



HIGGINSON - BARNETT, CONSULTANTS

106 West 500 South, Suite 101
Bountiful, Utah 84010
(801) 292-4662

HVE: set listing price at:

Water Rights	\$ 739,000
Land	\$ 102,000
	<u>\$ 841,000</u>

RFE 5/6/85

Mr. R. P. England
Denver & Rio Grande Western
Railroad Company
P. O. Box 5402
Denver, Colorado 80217

*Listing should offer two options
to prospective purchasers, ie: 1/ Water
Rights only or 2/ Water Rights plus land.*

RFE

Dear Sirs:

You have asked that I place a present value on the Company's Big Springs Ranch water rights and land. I am advised that you will sell the land and water together or separately but that you ask for a value assuming that the water may be sold separate from the land.

In my first letter to you dated June 1, 1983 I estimated the water rights to have a value of about \$975,100. You then asked for an evaluation right-by-right and in my letter of June 23, 1983 I estimated a total value of \$831,110 for the reasons set forth in that letter. Each of these estimates was based on a value of \$1,000 per annual acre foot of right for Big Springs water and \$500 per acre foot of right for Grassy Trail Creek water.

Since the time of those estimates the economic situation in the general area of Tipton County has changed somewhat as I pointed out in my letter of January 23, 1985. At the present time the coal-mining economy is depressed. Therefore, since the energy industry is the most logical potential buyer, the Big Springs water probably has less value (\$800 per annual acre foot present value. \$500 per acre foot may be more reasonable. Likewise, the irrigation water right from Grassy Trail Creek probably is now only worth about \$100 per annual acre foot.

At such values I would suggest an estimate contained in the June 23, 1983 letter to a total \$739,000. To this could be added the land value (at \$100 per acre) of \$102,000 for the 2,540 acres of land, for a total of \$841,000.

R. Keith Higginson, P.E.

Jack A. Barnett, P.E.

Mr. W. W. Higgins

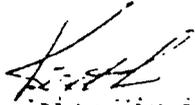
Page 1

May 2, 1955

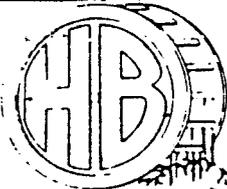
I estimate the land and water rights to have a combined value of \$611,415. I suggest that as the listing price for the property. A reasonable sale price may be closer to \$500,000 given the present conditions in the agricultural community which is the present land use.

If you have any questions concerning this, please call.

Sincerely,



R. Reich Higginson, P.I.



HIGGINSON - BARNETT, CONSULTANTS

106 West 500 South, Suite 101
Bountiful, Utah 84010
(801) 292-4662

June 23, 1983

HFP
For your review & comment
RFE 7/1/83

Mr. R. F. England
Denver & Rio Grande Western
Railroad Co.
P.O. Box 5482
Denver, Colorado 80217

Dear Bob:

As you requested in our telephone conversation last week, I have re-evaluated the water rights for the Big Springs Ranch near Sunnyside, Utah, on which I previously reported in my letter to you dated June 1, 1983.

You requested an evaluation of the value of the individual water rights. When the total water supply for the ranch is broken down this way you will get a different value for the water. For example, I considered the three Big Springs rights as a total and assumed that D&RCW was entitled to an average annual diversion of 1.0 cfs. This would produce about 730 acre feet of water per year. This has a value of \$1000 per annual acre foot, or a total value of \$730,000. However, of these three distinct rights, Right 91-37 is limited to an annual diversion of 304.8 acre feet. Therefore, it alone has a value of \$304,800. Right 91-364 has an annual limitation together with Right 91-372 of 1,400 acre feet for irrigation plus 2.91 acre feet for domestic and 6.72 acre feet for stockwatering. However, the rate of diversion is only .425 cubic feet per second which would only produce 307.69 acre feet of water per year which would have a value of \$307,690.

The third right 91-3761 to Big Spring water is for stockwatering from the spring stream as it passes through the ranch. This is limited, as supplemental supply with 91-364 to 6.72 acre feet of water per year. Since Right 91-364 cannot supply all the water for the authorized uses due to the limitation imposed by the rate of diversion, it is felt that the entire amount of the stockwatering under the two rights could be supplied from 91-3761. Therefore, the right to divert 6.72 acre feet of water for livestock has a value of \$6,720.

Under this method of water right evaluation the Big Springs water has a combined value of $\$304,800 + \$307,690 + \$6,720 = \$619,210$. This is less than the estimated value of \$730,000 which I provided in my earlier letter and points out the importance of filing and gaining a right to the water for the

R. Keith Higginson, P.E.

Jack A. Barnett, P.E.

non-irrigation season for any possible future industrial use of the water. I will come back to this matter later.

The Grassy Trail Creek water right has the value I previously estimated of \$500 per annual acre foot. The difficulty here is to determine a basis for estimating the annual quantity of water available to the ranch under the right. As previously stated, the Grassy Trail Right, 91-372, is limited along with the Big Spring Right 91-364 to 1400 acre feet of water per year. Since 91-364 could only provide 180.40 acre feet of water during the irrigation season from April 1 to October 31, then right 91-372 could not provide more than $1400 - 180.40 = 1219.6$ acre feet annually. This would be a full season-long water supply for the irrigated farm lands on the ranch. I assumed that the Grassy Trail right is for only about a 50% water supply. Therefore the right has a value of $\frac{1219.6}{2} = 609.8 \times \$500 = \$304,900.$

Under this procedure for evaluating the rights I conclude that the rights are worth a total of \$924,110. This is less than the \$976,100 value which I previously gave to you due to the fact that your rights in Big Spring are largely for irrigation season use. You have a limited right to Big Spring water during the non-irrigation season.

You asked me to clarify my comment that the Big Spring water is estimated to be worth "conservatively" \$1,000 per annual acre foot. I believe \$1,000 to be the middle of the range of value which should extend from a low of \$800 to a maximum of \$1,200.

I have prepared and am enclosing a draft application to appropriate water from the Big Spring during the non-irrigation season for industrial purposes. You will note that I am suggesting that you file for 1.25 cfs to be consistent with 91-364 and that you identify the intended place of use as the Big Spring Ranch property. I have described the proposed use as industrial purposes, including the processing of coal, tar sands, bitumen, and oil shale. If you have any questions concerning this, please advise. This filing would cover any question which might be raised concerning the validity of Right 91-364 for the domestic use at Cedar in the non-irrigation season. When combined with Right 91-37, you would have a year-round right to a total of 1.25 cfs from the Big Spring which I understand is about the maximum flow. If you decide to file the application, the filing fee is as indicated on the form.

I have also prepared and am enclosing a Statement of Water User's Claim covering the use of the small spring at the ranch house. This has been part of the ranch use of water since water was first used in 1885. I have called the spring the "House Spring". If you have any questions concerning this, please advise.

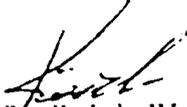
I have received the sketch of the water system including the Big Springs ranch water from Glen Sides. I note that the Big Springs system consists of a series of collection boxes in the springs from which the water is piped to a sump. From the sump the water is pumped by means of two turbine pumps through an 8-inch steel line to the concrete flume which conveys it to the 20,000,000

gallon earthen reservoir at Dragerton. Apparently, the only facilities on the Big Springs Ranch property are the collection boxes, the sump, the pump building and the pipeline. You had asked if I could place a value on these facilities. I am reluctant to attempt to do so because of the age of the pumps, for example, and the fact that Glen Sides indicates that they have only been used once in the 15 years that he has been acquainted with the system. They were last used in the dry year of 1977.

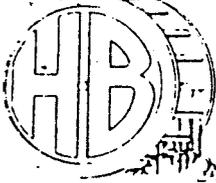
I discussed the Pilling Lease with Glen, who indicated that the lease was between Royal Land Company and Pilling. He believes that it provided for payment by Pilling of about \$100 per month plus taxes but was uncertain. He has discussed the matter with his legal people and will be sending you a copy.

If you have any further questions concerning this matter or if I can be of additional assistance to you, please let me know.

Sincerely,


R. Keith Higginson
P.E.

Enclosures



HIGGINSON - BARNETT, CONSULTANTS

106 West 500 South, Suite 101
Bountiful, Utah 84010
(801) 292-4662

June 1, 1983

R. F. England
Manager, Land
Denver & Rio Grande Western
Railroad Company
P. O. Box 5482
Denver, CO 80217

Dear Bob:

As requested, I have completed a review of the water rights of the Denver & Rio Grande Western Railroad Company in connection with its land holdings in what is known as the Big Springs Ranch near Sunnyside, Utah. That review was accomplished by examination of the file which you left with me and which I am returning herewith, by a review of the files and records of the Utah State Engineer's Office and by a field examination of the area on May 19, 1983. During the field trip I visited with Mr. Woodrow Pilling who resides on and operates the ranch. More about my visit with him will follow.

Water Rights

Your records appear to be incomplete since they only contain copies of two water rights appurtenant to the ranch. These are rights under Utah File Nos. 91-364 covering water from the Big Springs Area which was used for miscellaneous railroad, domestic and stockwatering purposes at Cedar and 91-372 which covers use of Grassy Trail Creek water for irrigation purposes.

The Company also owns Right Nos. 91-37 which provides for use of the Big Spring Stream for irrigation purposes and 91-3761 which covers use of the stream for stockwatering. The total recorded rights of the Company in connection with the Big Spring Ranch are as listed on the following tabulation. A copy of the state's claims covering 91-37 and 91-3761 are attached.

R. Keith Higginson, P.E.

Jack A. Barnett, P.E.

Abstract of Water Rights - Big Springs Ranch
 Denver & Rio Grande Western Railroad Company

File No.	Original Right No.	Source	Quantity	Priority	Use
91-37	App 5918 Cert 1030	Big Spring Stream	1.25 cfs	9/24/14	Irrigations of 102.85 acs of land limited to the irrigation requirements of 76.20 acres or 304.8 acre feet per annum.
91-364	Whitmore Decree a-1839 Cert a-184	Big Springs	.425 cfs	11/7/17	General Railroad purposes, domestic for four families, stockwatering for 40 cattle and 1000 sheep. Limited to the following quantities per annum: domestic = 2.91 acre feet stockwatering = 6.72 acre feet miscellaneous = part of domestic and stockwatering right Rights 364 and 372 limited to the irrigation requirements of 350 acs. = 1400 acre feet per annum.
91-372	Whitmore Decree a-4245	Grassy Trail Creek	5.575 cfs	11/7/17	Irrigation of a total of 672.45 acres of land limited to the irrigation requirements of 350 acres under rights 364 and 372 = 1400 acre feet per annum.
91-3761	Diligence Right	Big Springs Wash	*	1869	Limited with Right 364 to 6.72 acre feet per annum.

* Stock water directly from the stream

As can be seen from this tabulation, the total recorded water right of the Company for the Big Springs Ranch is for an annual quantity of 304.8 + 2.91 + 6.72 + 1400 = 1714.43 acre feet of water. This may be used to irrigate a total of 672.45 acres of land but is limited to the irrigation requirements for 76.20 + 350 = 426.20 acres.

There are a few questions concerning the rights. First, I can find no right recorded for the domestic use of water in the farmstead house where Mr. Pilling lives. He is currently using water from one of the springs in the Big Springs area, but it is not clear whether that use is included in the right for domestic use under 91-364. The state does not have this spring on its adjudication maps.

As a second matter, it is obvious that more land is being irrigated than the acreage to which the rights are limited. The excess lands total 246.25 acres. You may wish to seek to gain the right to a full water supply for the total acreage.

The other question has to do with the status of the right to use water from the Big Spring for domestic and miscellaneous railroad uses at Cedar. It is my understanding that this use has been discontinued for many years and, therefore, the validity of the right ought to be considered.

It might also be to the benefit of the Company to file on the water from the Big Springs during the non-irrigation season for industrial use to assure that you hold a year round right to the entire flow.

Evaluation

Grassy Trail Creek is an erratic stream which flows heavily during the spring snowmelt period of April through June of each year but which flows very little during the remainder of the year. The USGS has maintained a gage near Sunnyside since 1978 and their information shows a high flow of 138 cfs and no flow for several days during the period of record. Irrigation season flows are generally less than 3.0 cfs in the July - September period. As a result the Company's Grassy Trail Creek right allows for full irrigation during the early part of the irrigation season of most years but a reduced quantity or no water in the later months. It cannot be considered to be a full water right for the lands.

On the other hand, the spring flow from the Big Spring is much more reliable. According to Mr. Pilling it varies from about 1.5 cfs to a low flow of about .5 cfs and averages about 1.0 cfs. It is also of superior quality to the water from Grassy Trail Creek as evidenced by the fact that it has been used for domestic and municipal purposes under lease to U. S. Steel Corporation

The total water right is for 1714.43 acre feet of water annually. Of this total, the Big Springs is estimated to furnish an average of

1 cfs continuous flow or about 730 acre feet per year. During a good year. Grassy Trail cannot be expected to furnish all the remaining water. On the average it is assumed to allow a 50% supply, or $\frac{1714.43 - 730}{2} = 492.2$ acre feet. This estimate would provide $730 + 492.2 = 1212.2$ acre feet of water per year for the farm.

Water rights in Utah have a value which varies widely from location to location and depending upon the availability of water and the proposed use. Up to 1980, agricultural water rights were being purchased in the area for industrial use for about \$600 per acre foot of annual right. However, with the completion of negotiations for the water rights for the Intermountain Power Project near Delta, Utah, at \$1750 per annual acre foot, the \$600 per acre foot figure for the local area has increased.

It is believed that the Big Springs water has a significantly higher value than the Grassy Trail Creek water. I estimate it to be worth, conservatively, \$1,000 per annual acre foot. On the other hand, the Grassy Trail water is not a year-round right and not available even throughout the entire irrigation season. Its value cannot be more than \$500 per acre foot. Therefore, the value of the Big Springs Ranch water rights are estimated at $(730 \times \$1000) + (492.2 \times \$500) = \$976,100$.

Big Springs + Grassy Trail

Ranch Management

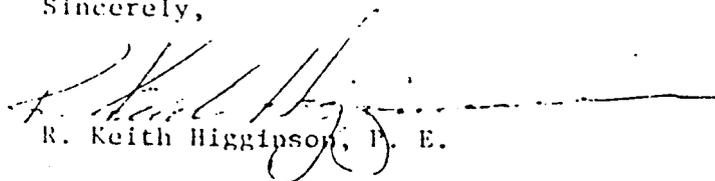
During my visit to the property on May 19, 1983, I asked Mr. Pilling a number of questions concerning the water supply and the operation of the ranch. He is either confused or there are some unresolved questions concerning his status. First, he has indicated that he has spent considerable of his personal resources to maintain the water rights for the Railroad Company. However, he claims that he has no management agreement or contract for use of the property and is an apparent "squatter" on the land. His intentions appear to be to remain on the land as long as he can physically do the farming because, "This is all that I have."

I know that your company will want to make some contact with him at this address:

Woodrow Pilling
Box 1033
East Carbon City, Utah 84502

If you have any questions concerning any of the above information, please advise. I will be happy to discuss this letter and opinion with you if you desire.

Sincerely,


R. Keith Higginson, P. E.

Enclosures

E

September 12, 1977

Mr. Joseph Taylor
Kaiser Steel Corporation
300 Lakeside Drive
Oakland, California 94666

RE: Kaiser's Utah Water Rights

Dear Joe:

I have enclosed a summary chart of Kaiser's Range Creek and Grassy Trail Creek water rights. The chart was compiled from the information contained in my father's original 1965 Memorandum, and the update prepared by Michael Quealy of June 30, 1977.

It should be noted that these memoranda and this chart deal only with Kaiser's major water rights on these two particular sources. Kaiser does have some incidental stock watering rights on both Range Creek and Grassy Trail Creek, which we have not addressed here as they are of minimal importance to the company, and are of an extremely small quantity of water. They are seasonal stock watering rights, and it would be impractical to try and convert these into year round industrial or municipal rights, as the quantity of water is too small to warrant any kind of development. Kaiser has filed water user's claims in the proposed adjudication suit in the Price River drainage to preserve the stock watering rights, and we do have accurate records of them. If you desire, I could prepare a similar survey chart on each of these, but did not endeavor to do so here.

I have checked the files on the Range Creek rights, to see if they included industrial use. The original applications did not, but subsequent change applications have picked up both municipal and industrial use of the Range Creek water, and it is therefore available for use at the mines, provided of course the storage facilities are actually completed.

I have also enclosed a copy of an engineer's report prepared by Templeton, Linke and Associates. The report covers the economic feasibility of constructing the necessary

Mr. Joseph Taylor
Page Two
September 12, 1977

storage facilities at Range Creek. I am not certain the report we have is complete, and would advise you to check through Kaiser's files to see if a more complete copy is in existence. I am certain that Templeton, Linke and Associates would have a copy of the full report, which I am certain they would make available to you.

Finally, I have enclosed a letter from my father to Joe Trihey dated July 22, 1977, and several memorandum decisions of the State Engineer's Office which were attachments to that letter.

The 1965 Memorandum should remain as your basic reference document as it discussed the basic Utah water law, and the requirements for perfecting water rights under our statutes. The updated Memorandum of Michael Quealy's and the display chart are simply intended to supplement the 1965 Memorandum and to provide you at a glance, a quick reference as to the current status of the Range Creek and Grassy Trail Creek water rights, and the work necessary in order to perfect them.

I trust the foregoing is helpful information, and if we can further clarify things for you, please let me know.

Best regards.

Very truly yours,
CLYDE & PRATT

Steven E. Clyde

SEC:pb

Enclosures
cc: George Perry

MEMORANDUM

June 30, 1977

TO: EWC - Edward C. de
FROM: MMQ - Mike Quenly
RE: Kaiser Steel Water Rights - Current Status Report

As per your memorandum, I have gone to the State Engineer's Office and have checked on all the Kaiser Steel water rights. This memorandum is a summary of the current status of each right. I will attempt to follow the format set forth in your memorandum, and discuss each of the four divisions of water rights. I am also attaching hereto for your reference, a copy of your previous water memorandum.

1. The Price River Water Right. Right No. 29412, which is the one the State Engineer is going to lapse. You have already written Kaiser with regard to this. The water hearings were a week ago yesterday, so we now have only six days left in which to submit something to the State Engineer before he lapses the application.

2. Range Creek Water Rights. In analyzing the Range Creek rights, I have gone through the summary on page 21 of your water memorandum, which summarizes all the rights on Range Creek. This summary in your memorandum covers all the various water rights which you mention in section 2 of your memorandum to me. I have numbered these rights consecutively in the order in which they appear in your summary.

(1) Diligence Claims Nos. 234 and 235. Change application a3799 was filed for irrigation and municipal use in Sunnyside. Change has not yet been proved up on, and we have until January 31, 1981 to submit proof. It should be noted that we are beyond the 14 year period so it will be harder and harder to get extensions. It should also be noted that these 2 Diligence claims were expressly mentioned and included in the joint venture agreement between Kaiser Steel and U.S. Steel.

(2) Application 7212: the original change application a-3801 was filed to change the use to municipal use in Sunnyside. Later in March of 1968, ammendatory change application a5460 was filed to add irrigation in the Sunnyside area. The next proof due date under both these change applications is January 31, 1981, and again we are beyond the 14 year period.

(3) Application 9269. The original change application was a3800 for municipal use in the Sunnyside area. In 1968, ammendatory change application a-5461 was filed to add irrigation uses in the Sunnyside area. The next proof due date on these change applications is January 31, 1981. We are beyond the 14 year period.

(4) Application 9618. The original change application was a-3802 for municipal use in the Sunnyside area, and in 1968 ammendatory change application a-5462 was filed to add irrigation. The next proof due date is January 31, 1981, which is beyond the 14 year period.

- (5) Application 20204, change a5463.
Application 20205, change a5464.
Application 20206, change a5465.
Application 20207, change a5466.

These applications were filed, and the changes were filed to add irrigation to the municipal uses in the Sunnyside area. The last extension due date was April 8, 1974. A hearing was held and no formal approval has been issued as yet. However, the State Engineer's files show that the applications have been recommended for extension to February 28, 1980. The memorandum decision will also recommend that we segregate and prove up on anything we can. Also, with regards to these applications, it should be noted that they are expressly excluded from the joint venture agreement between Kaiser Steel and U.S. Steel.

(6) Application 23053. This was an application for municipal use in the Sunnyside area, change applications a5467 and a7814 added irrigation and made several other changes in the original application. The certificate covering this application plus the two change applications was issued on August 7, 1975, and is certificate number 9798. Therefore, this right has been certificated.

(7) The City of Sunnyside also owns application 29261, for municipal use, and the next proof due date on this application is February 28, 1980. This application is in the name of Sunnyside and not in Kaiser's name.

(8) There was one further application on Range Creek ~~that is not mentioned in your memo, but~~ which is mentioned in the joint water agreement between Kaiser and U.S. Steel and which is subject to that agreement. This is right No. 2864, certificate No. 499, for 1.1 cfs from Range Creek. Change application No. a-5458 was filed to change the water to municipal and mining uses in the Sunnyside area. The proof due date on this change is February 28, 1979. *In your memo you said this right should be treated as having been forfeited, you now use*
3. Grassy Trail Creek Rights. On the Grassy Trail Creek

rights, your memorandum is correct in assuming that all of these rights have been certificated either on the application or the change application. However, you should note that application 10402 (certificate 2024) for .5 cfs for irrigation use has never had a change application filed on it. Evidently, this water comes from a spring in Grassy Trail Creek and is used on the

McMahan Ranch. All the other Grassy Trail Creek rights which are listed on page 32 and page 33 of your water memorandum will be transferred to Sunnyside by Quit Claim Deed in the near future. In drawing the Quit Claim Deed, I checked each of these applications and they are all in good standing and certificated.

4. Pacific States Steel Rights. There were four main rights which we acquired from Pacific States Steel. They are as follows:

(1) Application 31163: this application was lapsed on January 17, 1975, was reinstated March 19, 1976, with its original priority date of June 29, 1959. However, there is a current request for an extension of time in which to submit proof presently before the State Engineer. No formal decision has come as yet, but the State Engineer's files show that it is recommended that an extension be granted until February 28, 1979. The note also indicates that after that time they will probably reduce the priority date or maybe even lapse the application if no work is done.

(2) Application 28812. This application is also before the State Engineer on a request for an extension of time. No formal approval has been handed down as yet, but the State Engineer's files show that an extension has been recommended to February 29, 1980.

(3) Applications 23810 and 23811. These were forfeited by letter dated November 23, 1976. These two applications were the ones which Tom Paluso decided were too far down on the priority list to do us any good or to justify the expenditure of funds in perfecting the applications. We therefore allowed them to lapse.

MMQrm

Work to be Completed for Certification

Nature of Right Acquired	Record Owner	Date of Priority	Quantity of Water & Source	Nature and Period of use	Current Status	Work to be Completed for Certification
Diligence claims nos. 234 and 235, and Decree no. 1933 a-3799 a-5457	Kaiser Steel Corp.	About 1890	2 cfs on Range Creek	Storage, irrigation industrial and municipal uses from Jan. 1 - Dec. 31 irrigation April 1 - Oct. 31	This is a basic right on Range Creek. Change application a-3799 has been filed and approved, to include irrigation, municipal and industrial uses. Kaiser will have until January 31, 1981 to prove-up change.	Must complete storage and diversion facilities to prove-up change application - if not completed by Jan. 31, 1981, will be forfeited-St. Eng. will not grant more extensions.
Application No. 7212; Cert. 1621 change a-2386 a-3801 a-5460	Kaiser Steel Corp.	April 15, 1917	1.239 cfs Range Creek	Storage, irrigation April 1 - Oct. 31 Municipal	change application a-3801 filed to include municipal & industrial amended by change a-5460 to include irrigation use. Change approved and proof of change will be due Jan. 31, 1981.	Must complete storage & diversion works to prove up & certificate the change. If not completed by Jan. 31, 1981, right will be forfeited by St. Eng. who indicates no more extensions.
Application No. 9269 Cert. 1435 change a-3800 a-5461	Kaiser Steel Corp.	April 3, 1923	.56 cfs Range Creek	Storage, irrigation May 1-Sept. 30 Domestic	Change application a-3800 filed for M & I in Sunnyside; amended by change a-5461 to include irrigation. Change approved, proof of appropriation due Jan. 31, 1981.	Same as above, must complete works by Jan. 31, 1981, or will be forfeited.
Application No. 9618 Cert. 1686 change a-2557 Cert. a-346 change a-3802 a-5462	Kaiser Steel Corp.	October 28, 1924	4.72 cfs Range Creek	Storage, irrigation Apr. 1-Oct. 1 Domestic Jan. 1-Dec. 31	Change app. a-3802 filed for M & I use. Amended by change app. a-5462 to add irrigation; approved, proof due Jan. 31, 1981.	Same as above, works and proof of appropriation must be completed by Jan. 31, 1981 or will be forfeited. no additional extensions.

Nature of Right Acquired	Record Owner	Date of Priority	Quantity of Water & Source	Nature and Period of use	Current Status	PAGE TWO Work to be Completed for Certification
<p>App. 20204 20205 20206 20207</p>	<p>Kaiser Steel Corp. " " "</p>	<p>October 1, 1948 " " "</p>	<p>All Range Creek Storage: 5. cfs 5. cfs 2.5 cfs 2.5 cfs</p>	<p>storage " " "</p>	<p>Primary storage applications on Range Creek. Original application for Industry change application: a-5463 a-5464 a-5465 a-5466 filed to include municipal for use in Sunnyside. Changes have been approved-Proof was due April 8, 1974. St. Eng. has recommended an extension until Feb. 28, 1980. These storage rights are expressly <u>excluded</u> from joint venture agreement with U.S. Steel</p>	<p>Must complete Range Creek storage facility before Feb. 28, 1930, or rights will forfeit. Possible if good faith effort & annual expenditure made in actual construction, one additional extension may be possible. See letter of Ed Clyde to Joe Trihey, 6/22/77.</p>
<p>App. 23053 pending approval cert. 9798</p>	<p>Kaiser Steel Corp.</p>	<p>June 3, 1951</p>	<p>1.5 cfs Range Creek</p>	<p>no storage municipal, irrigation, misc. uses</p>	<p>original application for municipal use in Sunnyside; change app. a-5467 & a-7814 added irrigation use and other misc. additions. certificate on both changes issued August 7, 1975; cert. no. 9798</p>	<p>Right is certificated no additional work necessary; must continue to use water or be subject to statutory forfeiture for 5 years non-use.</p>
<p>App. 29261</p>	<p>City of Sunnyside</p>	<p>June 5, 1957</p>	<p>5 cfs Range Creek</p>	<p>no storage at diversion point</p>	<p>Applied for municipal use; proof due Feb. 28, 1980.</p>	<p>Must construct diversion facilities and apply to beneficial use by Feb. 28, 1980 or forfeit right. Further extensions possible, but unlikely.</p>

Nature of Right Acquired	Record Owner	Date of Priority	Quantity of Water & Source	Nature and Period of use	Current Status	Work to be Completed for Certification
App. 2864, Cert. 499 change a-5458	Kaiser Steel Corp.	December 8, 1909	1.1 cfs Range Creek	irrigation Apr. 1-Oct. 15	change app. a-5458 filed to pick up M & I uses; proof due Feb. 28, 1979; right subject to joint water agreement with U.S. Steel. Forfeited for non-use.	Forfeited for non-use. (Rights lost)
App. 5471 Cert. 793	Kaiser Steel Corp.	October 2, 1913	1.0 cfs Range Creek	irrigation May 1-Oct. 1	Forfeited for non-use	
Whitmore Decree a-4238 a-3047 cert. a-523 (#1-p.33 EWC memo)	1/5 Kaiser 1/10 U.S. Steel 7/10 Galbreath (East Carbon)	Primary right on Grassy Trail Creek (1878)	1.0 cfs Grassy Trail Creek	Direct flow & storage year round for misc. purposes. irrigation-Apr. 1 - Oct. 31 municipal -year round industrial-year round domestic -year round	Change app. a-3047, a-4238 filed to include storage-change has been certificated a-523	no additional work, some portion of this will be transferred to Sunnyside.
Whitmore Decree change app. a-3172 & a-4237 filed and approved; are certificated a-524 (#3 p.33 EWC memo)	Kaiser purchased from McMahon	3 rd priority under Decree and is of equal priority with rights 4 & 5 of Decree (see below) (1888)	7/8 cfs Grassy Trail Creek	Direct flow April 1-Oct. 15 for irrigation culinary, municipal & industrial year round	Decreed right, changes have been certificated a-524	no additional work; will be conveyed to Sunnyside
Whitmore Decree change app. a-3173 & a-4236 are certificated a-522 (#4 p.33 EWC memo)	Kaiser purchased from Holland	4th in Decree, but of equal priority with 3rd & 5th rights; but subsequent to 1st & 2nd rights under Decree	5/8 cfs Grassy Trail Creek	Direct flow Apr. 1-Oct. 15 for irrigation culinary, municipal & industrial year round	Decreed right, changes have been certificated a-522	no additional work; will be conveyed to Sunnyside

Nature of Right Acquired	Record Owner	Date of Priority	Quantity of Water & Source	Nature and Period of use	Current Status	Work to be Completed for Certification
Whitmore Decree change app. a-3174 & a-4232 are certificated a-520 (#5 p.33 EWC memo)	Kaiser purchased from McMahon	5th under Decree; of equal priority (1888)	1/4 cfs Grassy Trail Creek	Direct flow Apr.1-Oct. 15. irrigation. Year round culinary, municipal & industrial	Decreed rights changes have been <u>certificated</u> a-520	no additional work required, right to be conveyed to Sunnyside
App. 5260. Cert. 808 changes a-2840 & a-4233 and are certificated a-519 (#6 p.33 EWC memo)	Kaiser purchased from McMahon	June 10, 1913	2.2 cfs Grassy Trail Creek	Direct flow Apr.1-Oct. 15, for irrigation. domestic Jan 1-Dec. 31 municipal " industrial "	changes have been certificated a-529	no additional work will be conveyed to Sunnyside
App. 9462. Cert. 2047 changes a-2840 & a-4239 are certificated a-525 (#7 p.33 EWC memo)	Kaiser Steel Corp.	January 31, 1924	2 cfs Grassy Trail Creek	Direct flow Apr.1-Nov. 15 for irrigation, domestic, municipal & industrial	changes have been certificated a-525	no additional work necessary; will be conveyed to Sunnyside
App. 10402 Cert. 2024 (#8 p.34 EWC memo)	Kaiser Steel Corp.	November 7, 1928	5/10 cfs Grassy Trail Creek-Spring in bed of creek	direct flow June 15-Sept. 15 irrigation	certificated 2024	no additional work, will go to Sunnyside
App. 11774 Cert. 2426 change app. a-3409 & a-4235 certificated a-521 (#9 p.34 EWC memo)	Kaiser Steel purchased from Knight	June 5, 1937	1.8cfs Grassy Trail Creek	April 1-July 1. irrigation direct flow, domestic, municipal & industrial uses	changes have been certificated a-521	no work required, will go to Sunnyside
App. 13333 cert. 7765 (#11 p.34 EWC memo)	Kaiser acquired from Himonas	November 5, 1937	5 cfs Grassy Trail Creek	Direct flow Apr.1-Sept. 30 irrigation, domestic municipal & industrial	certificated changes filed. a-3408 & a-4234. certificate 7765	will be conveyed to Sunnyside
App. 15620-A changes a-3048, cert. 7954 (#16 p. 34 EWC memo)	Kaiser Steel Corp.	December 18, 1943	33.33 acre feet storage. Grassy Trail Creek Reservoir.	storage right-year round for municipal	certificated 7959	part will be conveyed to Sunnyside

Nature of Right Acquired	Record Owner	Date of Priority	Quantity of Water & Source	Nature and Per- -icd. of use	Current Status	Work to be Com- -pleted for Cer- -tification
App. 16621-A cert. # 7958. change app. a-3049. (#18 p.35 EWC memo)	Kaiser Steel Corp.	December 18, 1943	33.33 acre feet storage on Grassy Trail Creek (flow 916.00 acre feet)	storage year round for industrial purposes, municipal, irrigation & domestic	certificated 7953	no additional work; part to be conveyed to Sunnyside (all)
App. 20409 Cert. 5901 change a. 3770 (#20 p.35 EWC memo)	Kaiser Steel Corp.	December 21, 1948 on 1st 500 feet, change to pick up additional 503 acre feet has later priority	1003 acre feet for storage on Grassy Trail Creek	Primary storage right for year round municipal and industrial use and irrigation and domestic uses.	certificated 5901	part will be conveyed to Sunnyside (85%)
App. 28812	Kaiser Steel Corp.	Jan. 10, 1957	22.2 cfs from mine tunnel, tributary to Grassy Trail Creek	Direct flow and storage, year round municipal & industrial uses	application approved but proof due. Now before St. Eng. for extension to Feb.29 1980. Now additional extensions will be granted.	water is already being applied to beneficial use. Should engage engineer to prepare proof of appropriation and file for certificate. Should be done before end of Sept. 1977
App. 15092 certificated 7764 change a-4299	Kaiser acquired from McMahon	February 24, 1943	Sewage effluent from old sewage facilities	direct flow from plant for irrigation Apr.1-Oct. 31	Certificated 7764	? Will be retained by Kaiser Steel Corp. and not conveyed to Sunnyside.
App. 31163	Kaiser Steel acquired from Pacific States Steel	June 29, 1959	underground ? source tunnel 1.0 cfs	<i>year round for mining use</i>	application lapsed Jan. 17, 1975, reinstated March 19, 1976. Current request for extension to Feb.28 1979 awaiting decision.	Must complete diversion and apply to beneficial use by Feb. 28, 1979 or will forfeit, or might lose priority, <i>assuming extension granted.</i>
App. 23810 23811	Kaiser acquired from Pacific States Steel		Rock Canyon Creek		Forfeited on Nov. 23, 1976	

Nature of Right Acquired	Record Owner	Date of Priority	Quantity of Water & Source	Nature and Period of use	Current Status	Work to be Completed for Certification
App. 29412	Kaiser Stee. Corp.	August 29, 1957	Price River 5 cfs and storage 5000 acre feet	year round storage & industrial	<u>lapsed</u>	
App. 35219 35220 35221 35222	Kaiser Steel Corp.	May 6, 1963	.05 cfs Price River drainage from springs (.05 cfs each)	municipal and industrial uses	pending applications proof due 1979-1980	will lapse without completion of diversion works

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ADMITTED IN WASHINGTON, D.C.

FILE NO.

November 13, 1986

Jeffrey Collins, Esq.
Associated General Counsel
Kaiser Coal Corporation
102 South Tejon Street, Suite 800
Colorado Springs, Colorado 80901-2679

Re: Sunnyside Area Water Rights

Dear Jeff:

I have enclosed a copy of a letter I prepared for you in November of 1985 summarizing all of the water rights Kaiser Coal Company owned in Grassy Trail Creek, Range Creek and the Price River drainage areas. I have not taken the time and effort to review this list against the State Engineer's current records to see whether or not there have been any changes in the ownership or status of these water rights. I assume, however, that your records would indicate whether or not any of the water rights have been sold, and would also contain information regarding the water rights you may have acquired from the Denver & Rio Grande railroad. I would be happy to do some further checking at the State Engineer's office if you would like me to do so.

I also looked at Water User Claim No. 91-3054, which is the water right in Range Creek Kaiser sold to Amoco Production Company. This transfer apparently occurred in 1979. The water rights were transferred as an appurtenance with the land in Sections 2 and 3 of Township 14 South, 14 East which Kaiser sold to Amoco and is one of the various stock watering rights which Kaiser held in Range Creek Canyon. This one had a date of priority of 1870.

All of the stock watering rights had been lumped together in the proposed determination with an aggregate yield of 25.20 acre feet of water. Amoco would be entitled to some proportionate share of the 25.20 acre feet of water, but it is difficult to tell precisely what that amount would be.

CLYDE & PRATT

Jeffrey Collins, Esq.
November 13, 1986
Page two

Amoco, however, filed a temporary change application in 1984. In that application it represented that its right under 91-3054 equaled 1.20 acre feet of water for stock watering during the grazing season of April through October. It sought to temporarily change 1 acre foot to industrial use to aid in exploratory drilling in the area. The temporary change application would have expired at the end of calendar year 1984. However, it apparently it was never pursued by Amoco and was not approved.

Kaiser appears to own all of the remaining stock watering rights as inventoried in my November 6, 1985 letter to you. That assumes there have been no additional transfers of land and appurtenant water rights by Kaiser since that date.

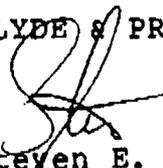
Finally, I have enclosed copies of the proposed determination for the Price River and lower Green River drainage. (Books Nos. 5 and 6.) Book No. 6 is the index. Book No. 5 contains the water user claims for Kaiser's water rights. We had multiple copies of these and I have given you these extras.

If you have any questions about this, please call me.

Best regards.

Very truly yours,

CLYDE & PRATT


Steven E. Clyde

SEC/jl
Enclosure