

# **Powell Park Water Rights Plan for Non-Potable Irrigation**

## Water Rights

Attached is a summary sheet of water rights, water court decrees and location map of water owned by the Powells and subject to the property. The water rights include Rochford Springs 1, 2, 3; the Rochford Pond and a domestic well right. The appropriation dates for the water rights are 1968 and senior to the state instream flow rights.

## Non-Potable Distribution System

The adjudicated three springs feed a collector ditch which then feeds the adjudicated pond, all on the lower bench of the property. From the pond a pump and pipeline then supplies an irrigation sprinkler system covering approximately 1.50 acres. It should be noted that, even during full irrigation season, the 10" pond outfall pipe runs approximately 1/3 full, supplying a continuous significant amount of water to the Eagle River during irrigation season.

## Measurement and Usage

A flow meter has provided usage records for 2017 and 2018. The meter malfunctioned in 2019 so no recordings were made. In 2017 the first recording was in early July so the data does not demonstrate a full season usage. 2018 measurements display a full irrigation season. 1.87 AF of irrigation water was used in 2017; 3.32 AF in 2018.

## Water Augmentation

Water augmentation is provided by the absolute water right of 1.2 AF of the Rochford Pond. In discussions with the State Water Engineers' office the remaining augmentation is provided by the Historic Users Pool of Green Mountain Reservoir.

## Water Rights Ownership

Though the town code requires water rights be dedicated to the town at time of annexation, the applicant requests this requirement be waived. Applicant believes there is no beneficial use for the town of the subject water rights. Rather the best use of the rights is on the Powell property. Should the town insist the water rights be dedicated, the annexation agreement should provide a long term lease from the town to the applicant with the rights to be used solely on the subject property. It should be noted that the Powell subdivision, with non-potable irrigation and the property's location in relation to the LBWTP and the town wastewater plant, will be the least water consumptive subdivision in town.

## Exhibits

1. List of water rights (similar to that submitted with Annexation Petition).
2. Water Court decrees for Rochford Springs 1,2,3.
3. Water Court decree for Rochford Well (to be abandoned following service by town).
4. Map of water rights.
5. Water usage tables for 2017,2018.

**Exhibit D  
List of Water Rights  
Powell Park**

Name of Structure	Amount CFS	Adjudication Date	Appropriation Date	Uses	Case No.
Rochford Well	0.026	6/27/1973	12/31/1968	Domestic, fire protection	W-1927
Rochford No. 1 Spring	0.022	6/27/1973	12/31/1968	Domestic, Fire protection irrigation, fish propagation, livestock	W-1926
Rochford No. 2 Spring	0.38	6/27/1973	12/31/1968	Domestic, Fire protection irrigation, fish propagation, livestock	W-1926
Rochford No. 3 Spring	0.44	6/27/1973	12/31/1968	Domestic, Fire protection irrigation, fish propagation, livestock	W-1926
Rochford No. 4 Spring	3	June, 1950	10/1/2002	storage, irrigation, aesthetic, piscatorial wildlife propagation, recreation	95CW104
Rochford No. 5 Spring	1	June, 1950	10/1/2002	storage, irrigation, aesthetic, piscatorial, wildlife propagation, recreation	95CW104
Total CFS	4.868				
Rochford Pond	1.2 AF	6/27/1973	8/31/1968	water augmentation	W-209
Wolford Mountain Reservoir	2.5 AF			water augmentation 40 year term until 6/30/2057	W17001

IN THE DISTRICT COURT IN AND FOR  
 WATER DIVISION NO. 5  
 STATE OF COLORADO  
 APPLICATION NO. W- 1926

FILED  
 IN WATER COURT  
 Division No. 5  
 OCTO 1973  
 STATE OF COLORADO  
*G. L. D. D. D.*

Rochford No. 1 Spring.

IN THE MATTER OF THE APPLICATION )  
 FOR WATER RIGHTS OF ELMER G. )  
 & PAULINE C. ROCHFORD ) RULING OF THE REFEREE  
 IN THE EAGLE RIVER )  
 OR ITS TRIBUTARIES. ) ABSOLUTE WATER RIGHT  
 TRIBUTARY INVOLVED - )  
 )  
 IN EAGLE COUNTY )  
 )

And the Referee having made the investigations required by Article 21 of Chapter 148, C.R.S. 1963, as amended does hereby make the following ruling, to wit:

This application was referred to the Water Referee of Water Division No. 5 on the 2nd day of July 1973.

1. Name of Applicant Elmer G. Rochford and Pauline C. Rochford  
 Address Box 236; Eagle, Colorado
2. The name of the structure is Rochford No. 1 Spring.
3. The legal description of the structure is: The spring is located in Tract 47, Section 5, T. 5 S., R. 84 W. of the 6th P.M. at a point whence Angle Point No. 4 of said Tract 47 bears S. 10°38'10" W. 971.16 feet.
4. Means of diversion : The water is diverted into a ditch.
5. The date of initiation of appropriation is 1968.
6. The amount of water claimed is 0.022 cubic foot per second of time.
7. The use of the water is livestock water, domestic, fire protection, irrigation and fish propagation.
8. The Priority date is December 31, 1968.
9. The date of the application was June 27, 1973.

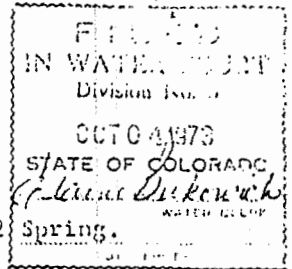
It is the ruling of the Referee that the statements in the application are true and that the above described water right is approved and granted the indicated priority; subject, however, to all earlier priorities of others.

It is accordingly ordered that this ruling shall become effective upon filing with the Water Clerk, subject to Judicial review as provided by law.

Done at the City of Glenwood Springs, Colorado, this 5<sup>th</sup> day of OCTOBER, 1973.

*J. Cole*  
 Water Referee  
 Water Division No. 5  
 State of Colorado

IN THE DISTRICT COURT IN AND FOR  
WATER DIVISION NO. 5  
STATE OF COLORADO  
APPLICATION NO. W- 1926



Rochford No. 2 Spring.

IN THE MATTER OF THE APPLICATION )  
FOR WATER RIGHTS OF ELMER G. )  
ROCHFORD AND PAULINE C. ROCHFORD ) RULING OF THE REFEREE  
IN THE EAGLE RIVER )  
OR ITS TRIBUTARIES. ) ABSOLUTE WATER RIGHT  
TRIBUTARY INVOLVED - )  
IN EAGLE COUNTY )

And the Referee having made the investigations required by Article 21 of Chapter 148, C.R.S. 1963, as amended does hereby make the following ruling, to wit:

This application was referred to the Water Referee of Water Division No. 5 on the 2nd day of July 1973.

1. Name of Applicant Elmer G. Rochford and Pauline C. Rochford  
Address P.O. Box 236; Eagle, Colorado
2. The name of the structure is Rochford No. 2 Spring.
3. The legal description of the structure is: The spring is located in Tract 47, Section 5, T. 5 S., R. 84 W. of the 6th P.M. at a point whence Angle Point No. 4 of said Tract 47 bears: S, 22°04' W. 1225.89 feet.
4. Means of diversion: The water is diverted into a ditch.
5. The date of initiation of appropriation is 1968.
6. The amount of water claimed is 0.38 cubic foot per second of time.
7. The use of the water is livestock water, domestic, fire protection, irrigation and fish propagation.
8. The Priority date is December 31, 1968.
9. The date of the application was June 27, 1973.

It is the ruling of the Referee that the statements in the application are true and that the above described water right is approved and granted the indicated priority; subject, however, to all earlier priorities of others.

It is accordingly ordered that this ruling shall become effective upon filing with the Water Clerk, subject to Judicial review as provided by law.

Done at the City of Glenwood Springs, Colorado, this 5th day of OCTOBER, 1973.

*Glenn Dickowich*  
Water Referee  
Water Division No. 5  
State of Colorado

IN THE DISTRICT COURT IN AND FOR  
 WATER DIVISION NO. 5  
 STATE OF COLORADO  
 APPLICATION NO. W- 1926

FILED  
 IN WATER DIVISION  
 Division No. 5  
 OCT 29 1973  
 STATE OF COLORADO  
*Colman H. Kersch*

Rochford No. 3 Spring.

IN THE MATTER OF THE APPLICATION )  
 FOR WATER RIGHTS OF Elmer G. )  
 Rochford & Pauline C. Rochford )  
 IN THE Eagle RIVER )  
 OR ITS TRIBUTARIES. )  
 TRIBUTARY INVOLVED - )  
 )  
 IN Eagle COUNTY )  
 )

RULING OF THE REFEREE  
 ABSOLUTE WATER RIGHT

And the Referee having made the investigations required by Article 21 of Chapter 148, C.R.S. 1963, as amended does hereby make the following ruling, to wit:

This application was referred to the Water Referee of Water Division No. 5 on the 2nd day of July 1973.

1. Name of Applicant Elmer G. Rochford and Pauline C. Rochford  
 Address P.O. Box 236; Eagle, Colorado
2. The name of the structure is Rochford No. 3 Spring.
3. The legal description of the structure is: The spring is located in Tract 47, Section 5, T. 5 S., R. 84 W. of the 6th P.M. at a point whence Angle Point No. 4 of said Tract 47 bears S. 24°23'20" W. 1401.32 feet.
4. Means of diversion: The water is diverted into a ditch.
5. The date of initiation of appropriation is 1968.
6. The amount of water claimed is 0.44 cubic foot per second of time.
7. The use of the water is livestock water, domestic, fire protection, irrigation and fish propagation.
8. The Priority date is December 31, 1968.
9. The date of the application was June 27, 1973.

It is the ruling of the Referee that the statements in the application are true and that the above described water right is approved and granted the indicated priority; subject, however, to all earlier priorities of others.

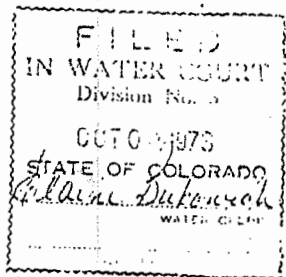
It is accordingly ordered that this ruling shall become effective upon filing with the Water Clerk, subject to Judicial review as provided by law.

Done at the City of Glenwood Springs, Colorado, this 5<sup>th</sup> day of OCTOBER, 1973.

*John Cole*  
 Water Referee  
 Water Division No. 5  
 State of Colorado

IN THE DISTRICT COURT IN AND FOR  
WATER DIVISION NO. 5  
STATE OF COLORADO

CASE NO. W-1927



IN THE MATTER OF THE )  
APPLICATION FOR )  
WATER RIGHTS OF ELMER G. )  
ROCHFORD & PAULINE C. ROCHFORD )  
IN THE EAGLE )  
RIVER OR ITS TRIBUTARIES )  
TRIBUTARY INVOLVED: )  
IN EAGLE COUNTY )

RULING OF THE REFEREE

ABSOLUTE DECREE FOR  
UNDER GROUND WATER RIGHTS

And the Referee having made the investigations required by Article 21 of Chapter 148, C.R.S. 1963, as amended does hereby make the following ruling, to wit:

This application was referred to the Water Referee of Water Division No. 5 on the 2nd day of July, 1973.

1. Name of Applicant Elmer G. Rochford and Pauline C. Rochford  
Address P.O. Box 236; Eagle, Colorado
2. The name of the structure is Rochford Well.
3. The Legal description of the structure is: The well is located in Tract 47, Section 5, T. 5 S., R. 84 W. of the 6th P.M. at a point whence Angle Point No. 4 of said Tract 47 bears: S. 09°45'30" E. 933.07 feet.
4. The depth of the well is 12 feet.
5. The date of initiation of appropriation is 1968.
6. The amount of water claimed is 0.0264 cubic foot per second of time.
7. The use of the water is domestic and fire protection.
8. The State Engineer's number is none.
9. The Priority date is December 31, 1968.
10. The date of the application was June 27, 1973.

It is the ruling of the Referee that the statements in the application are true and that the above described water right is approved and granted the indicated priority; subject, however, to all earlier priority rights of others.

It is accordingly ordered that this ruling shall become effective upon filing with the Water Clerk, subject to Judicial review as provided by law.

5<sup>th</sup> Done at the City of Glenwood Springs, Colorado this  
day of OCTOBER, 1973.

*James Cole*  
Water Referee  
Water Division No. 5  
State of Colorado

# CENTRAL FILES

DISTRICT COURT, WATER DIVISION NO. 5, COLORADO

Case No. 95CW104

RECEIVED

OCT 23 1996

WATER RESOURCES  
STATE ENGINEER  
COLO.

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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT AND DECREE

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CONCERNING THE APPLICATION FOR WATER RIGHTS OF:

WILLIAM POWELL, in Eagle County, Colorado

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The above-entitled Application was filed on May 31, 1995, and an Amended Application was filed on June 19, 1995, and was referred to the Water Referee for Water Division No. 5, State of Colorado, by the Water Judge of said Court in accordance with Article 92 of Chapter 37, Colorado Revised Statutes 1973, known as The Water Right Determination and Administration Act of 1969.

The Referee having made such investigations as are necessary to determine whether or not the statements in the Application are true and having become fully advised with respect to the subject matter of the Application did enter a Findings of Fact, Conclusions of Law and Ruling of the Referee in this matter. The State and Division Engineers filed a protest to the Ruling of the Referee. This matter is currently pending before the Water Court.

## FINDINGS OF FACT

1. The name and address of the Applicant is:

William Powell  
P.O. Box 1227  
Eagle, CO 81631

c/o Sherry A. Caloia, Esq.  
Caloia & Houpt, P.C.  
1204 Grand Ave.  
Glenwood Springs, CO 81601  
(970) 945-6067

2. Timely and adequate notice of the filing of this Application was given as required by law.
3. A Statement of Opposition was filed by John Hardesty. The time for filing Statements of Opposition has expired. The Referee entered his Findings of Fact, Conclusions of

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Judgment and Decree**

**Law and Ruling of the Referee on April 19, 1996. A Protest to the Ruling of the Referee was filed by the State Engineer and Division Engineer on May 13, 1996. The State and Division Engineers subsequently filed a Motion to Withdraw Protest to the Ruling of the Referee and the Applicant filed a Motion for Summary Judgment to have this Court enter a Judgment and Decree.**

- 4. The Applicant has requested approval of an Application for Water Rights, as follows:**

**ROCHFORD SPRING NO. 4**

- A. Name of Structure: Rochford Spring No. 4.**
- B. Legal description: The Rochford Spring No. 4 consists of a series of springs and seeps emanating from a steep hillslope located within the Northeast 1/4, Northwest 1/4, Section 5, Township 5 South, Range 84 West, 6th P.M., more specifically described as a spring reach located at a point South 70°00' West a distance of 3,400 feet from the Northeast corner of said Section 5, from which point said springs and seeps flow by gravity in a southwesterly direction, as more fully shown on Exhibit A (a/k/a Figure 2) attached hereto and incorporated herein by this reference. (Note: Rochford Spring No. 4 is located on the property boundary between Hardesty and Powell).**
- C. Source: Seeps and springs tributary to the Eagle River, tributary to the Colorado River.**
- D. 1. Date of initiation of appropriation:**
- (1) Absolute portion: June 1950 for storage, irrigation, aesthetic, piscatorial, wildlife propagation and recreational purposes.**
  - (2) Conditional portion: 1983 for augmentation, exchange, replacement and additional irrigation purposes.**
- 2. Date water applied to beneficial use:**
- (1) Absolute portion: June 1950.**
  - (2) Conditional portion: N/A.**
- 3. How appropriation was initiated:**



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- (1) **Absolute portion: By diverting water into and filling the Rochford Pond and use of water for storage, irrigation, aesthetic, piscatorial, wildlife propagation and recreational purposes.**
- (2) **Conditional portion: By field visit, discussions with attorney and engineer, and formation of intent to use for augmentation, exchange, replacement and additional irrigation purposes.**

**E. Amount claimed:**

1. **3.0 c.f.s., absolute, for storage, irrigation, aesthetic, piscatorial, wildlife propagation and recreational purposes.**
2. **3.0 c.f.s., conditional, for augmentation, exchange, replacement and additional irrigation purposes.**

**Total 3.0 c.f.s.**

**F. Use: Irrigation of 5.5 acres. Acreage owned by William Powell located as follows: 9.27 acres located in the Northeast 1/4 of the Northwest 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 5, Township 5 South, Range 84 West of the 6th P.M.**

**Other Uses: Storage, irrigation, aesthetic, piscatorial, wildlife propagation, recreational, augmentation, exchange and replacement purposes.**

**G. In Case No. 83CW209, an augmentation plan, Rochford Pond and Rochford Springs 1-3 were decreed. By this application, Rochford Spring Nos. 4 and 5 are to be decreed herein as an additional source of water to fill the Rochford Pond to be used for all uses decreed in Case No. 83CW209. In addition, the Rochford Spring Nos. 4 and 5 will irrigate up to 5.5 acres of land which are all owned by the Applicant and are part of Applicant's 9.265 acre two-lot parcel.**

**ROCHFORD SPRING NO. 5**

**A. Name of Structure: Rochford Spring No. 5.**

**B. Legal description: The Rochford Spring No. 5 consists of a series of springs and seeps emanating from a steep hillslope located within the NE1/4 NW1/4, Section 5, Township 5 South, Range 84 West of the 6th P.M., more specifically described as a spring reach commencing at a point S. 70°30' W., a distance of**

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Judgment and Decree

3,350 feet from the northeast corner of said Section 5, from which point said springs and seeps flow by gravity in a southerly direction. A map of such reach and the area referenced is attached hereto as Exhibit A (a/k/a Figure 2 of Case No. 94CW346).

C. Source: Seeps and springs tributary to the Eagle River, tributary to the Colorado River.

D. 1. Date of initiation of appropriation:

(1) Absolute portion: June 1950 for irrigation, storage, aesthetic, piscatorial, wildlife propagation and recreational purposes.

(2) Conditional portion: June 1983 for additional irrigation, augmentation, exchange and replacement purposes.

2. Date water applied to beneficial use:

(1) Absolute portion: June, 1950.

(2) Conditional portion: N/A.

3. How appropriation was initiated:

(1) Absolute portion: By diversion and application to beneficial use for irrigation, and by filling Rochford Pond for storage, aesthetic, piscatorial, wildlife propagation and recreational uses.

(2) Conditional portion: By field visit, preparation of an engineering report, and formation of intent to use for augmentation, exchange and replacement through the Rochford Pond.

E. Amount claimed:

1. 1.0 c.f.s., absolute, for irrigation, storage, aesthetic, piscatorial, wildlife propagation and recreational purposes.

2. 1.0 c.f.s., conditional, for additional irrigation, augmentation, exchange and replacement purposes.

3. Total 1.0 c.f.s.

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Judgment and Decree**

**F. Use: Irrigation for 5.5 acres. Acreage owned by William Powell located as follows: 9.27 acres located in the Northeast 1/4 of the Northwest 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 5, Township 5 South, Range 84 West of the 6th P.M.**

**Other Uses: Storage, augmentation, replacement, exchange, aesthetic, piscatorial and recreational purposes, conditional.**

**CONCLUSIONS OF LAW**

5. **The Application filed herein is complete, covering all applicable matters required under C.R.S. 37-92-302.**
6. **All notices required by law have been given, and no further notice need be given.**
7. **The Court has jurisdiction of this matter and of all persons, whether they have appeared or not. C.R.S. 37-92-301(2) and -303(1).**
8. **This Court has authority to grant the change of water right requested in the application. C.R.S. 37-92-301(2), -302 and -303(1).**
9. **The Statement of Opposition by John Hardesty has been withdrawn by Stipulation of the parties. Such Stipulation is incorporated herein by this reference. The Protest to the Ruling of the Referee filed by the State and Division Engineers has been withdrawn.**
10. **Applicant's Motion for Summary Judgment is granted.**

**JUDGMENT AND DECREE**

11. **As requested in the Applicant's Motion for Summary Judgment, the water rights for the Rochford Spring Nos. 4 and 5, as more fully set forth above in Paragraph 4. above, are hereby granted. Application for Finding of Reasonable Diligence shall be filed in the same month as the decree herein is entered every six years after the entry of the decree herein so long as the Applicants desire to maintain the conditional water rights herein awarded, or until a determination has been made that such conditional water rights are made absolute by reason of the completion of the appropriation, or are otherwise disposed of.**

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Judgment and Decree

12. The foregoing Findings of Fact and Conclusions of Law are incorporated herein by this reference. The Water Judge concludes that the Application should be granted. The application for the water rights described herein is approved.
13. Applicant may be required to maintain an accurate accounting of all water diverted under these rights through the original points of diversion decreed herein and, if so, shall provide such accounting to the Division Engineer upon request.

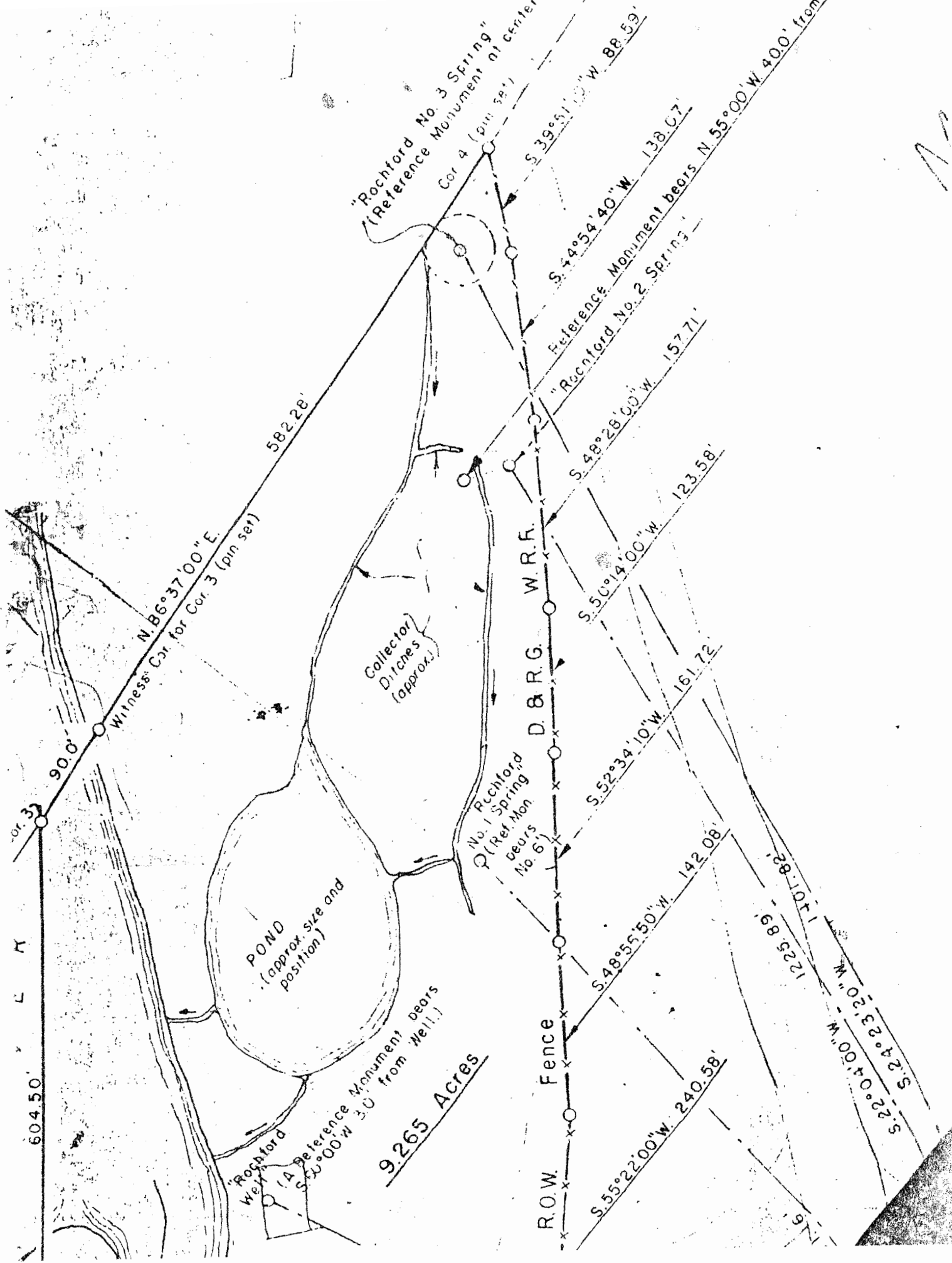
It is accordingly ORDERED that this Ruling shall be filed with the Water Clerk subject to Judicial review.

It is further ORDERED that a copy of this Ruling shall be filed with the appropriate Division Engineer and the State Engineer.

The month and year for filing and Application for Finding of Reasonable Diligence shall be October 1, 2002.

Dated this 16<sup>th</sup> day of October, 1996.

Thomas W. Ossola  
WATER JUDGE





Flow Meter Water Usage Powell Properties

Total Use (≠ Total Use (AF))

2018						1,082,700	3.32
date	reading	amount					
5/13/2018	549,600		beginning	-	0	45,000	-
5/20/2018	600,300	50700	actual	50,700	50700	45,000	0.16
5/27/2018	651,000	50700	actual	101,400	50700	-	0.31
6/3/2018	701,700	50700	actual	152,100	50700	-	0.47
6/10/2018	752,400	50700	actual	202,800	50700	1,082,700	0.62
6/17/2018	803,100	50700	actual	253,500	50700	-	0.78
6/24/2018	852,100	49,000	actual	302,500	49000	-	0.93
7/1/2018	899,300	47,200	actual	349,700	47200	-	1.07
7/8/2018	947,400	48,100	actual	397,800	48100	-	1.22
7/16/2018	1,017,300	69,900	actual	467,700	69900	-	1.44
7/23/2018	1,071,600	54,300	actual	522,000	54300	-	1.6
7/30/2018	1,125,900	54,300	actual	576,300	54300	-	1.77
8/6/2018	1,180,200	54,300	actual	630,600	54300	-	1.94
8/13/2018	1,234,500	54,300	actual	684,900	54300	-	2.1
8/20/2018	1,281,300	46,800	actual	731,700	46800	-	2.25
8/27/2018	1,327,366	46,066	actual	777,766	46066	-	2.39
9/3/2018	1,373,432	46,066	actual	823,832	46066	-	2.53
9/10/2018	1,419,500	46,068	actual	869,900	46068	-	2.67
9/17/2018	1,460,433	40,933	actual	910,833	40933.33	-	2.8
9/24/2018	1,501,367	40,933	actual	951,767	40933.33	-	2.92
10/1/2018	1,542,300	40,933	actual	992,700	40933.33	-	3.05
10/8/2018	1,587,300	45,000	actual	1,037,700	45000	-	3.18
10/15/2018	1,632,300	45,000	actual	1,082,700	45000	-	3.32
		1,082,700		3.32			