

## **Wilderness Preservation Through Early Federal Water Rights in the Zion Wilderness**

Prior to the designation of wilderness, there may be other earlier federal reserved water rights that, because of their early priority date (that is, the date the reservation was enacted by Congress), provide greater protection for wilderness than the federal reservation created by wilderness designation. The most important part of a water right is its priority date. Newer junior water rights can only be exercised after older senior water rights are fulfilled. Therefore, federal reservations enacted for purposes that have similar needs as wilderness may provide better protection for wilderness if they are earlier.

The Zion Wilderness provides an example where multiple federal reserved water rights exist with priority dates that predate the wilderness reservation. First designated as a National Monument in 1909, the Monument was expanded in 1918. In 1919, Zion was re-designated as a National Park. In 1937 nearby lands were designated as a separate National Monument. In 1956, the National Park was expanded by including the 1937 Monument into the Park. In 2009, Wild and Scenic Rivers were designated within the Park, as well as wilderness for 84% of the Park. All of these reservations create different federal reserved water rights for different purposes. While the reservations have different wording and different priority dates for water rights purposes, the State agreed to water rights for all ground and surface water flowing through or under the park that was not previously appropriated (memorialized in the Zion National Park Water Rights Settlement Agreement). The Monument and Park purposes required water in much the same way as a wilderness, but because they were older, predated water rights that were senior to the wilderness designation. The wilderness reservation not providing rights greater than already existed, it did not need to be addressed.

The NPS, State of Utah, and two water districts entered into a negotiated agreement to recognize federal reserved water rights at Zion. The agreement:

- Recognizes Zion National Park purposes in the federal reserved right
- Quantified surface and groundwater together
- Contains limits on park and private water use

- Preserves canyon erosion, scientific values, scenery, and natural and historic objects
- Establishes groundwater protection zones outside the park

The agreement avoided long and expensive litigation, and was issued as a partial decree which is now being enforced by the State and is expected to provide water protection for Wilderness purposes. The State of Utah now considers the basin in which Zion National Park is located to be fully appropriated (with a few exceptions). However, change applications that propose to move water rights from one point in the basin to another and or propose changing a surface water source to a groundwater source may be approved after an examination by the Utah Division of Water Rights. Such changes could impact the park and its wilderness, and so the NPS continues to evaluate and comment on applications from other water users.