

WATER RIGHTS BRANCH
MISSION, ROLE, AND FUNCTION

I. MISSION

To secure and protect the water rights necessary to support the purposes of all units of the National Park System. The fundamental purposes of the National Park Service are "to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations" (16 U.S.C. 1).

II. ROLE

As staff to management Servicewide, the role of the Water Rights Branch is to recommend water rights policy and implement the Service's water rights program in coordination with the Office of the Solicitor, Department of Justice, and other governmental entities.

III. FUNCTION

Program

- * Develop and recommend national policy and guidelines for identifying, quantifying and protecting federal reserved and state appropriated water rights in parks, monuments, or other NPS units.
- * Prepare program budget, identify support needs, establish water rights related quality criteria, and recommend to the Division Chief priorities of Servicewide water right needs.

Implementation

- * Develop all information necessary to secure and protect NPS water rights, including contracting with other agencies or outside sources.
- * Prepare case material for use by Department of Justice trial attorneys, including establishment and verification of Service water rights, selection of analytical tools for use in quantification, and preparation of depositions and responses to interrogatories.
- * Inventory water rights and direct the development and use of a Servicewide water rights database.
- * Serve as authoritative source of expertise and provide advice to NPS management regarding water right issues and concerns.
- * Represent the Service in dealings with federal, state and local agencies or private organizations on technical aspects of NPS water right issues and concerns.

Coordination

- * Work with the Department of Justice and Office of the Solicitor in interpreting and applying appropriate federal and state water right laws and related rules and regulations to Service programs.
- * Coordinate water right portions of water resource studies in park areas and cooperate with regional Lands Divisions regarding acquisition and disposition of water rights.

Methodologies for Quantifying
NPS Water Rights

Why are water rights quantified?

Administration in time of shortage

Removes uncertainty of open-ended Federal claim

When must NPS water rights be quantified?

Filing for new water right under state law

General adjudications

Injury from diverters

Where do we quantify?

Surface water sources (rivers, streams, creeks, springs, seeps, lakes and ponds)

Ground water sources (wells, general aquifer claims)

What is quantification?

Determination of quantity of water, the use of which is claimed as a right of the United States

Consumptive vs. non-consumptive quantification

How is it done (general comments)?

Under State Appropriative Doctrine:

- * Diversion
- * Beneficial Use (irrigation, domestic, municipal-industrial, mining, livestock, piscatorial, recreation (in situ))

- * Measurement, calculation
- * Most uses are consumptive

Under Reserved Rights Doctrine:

- * Use tied to purpose
- * "Minimum necessary" to prevent purpose being "entirely defeated"
- * Includes consumptive and non-consumptive uses
- * Some uses are not quantifiable or are difficult to quantify (fire suppression, construction, wildlife, vegetation maintenance, ground water)
- * Some uses require all the flow

How is it done (specific comments)?

Under State Appropriative Doctrine:

- * In-house records (delivered flow, pump capacities, acres irrigated, cattle grazed, headgate measurements, etc.)
- * Photos, maps, plans

Under Reserved Rights Doctrine:

- * Start with Land Status (reserved, transferred)
- * Purpose (enabling legislation, antiquities act, 16 U.S.C. 1, previous ownership)
- * Determine the role of water in fulfilling the purposes (innovative but reasonable approaches)
- * Measure or otherwise determine the quantity of water needed (wildlife, threatened and endangered species, geysers, geomorphology, riparian ecosystems, erosion, consumptive uses, cumulative effects)

Other kinds of quantification

- * Change of use/diversion (calculate consumptive use for change)
- * Exchange of water rights
- * Abandonment

Considerations for maintaining management options

- * File for all rights of any kind
- * Avoid abandonment
- * Assume as positive a future as possible in making claim

FUNCTIONS

POLICY, PLANNING AND EVALUATION BRANCH WATER RESOURCES DIVISION

POLICY

- NPS POLICY DEVELOPMENT, GUIDANCE, AND ANALYSIS
- REVIEW OF REGULATIONS/LEGISLATION

PLANNING

- WATER RESOURCES MANAGEMENT PLANS
- REVIEW OF NPS PLANS

EVALUATION

- EXTERNAL THREATS (MONITORING/ TECHNICAL ASSISTANCE/
COORDINATION)
- NEPA REVIEW

OTHER

- COORDINATION WITH AIR QUALITY DIVISION &
MINING AND MINERALS BRANCH
- TRAINING
- INTERPRETATION

FUNCTIONAL STATEMENT
POLICY, PLANNING AND EVALUATION BRANCH
WATER RESOURCES DIVISION

Policy

- Analysis of water quality/quality issues.
- Development of water quality/quality policy (including providing policy assistance in the area of water rights).
- Preparation of water resource management guidelines (lead responsibility with other branches providing needed assistance in their areas of expertise).
- Coordination with and assistance to Regions, parks, and other NPS offices, and other natural resources offices on water resources policy issues.
- Review of and comment on proposed water resources-related legislation affecting NPS.

External Liaison

- Staff support to the Associate Director, Natural Resources, on the Under Secretary's Park Protection Working Group.
- Liaison with other agencies (i.e., EPA, BLM, BOR, OSM, state regulatory agencies, OTA, Corps of Engineers, FERC, etc.) on water-related regulatory matters and other agency projects or initiatives, including review of and comment on such regulatory initiatives.
- Participation on Federal Interagency Groundwater Protection Committee.
- NPS lead for International Joint Commission Study Group on the water quality impacts of the proposed Cabin Creek Mine.
- Principal contact for NPS International Affairs Division on international water quality issues (e.g., issues under evaluation by International Joint Commission and International Boundary Waters Commission).

Planning

- Provide direct assistance to Regions and parks in the development of water resources management plans.
- Assist Regions and DSC in issue identification, development of baseline hydrologic monitoring programs, and assessment of water resources issues in support of NPS planning activities where water resources are an important concern.
- Provide NPS policy review of the water resource aspects of NPS planning

documents (e.g., task directives, general management plans, development concept plans, statements for management, land protection plans).

Environmental Assessment/External Threats

- Coordinate Water Resources Division comments (in consultation with Division of Environmental Compliance, Air Quality Division, and Mining and Minerals Branch) on Environmental Assessments and Environmental Impact Statements for Federal undertakings having potential impacts on park water resources.
- Identify, evaluate (including monitoring), and analyze threats (most often externally caused) to NPS water resources and develop protection/mitigation strategies.
- Develop programs to enhance the protection of NPS water resources from external threats (e.g., Outstanding National Resource Waters designation program, implementation of EPA Groundwater Protection strategy to protect groundwater of NPS units, etc.).

Technical Assistance/Training

- Provide assistance to Regions and parks on the identification and mitigation of threats to water resources.
- Provide guidance to NPS units on regulatory requirements regarding water resources (e.g., NPDES permitting requirements for point source discharges).
- Participate in water resources training development and delivery at the Regional and Servicewide level in Branch's area of responsibility.

Evaluation

- Lead responsibility for Operations Evaluation activities at the Regional and park levels.

Budget/Priority Setting

- Lead responsibility for establishing Servicewide priorities for water resources projects (i.e., studies, technical assistance, planning assistance, etc.).

Outreach

- Lead role in working with interpretation on water resources issues and coordination of water resources publications and environmental education.

Water Services Branch
Water Resources Division

MISSION

The Branch provides professional resource management expertise for the resolution of water resources issues Servicewide. Branch expertise includes surface water and ground water investigations, water quality monitoring and assessments, flood hazard evaluations, test well drilling programs, geologic evaluations and baseline inventory development.

BRANCH OPERATION

The Branch maintains close working relationships with park, Regional and Denver Service Center representatives of various disciplines. A list of the primary Regional Water Resources Contacts (RWRC's) for the Branch as designated by the Regions is attached. Also, coordination is maintained with Regional Chief Scientists, Natural Resources Management Specialists, Dam Safety Officers, maintenance personnel, and Public Health Service consultants.

Branch activities are a combination of technical assistance efforts and project management. The term "technical assistance" refers to short-term water resources management consultations and evaluations conducted by the Branch. This support to the parks is made in response to formal requests and "emergency" requests as submitted by the RWRC's. Technical assistance also includes support to the Regions in preparation of Water Resources Five-Year Programs and project development.

Project Management is provided in response to the prioritized list prepared by RWRC's at an annual meeting. Initial efforts include contract preparation or working directly with other Government agency representatives to prepare an adequate project proposal which addresses NPS objectives. As Contracting Officer's Representative, Branch staff meet with the contractor at critical points to review project progress, or to discuss contract modifications as needed. A draft of the contractor's final report is reviewed by Branch staff and distributed to Region and park for comments before submittal to the contractor. The final report is sent to the Region and park by cover memorandum which summarizes the results of the project.

EXAMPLES OF WATER SERVICES BRANCH ACTIVITIES

Preparing Water Resources Management Plans.

Contract preparation for test wells and projects by private contractors.

Review of contractors reports and consultation to park/Region/DSC.

Solving surface water issues, including establishing monitoring networks and application of models.

Determining causes of decreasing spring flow.

Managing floodplains, (Executive Order 11988, Executive Order 11990 and NPS Floodplain Management and Wetland Protection Guidelines compliance) including floodplain studies and consultation with park/Region regarding hazards and warning systems.

Water quality monitoring and assessments.

Consultation on stream restoration.

Wetland identification and protection.

Conducting inventories of wells, springs, wetlands, and streams.

Investigating erosion and sedimentation.

Ground water studies, including the drilling of monitoring wells, conducting and analysis of aquifer tests, modeling, and associated geologic studies.

Investigating ground water contamination.

Assessment of well failure.

Identifying geologic hazards.

Writing special Servicewide reports.

Provide Water Resources training.

Assistance in preparation and/or review of management and planning documents, e.g., Development Concept Plans, General Management Plans, and Land Protection Plans.

Hydrologic data and reference retrieval.