portion thereof, to scattered portions of a greater area, and particularly to domestic, sanitary, fire protection, and industrial purposes on that same area. The enlarged area is hereby defined as all, or any portions, of the SW $\frac{1}{4}$  SE $\frac{1}{4}$  & SE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 10 and the NW $\frac{1}{4}$  NE $\frac{1}{4}$  & NE $\frac{1}{4}$  NW $\frac{1}{4}$  Section 15.

7. There will be no change in the point of diversion from Lehman Creek which is located at a point in the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of unsurveyed Section 9, T. 13 N., R. 69 E., M. D. B. & M., whence the SE corner of Section 10 of the same township and range bears S. 70°45' E. 9942 feet.

The diversions from Cave Springs and South Spring will be as follows, from which the diverting pipes will extend to a point of comingling at the present point of diversion and junction of the spring outlets in the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 10, whence the SE corner of said section bears S. 77°50' E. 5016 feet:

- A. At Cave Springs, at collecting sump in the unsurveyed SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 9, T. 13 N., R. 69 E., M. D. B. & M., at point whence the aforesaid SE corner of Section 10 bears S. 70°10' E. 8312 feet. Collecting laterals will radiate over the spring area in the SW $\frac{1}{4}$  NE $\frac{1}{4}$  and SE $\frac{1}{4}$  NW $\frac{1}{4}$  of said Section 9, described as follows: beginning at a point whence the SE corner of said Section 10 bears S. 70°12' E. 8287 feet, thence N. 29°52' E. 300 feet, thence N. 60°08' W. 1320 feet, thence S. 29°52' W. 500 feet, thence S. 60°08' E. 1320 feet, thence N. 29°52' E. 200 feet to point of beginning.
- B. At South Spring, at collecting sump in the unsurveyed NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 16, T. 13 N., R. 69 E., M. D. B. & M., at point whence aforesaid SE corner of Section 10 bears N. 81°37' E. 7164 feet. Collecting laterals will radiate from said sump over the spring area in the W $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 16, described as follows: beginning at a point N. 45°00' E. 50 feet from said sump, thence N. 45°00' W. 300 feet, thence S. 45°00' W. 600 feet, thence S. 45°00' E. 600 feet, thence N. 45°00' E. 600 feet, thence N. 45°08' W. 300 feet to point of beginning.

EXHIBIT E-1 OF PROOF NO. 01065  
E & C (Continued)

THE DIVERSION TO THE SOUTH SPRING WILL NOT BE MADE UNTIL THE close of the war emergency. Until that diversion is completed all waters under water right serial No. 01065, in excess of the capacity of the pipe from Cave Springs, will be diverted at the aforesaid present diversion and proposed point of commingling, or allowed to continue in the natural outlet channel to where it will be diverted at the present point of rediversion in the unsurveyed NE corner of the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 10 whence the SE corner of said section bears S. 73°15' E. 4198 feet.

B. Exhibit E-1 of Proof No. 01065 was executed by Surveyor O. E. Mann on August 19, 1911, and checked November 21, 1911. The survey was tied to the SE corner of Section 12, T. 13 N., R. 69 E., M. D. B. & M. The present application is described with relation to the SE corner of Section 10, T. 13 N., R. 69 E., M. D. B. & M., as that corner was established and/or identified by the General Land Office for its Homestead Entry Survey No. 149, and its survey of Lehman Caves National Monument in 1917 and 1935 respectively. Due to various possible causes the water system as described in Exhibit E-1 does not represent conditions as found after the resurvey of said Section 10, but its identity is clear. Unrecorded minor changes are also found to have been made between 1911 and the date of decree in 1934.

Exhibit E-1 of Proof No. 01065 defines the main point of diversion as being approximately one-half mile below Cave Springs on the outlet channel from said springs, and approximately 500 feet above the confluence of said outlet channel and the outlet channel from aforesaid South Spring. Said diversion is shown near the center of the unsurveyed SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 10 whence the SE corner of Section 12, T. 13 N., R. 69 E., M. D. B. & M. is said to bear S. 87°08' E. 15,266.8 feet. By recent surveys the designated point on the Cave Springs outlet is found to be in the NE corner of the unsurveyed SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 9 of the same township and range as that section is projected from the SE corner of said Section 10 as said SE corner was reestablished and/or identified by the aforesaid General Land Office Surveys of 1917 and 1935.

Said Exhibit E-1 shows a ditch A, B, C, D, E, from said main diversion to a reservoir on the outlet channel from said South Spring, approximately 200 feet above the confluence of that channel and the Cave Springs outlet channel; said reservoir serving as a diversion for waters of said South Spring and to commingle the waters of Cave Springs and South Spring. Between 1911, when Exhibit E-1 was prepared, and 1934 when the decree was rendered on Proof No. 01065, said diversions at A, and reservoir at E, were superseded by a single diversion and settling basin at the confluence of the Cave Springs and South Spring outlet channels at a point whence the aforesaid SE corner of Section 10 bears S. 77°50' E. 5016 feet.

By Exhibit E-1, the waters of aforesaid reservoir, and later, the waters from said settling basin, were released to the natural channel for rediversion at a small dam at H near the center of the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 10. By resurveys since 1917 said point of rediversion has been found to be in the NE corner of the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 10, at point whence the SE corner of said section bears S. 73°15' E. 4198 feet.

13. Continued. The Cave Springs and South Spring areas are to be fenced and the waters will be collected in laterals of 4-inch drain tile discharging into concrete collecting sumps of 550 gallon capacities. The pipes from the two sumps to the point of commingling will be 2 inch G. I., 3500 feet and 3200 feet in length respectively. The grade of the Cave Springs pipe will be 95 feet per 1000 feet, and the capacity will be 0.11 sec. ft. The grade of the South Spring pipe will be approximately 125 feet per 1000 feet, and the capacity will be 0.12 sec. ft.

Between 1911 and 1935 a 2-inch G. I. pipe line was constructed from the settling basin at the point of commingling to a reservoir at the Monument headquarters area. The grade is 13 feet per 1000 feet, and the capacity is 0.03 sec. ft. The lines from the two spring areas will be provided with direct connections which, when in operation to by-pass the settling basin, will give an overall grade from Cave Springs to said reservoir of 57 feet per 1000 feet and a capacity of 0.084 sec. ft. Ultimately the line from settling basin to reservoir will be replaced with 3-inch pipe having a capacity of 0.20 sec.ft. with a direct connection from the spring lines.

Between 1911 and 1935 a steel tank of 4200 gallon capacity was constructed for regulation and distribution at the Monument headquarters area in the NE $\frac{1}{4}$  NW $\frac{1}{4}$  of aforesaid unsurveyed Section 15. Two concrete reservoirs of 20,000 gallons each will be installed immediately adjacent, one during present alterations and the other when demand warrants. Distribution from the reservoirs is to be by 4-inch G. I. pipe.

There is to be no appreciable change in the ditch diverting water to the aforesaid pond. Its capacity far exceeds the rights and claims.

REPRODUCED FROM ORIGINAL COLLECTION NUMBER 100. OFFICE OF THE ARCHIVIST, NATIONAL ARCHIVES, COLLEGE PARK, MARYLAND. THIS REPRODUCTION IS MADE IN FULL COMPLIANCE WITH THE NATIONAL ARCHIVES RECORDS MANAGEMENT ACT OF 1980 AND THE NATIONAL ARCHIVES RECORDS MANAGEMENT REGULATIONS. THE ORIGINAL DOCUMENT IS AVAILABLE FOR VIEWING AT THE NATIONAL ARCHIVES COLLEGE PARK, MARYLAND.

1 STATE OF NEVADA, )  
 : ss  
2 COUNTY OF WHITE PINE. )

3  
4 E. B. ROBISON, being first duly sworn, deposes and says:  
5 That he is a citizen of the United States and a resident of White Pine  
6 County, Nevada, and of the age of approximately seventy years; that  
7 during the month of May, 1887, this affiant and one, Absolom Lehman, were  
8 employed upon, constructed and completed a certain ditch for the purpose of  
9 the diversion of waters of Lehman Creek in White Pine County, Nevada, to  
10 over and across the premises now known as the Lehman Cave National  
11 Monument, which was the property of the aforesaid Absolom Lehman, at the  
12 time that said ditch was constructed, that said ditch was completed prior  
13 to July 1st, 1887, and water turned in and transported thereby to the  
14 aforesaid described premises, and that said ditch has been continuously  
15 used as a means of transportation of water from said Lehman Creek to the  
16 aforesaid premises, from July 1st, 1887 to the present date.

17  
18  
19 /s/ E. B. Robison

20 Subscribed and Sworn to before me this 22 day of  
21 January, 1942.

22 Ch. D. Oldfield  
23 Notary Public, in and for said County and State.  
24 My Commission Expires, Jan. 5, 1942

13. Description of proposed works There will be no change in the ditch diversion  
from Lehman Creek, which is described as follows: The length is 800 feet with a timber  
headgate; the section and grade are variable with the following control at point 200 feet  
from intake where overflow would return immediately to said creek;  $b=2.0$  ft.;  $T=2.5$  ft.;  
 $d=1.0$  ft.;  $s=0.09$ . Using  $n=0.035$  the capacity is: full - 9.3 sec. ft. and velocity of  
4.13 ft. per sec.; and with 9 inch freeboard - 0.87 sec. ft. and velocity  
of 1.67 ft. per sec. A capacity of from 0.5 to 0.8 sec. ft. is, and has been, the  
maximum consistent with proper control of erosion in the ditch or spring outlet channel.  
(Continued on rider.)

14. Estimated cost of works \$20,000.

15. Estimated time required to construct the works is 5 years.

\_\_\_\_\_  
Applicant

By Guy D. Edwards, Superintendent,  
Boulder Dam National Recreational Area.

\_\_\_\_\_  
OF STATE ENGINEER

No. ....

Application for Permission to Change  
Point of Diversion, Manner of Use  
and Place of Use of the Public  
Waters of the State of Nevada Here-  
tofore Appropriated.

STATE OF NEVADA  
ENGINEER'S OFFICE

Filed .....

Applicant .....

P. O. Address .....

THE STATE OF NEVADA  
 PROOF OF APPROPRIATION OF WATER FOR IRRIGATION

From Cave Springs .....  
Name of natural water source

Through Lehman Ditch .....  
Name of ditch, flume, or pipe line

Philip M. Baker ....., the undersigned, being first  
 duly sworn, deposes and says that the facts relative to the appropriation of water by him  
 ..... are full and correct to the best of his  
 knowledge and belief.

If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant

(1) Name of claimant Philip M. Baker .....  
 Address Baker ..... County of White Pine .....  
 State of Nevada .....

(2) The means of diversion employed is small earth Dam and Ditch .....  
Dam and ditch, pipe line, flume, etc.

(3) The date of the survey of ditch, canal, or pipe line was August 1911 .....

(4) The construction of the ditch or other works was begun Not known .....  
 and completed .....

(5) The dimensions of the ditch or canal as originally constructed were: Width on bottom 2 ft. .....  
 feet, width on top 3 feet, depth 1 feet, on a grade of 6 1/2 feet per thousand feet.

(6) The conduit has (has not) been enlarged.  
NOTE—If enlargement or extension of ditch was made, supply information under (7) and (8)

(7) The work of enlargement of the ditch or canal was begun .....  
 and completed .....

(8) The dimensions of the ditch or canal as enlarged are: Width on bottom ..... feet, width on  
 top ..... feet, depth ..... feet, on a grade of ..... feet per thousand feet.

(9) The claimant is (is not) an owner in the above-described conduit.

If claimant is an owner in the conduit, state interest held on this line

(10) The nature of the title to the land for which the water right is claimed is Possessory Title .....

(11) Crops of Orchard and Garden Truck .....  
 have been grown upon the land irrigated.

(12) The water has been used for irrigation from Jan. 1 to Dec. 31  
Day of month Day of month  
 of each year.

(13) The water was first used for irrigation by claimant or his ..... grantors in the year 1890 .....  
 when 7.5 acres were irrigated in the NE 1/4 NW 1/4 ..... of Sec. 15 .....  
T. 13N., R. 69 E., MDM. 1f. surveyed .....

10010  
(14) The additional number of acres first irrigated in subsequent years was as follows:

..... acres in the ..... of Sec. ...., T. ...., R. .... E.  
Year .....

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

..... acres in the ..... of Sec. ...., T. ...., R. .... E.

Remarks: .....  
Append a sheet if necessary

(15) The maximum acreage irrigated in any year was 7.5 acres.

(16) The water claimed has (has not) been used for irrigation each and every year since the right was initiated.  
Strike out one not wanted

(17) The years during which no water was used for irrigation or during which the full water right was not used were.....  
If water was not used, or used in reduced quantity at any time, full information as to causes and duration

of non-use should be given, appending a sheet if necessary

(18) The claimant's water right was (~~was not~~) recorded in the office of the County Recorder of White Pine County, said record being at page 229 of Book 34 of Miscellaneous Records, and being a claim for 25 inches of water for the irrigation of X X land acres of land in the following legal subdivisions: X X X

NOTE—Failure to record in the county in no way invalidates a water right, but if ditch or right was so recorded, supply full information under (19)

(19) The map provided by the State Engineer and attached hereto as a part of this proof is hereby accepted as correctly showing the ditch lines or irrigation works diverting or conveying the water claimed and the lands irrigated.

(20) Water from the source given and through the works described is also used for the following purposes other than irrigation:..... Domestic and Stock Use .....

(21) The character of the soil is..... (Sandy, gravelly, loam) ..... The soil needs..... acre-feet per annum to properly irrigate the crops. A continuous flow of..... cubic feet of water per second, during the irrigation season of..... months, is needed to irrigate each 100 acres of land.

(22) Remarks: .....

Philip M. Baker

Subscribed and sworn to before me this 28 day of October, 1911

George T. Smith

Notary Public in and for the County of White Pine

My commission expires Jan 23, 1915

This part of form to be left blank by claimant

Filing Serial No. 01065

STATE OF NEVADA  
PROOF OF APPROPRIATION OF  
WATER FOR IRRIGATION

Water Source GAYE SPRINGS

Through LEHMAN DITCH

Claimant PHILIP M. BAKER

Note: Recorded Jan. 18, 1912  
in County Recorder's Office  
White Pine County  
Book 38  
Pages 459-460-461

Filed in the office of the State Engineer on

DECEMBER 21st 1911

W. M. KEARNEY  
2 State Engineer  
Certificate No. 2. Book 1 issued hereunder

January 2nd, 1912