

Chapter 5

Jewel Cave: Discovery and Development

1890s-1908

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Introduction

As Felix Michaud pursued ranching and speculative mining in the 1890s, concern grew over the diminishing forest stands in the Black Hills as a result of fire and logging. Intense harvesting of timber was observed particularly in the north, where the Homestake Mining Company logged aggressively for timber to use for underground mine shaft supports, bridges and railways, and numerous buildings to house managers and workers at the mine. Portable sawmills were easily moved as the forest receded before the feller's axe. Millers and loggers left behind on the forest floor remnants of timber debris, which were readily ignited by summer lightning strikes. A series of large forest fires in 1893 heightened an awareness of the need to protect the forest so that it was there to harvest in the future.¹ Similar intense logging and forest depletion had occurred in many regions throughout the eastern United States, prompting the federal government to explore ways to perpetuate forests as well as other natural resources.

The discovery of Jewel Cave by Euro-American at the turn of the nineteenth century occurred against a backdrop of federal conservation policies unfolding in the Black Hills. Administrators of the Black Hills Forest Reserve, created in 1897, focused their attention on principles of scientific forestry and the efficient scientific management and use of natural resources—timber, minerals, grass, and water. In this environment the developers of Jewel Cave, located inside the forest reserve, believed that treating the cave as a mineral resource was a logical and acceptable approach to gaining federal approval for Jewel Cave's use.

Although nearby Wind Cave provided an early example of how a cave might be developed as a tourist attraction, circumstances at the two caves differed. Wind Cave benefited from better and closer railroad and road access, the attraction of nearby hot springs that functioned year round, the economic support and promotion of private entrepreneurs with some economic resources, and, beginning in 1903, the publicity and administrative support that came with national park status. Jewel Cave had few of these advantages for several years. The efforts of Frank and Albert Michaud and Charles Bush to attract tourists to Jewel Cave failed, forcing them to seek alternative ways of making a living in the southern Black Hills.

¹ Jack Cannon, "Forest Has Role in History," *Rapid City Daily Journal*, March 12, 1961.

Conservation Policies Reach the Black Hills

In the late 1800s, a growing concern for the possible diminishing long-term productivity of forests throughout the United States found expression in federal policies that profoundly affected the Black Hills of South Dakota. Although most Americans considered the nation's forests to be limitless and inexhaustible, a few individuals voiced warnings about the consequences of rapid deforestation from fire and logging. A most influential observer and reporter of the damaging environmental effects of deforestation, far from the Black Hills, was George Perkins Marsh.

Living in Turkey between 1849 and 1859 as the U.S. ambassador, George Perkins Marsh theorized that the deforestation he observed on the shores of the Mediterranean Sea had contributed to erosion, drained water from the soil, decreased soil fertility, destabilized the natural flow of streams, and generally wreaked havoc with the earth. Marsh presented his theories of environmental degradation in a book entitled *Man and Nature* (1864). Over the next several years, Marsh's book attracted the attention of both scientists and politicians and raised the concerns of an increasing number of Americans about the future of the nation's forests. Marsh's theories, although eventually proven to be overstated or, in some cases, wrong, became the basis of laws aimed at protecting and/or restoring forests. In New York State, concern about the falling levels of water in the commercially important Erie Canal, and possible future water shortages in New York City led to a popular movement and eventually state legislation to protect the heavily logged Adirondack Mountains. The Adirondack Forest Reserve, created by New York State law in 1885, became a model of forest protection for the nation as a whole.

In early March 1891, Congress passed the Forest Reserve Act (or General Reserve Act), which specifically sought to protect watersheds by reserving designated forests from commercial use. Under the authority of this act, several forest reserves were established. On March 30, 1891, President Benjamin Harrison created the first reserve—the Yellowstone Timberland Reserve in Wyoming. During the remainder of Harrison's term, he created a total of fifteen forest reserves covering more than 13 million acres. Between 1892 and 1896, President Grover Cleveland designated an additional five million acres as forest reserves. The 1891 act was administered by the General Land Office (GLO; forerunner of the Bureau of Land Management), in the Department of the Interior, with the aim of protecting water and timber supplies within the nation's forests.²

² John Ise, *The United States Forest Policy* (New Haven: Yale University Press, 1920), 109-18; Samuel P. Hays, *Conservation and the Gospel of Efficiency* (Cambridge: Harvard University Press, 1959), 36; Hal Rothman, *Preserving Different Pasts: The American*

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Over the next few years, Congress created a “forestry commission” charged with examining various forests in the U.S. and determining where the new forest reserves should be established. In July 1896, members of this forestry commission arrived in Custer, where they planned to begin their nationwide forest examination in the Black Hills. The commission consisted of the most elite group of scientists in the nation—Harvard University botanist Charles Sprague Sargent, Arnold Hague of the U.S. Geological Survey, William Brewer of Yale University, retired army engineer General H. L. Abbott, noted California naturalist John Muir, and forester Gifford Pinchot. Congress appropriated \$25,000 in June 1896 for the commission. After touring the Black Hills, the group continued west through the Rocky Mountains to the Pacific Coast, visiting possible future forest reserves as they traveled. (Pinchot did not join the group until it reached Montana)³

As forest reserves were being created between 1891 and 1896, Gifford Pinchot had risen in stature and become one of the most highly regarded foresters in the country. Born in 1865 and a graduate of Yale University in 1889, Pinchot spent several years in France and Germany studying the principles of “scientific forestry,” or sustained-yield management. Upon returning to the U.S. in 1892, he took charge of a private forest on the Biltmore estate in North Carolina, where he put into practice his training in scientific forestry. For the next several years, he worked as a consultant to private forest owners, and wrote and lectured widely on the practicability of scientific sustained-yield forest management.⁴

The work of Pinchot and the other forestry commission members in the summer of 1896, probably influenced President Cleveland’s decision to create additional forest reserves just before he left office. On February 22, 1897, amidst a clamor of local opposition from miners and millers, President Cleveland proclaimed the creation of the Black Hills Forest Reserve, composed of 967,680 acres. Upper Hell Canyon and the site of the Jewel Cave opening were included in the Black Hills Forest Reserve. This law also created twelve other reserves in Wyoming, Utah, Montana, Washington, and Idaho, totaling nearly 21 million acres. The law made no mention of utilitarian or commercial use objectives for forest reserves; the protection of timber and water in the forest reserve were the primary focus. Lumber, grazing, and mining interests in the Black Hills and across the country howled in protest. The forest reserve bill appeared in its entirety on the front page of the *Custer Weekly Chronicle*. Repeal of the bill seemed

National Monuments (Urbana: University of Illinois Press, 1989), 10; Roderick Nash, *Wilderness and the American Mind* (New Haven: Yale University Press, 1982), 133-35.

³ “Forestry Commission,” *Custer Weekly Chronicle*, July 11, 1896; Nash, *Wilderness*, 135.

⁴ Hays, *Conservation and the Gospel of Efficiency*, 36-37.

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imminent. Instead, the lumber industry received a slight reprieve when Cleveland suspended his proclamation until September 1898.⁵

Loud political protests from western legislators and from foresters like Gifford Pinchot caused cracks to appear in the forest protection approach to managing forest reserves, embodied in the 1891 law and the act creating the Black Hills Forest Reserve. On June 4, 1897, Congress passed the Forest Management Act, which granted the secretary of the Interior power to regulate the occupancy and use of the existing forest reserves. This act, unlike the 1891 act, permitted a broad interpretation of rule-making and regulatory powers. Although it did not expressly allow the commercial use of natural resources, the 1897 act paved the way for federal officials to permit grazing, logging, prospecting, and the diversion of water for mining, milling, irrigation, and even hydroelectric power generation in the forest reserves. (The grazing of sheep in the Black Hills Forest Reserve, however, was not permitted due to excessive damage caused by their foraging.)⁶ The language of the act made it clear that the primary purpose of the reserves was “to furnish a continuous supply of timber for the use and necessities of citizens of the United States.”⁷ The division in the General Land Office that administered this law initiated a fire prevention and suppression program, a timber sales system, a tree-planting program, and a timber management plan. Regulations were also issued for grazing on forest reserves.⁸

The Forest Management Act shifted the management approach of the Black Hills Forest Reserve. In July 1897, a survey corps arrived to determine and map the exact boundaries of the reserve. One party surveyed the topography and mapped contour lines and reserve boundaries. Henry S. Graves, a forestry expert who was interested in making forestry pay for lumbermen and who eventually became the chief forester of the Bureau of Forestry, arrived in Custer from New York City in mid-July to oversee the topographical survey party.⁹ A second party came to survey agricultural and mining lands and segregate them from the reserve.¹⁰

In 1898, less than one year after the Forest Management Act passed and surveyors arrived in the Black Hills, forester Gifford Pinchot became head of the Division of Forestry (renamed the Bureau of Forestry in 1900) in the Department of Agriculture. In this position, Pinchot, at the request of the secretary of the Interior, often made decisions on technical

⁵ “Forestry Reserve,” *Custer Weekly Chronicle*, June 12, 1897; Linde, *Saunmills of the Black Hills*, 6, 96, 101-102.

⁶ “Rules for Forest Reserve,” *Custer Weekly Chronicle*, July 10, 1897.

⁷ As quoted in Nash, *Wilderness*, 137.

⁸ Hays, *Conservation and the Gospel of Efficiency*, 36-37.

⁹ *Custer Weekly Chronicle*, July 17, 1897; Hays, *Gospel of Efficiency*, 30.

¹⁰ *Custer Weekly Chronicle*, July 10, 1897.

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matters and executed plans for the management of forest reserves according to principles of sustained-yield scientific forestry, even though the forest reserves remained under the purview of the of the GLO in the Department of the Interior for another seven years.¹¹

Pinchot's application of scientific forestry became evident in the Black Hills Forest Reserve, in mid-1898, a year after its creation. In June, H. G. Hanamaker arrived in Custer (replacing Government Land Office forest reserve Supervisor R. C. Greene) to take on the responsibilities of managing the reserve.¹² That summer, Forest Supervisor Hanamaker tackled his first request for the sale of timber on the reserve. Homestake Mining Company, perpetually in need of wood for mining shaft timbers and for steam-engine fuel, proposed the purchase of one thousand acres for its large operation in the northern Hills. After examining this sale area near Nemo and a second sale area in the Este Creek drainage, Hanamaker estimated the value of timber at 75 cents per thousand feet. On Christmas Day 1899, eighteen months after Homestake's initial application for timber harvesting, logging began with horse and oxen. This timber sale, known as "Case No. 1 Forest Timber Sale," represented the first commercial logging allowed on forest reserve land in the U.S.¹³

In 1901, Seth Bullock—a Dakota rancher, personal friend of Theodore Roosevelt, and influential in the creation of Yellowstone National Park many years earlier—replaced Hanamaker as Black Hills Forest supervisor and took over administration of the Case No. 1 timber sale. After contract extensions and the removal of 15 million board feet from the Black Hills forest, the sale closed in April 1908.¹⁴ Long before then, Bullock approved and oversaw the harvesting of timber on thousands of acres. In his annual report for fiscal year 1901, Bullock noted that timber sales on the Black Hills Forest Reserve totaled \$20,269, four-fifths of the total timber sales on all forest reserves in the nation. That same fiscal year, Forest Supervisor Bullock had issued 303 grazing permits, as compared to 58, the greatest number issued by any other forest reserve.¹⁵

Pinchot, in addition to applying the principles of scientific forestry to the harvesting of timber, also staunchly supported grazing on forest reserves. As head of the Bureau of Forestry, he often intervened in the early GLO management of forest reserves to open up grassy ranges to livestock grazing. For example, in 1904, he played a crucial role in supporting the continued use of a Wyoming forest reserve for grazing.

¹¹ Hays, *Conservation and the Gospel of Efficiency*, 28-30, 38.

¹² Rothman, *Preserving Different Pasts*, 10; Mitch Mahoney, compiler, *Centennial: Mini-Histories of the Black Hills National Forest* (N.p.: U.S. Forest Service, 1998), 14-16.

¹³ Linde, *Sawmills of the Black Hills*, 97.

¹⁴ *Ibid.*, 101; Mahoney, *Centennial*, 18-20.

¹⁵ Linde, *Sawmills of the Black Hills*, 102-103.

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Pinchot's support of stockmen's grazing interests and his basic view that reserves should be developed for commercial use, led him to oppose the creation of game preserves and parks on forest reserves, an idea proposed by some eastern game organizations such as the venerable New York City-based Boone and Crocket sportsmen's club. "The object of our forest policy," Pinchot declared in March 1903, "is not to preserve the forests because they are beautiful . . . or because they are refuges for wild creatures of the wilderness . . . but . . . the making of prosperous homes."¹⁶

Convinced that the General Land Office was ill-equipped to administer the reserves effectively, Pinchot argued tenaciously to have the administration of forest reserves moved from the General Land Office to his own Bureau of Forestry in the Department of Agriculture. After Pinchot and others made several efforts to transfer the forest reserves from the GLO to the Bureau of Forestry, Congress finally passed a bill in early 1905 that accomplished this goal. The 1905 act specified that the "rights of way for the construction and maintenance of dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals, within and across the forest reserves . . . are hereby granted to citizens and corporations of the United States." President Theodore Roosevelt signed this bill (HR 8460) into law on February 1, 1905.¹⁷ Pinchot, as head of the bureau, became fully in charge of all forest reserves. In a February 1 letter from Secretary of Agriculture James Wilson to Chief Forester Gifford Pinchot, Wilson reminded Pinchot that "all land [in forest reserves] is to be devoted to its most productive use for the permanent good of the whole people and not for the temporary benefit of individuals or companies. All the resources of forest reserves are for use" (underlined in original).¹⁸ Gifford Pinchot immediately set about exercising all necessary authority within his power to regulate the occupancy and use of forest reserves as well as to expand the forest program and capture revenue for its operation.¹⁹ Forest reserves were soon afterward renamed national forests. "The transfer of forest reserves to the Department of Agriculture in 1905 represented the victory for the development point of view in the Roosevelt administration," according to one environmental historian. "The change of name from 'forest reserves' to 'national forests' symbolized its significance."²⁰

¹⁶ Quoted in Hays, *Conservation and the Gospel of Efficiency*, 41-42.

¹⁷ James Wilson, Secretary of Agriculture, to "The Forester" Gifford Pinchot, February 1, 1905, history files, Black Hills National Forest, USDA Forest Service, Custer.

¹⁸ *Ibid.*, 4.

¹⁹ Hays, *Conservation and the Gospel of Efficiency*, 42-46.

²⁰ *Ibid.*, 191.

Jewel Cave Discovered

The Euro-American discovery of Jewel Cave happened at a time when residents of the Black Hills harbored many concerns about emerging conservation policies. Along with their abiding local interest in surviving sometimes killing winters, frequent droughts, a national economic depression, and devastating fires, turn-of-the-century Black Hills residents now faced uncertainties about the new federal designation of the Black Hills Forest Reserve. People worried about the possible erosion of their ability to use and profit from the timber, minerals, water, and rangeland in the federal forest reserve (even though the reserve did not prohibit most of these activities). At the same time, many welcomed federal measures taken to diminish the occurrence and damage caused by forest fires. A small but growing populace began to look to the federal government to protect and preserve scenic and scientifically significant features in the natural environment. These varied and quixotic currents of public sentiment moved across the Black Hills at a time between 1900 and 1908, when managers of the Black Hills Forest Reserve (National Forest after 1905) worked to understand the mission and carry out the rules and regulations of the new evolving national forest agency. The discovery and development of Jewel Cave on the Black Hills Forest Reserve eventually presented forest managers with slightly different challenges than those they might have encountered in requests to log, graze, or use water resources.

Humans' first encounter with Jewel Cave is not known with absolute certainty. There is no evidence that Native Americans ever entered the cave—no Native American cave art or artifacts has been discovered in Jewel Cave. The absence of prehistoric evidence along with the fact that the only entrance found by Euro-Americans was originally too small to permit human entry argues strongly against the notion that anyone entered the cave before the arrival of Euro-Americans in the Black Hills.

Over the past century, many different stories have been told about the discovery of Jewel Cave by Euro-Americans. Although Frank and Albert Michaud are most often credited with the cave's discovery, other versions of the discovery story should not be dismissed. New information may someday be uncovered during future research adding plausibility to one of these stories. Furthermore, the discovery stories are part of the popular folklore that surrounds Jewel Cave and its history. Various discovery stories are briefly presented here for these reasons. Regardless of when and who discovered Jewel Cave, there is no question that the Michaud brothers, with occasional help from others, were the first to actively promote and develop the cave as a tourist attraction.

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One discovery story attributes Burdett Parks, a cowboy working on the nearby Y-4 Ranch, northwest of Jewel Cave, with noticing a blowing hole (a hole in the ground with wind blowing outward) in the spring of 1886. At some unknown later date, Burdett Parks reportedly “enlarged the hole and entered, to remove a wagon load of crystals” that were given to the 1895 World’s Fair for display.²¹ Ira Michaud refuted this story in 1989, when he was eighty-two years old. He believed that Parks extracted crystals from a different cave, not Jewel Cave. He noted that: “Berdette [sic] Parks, a cowboy from Rifle Ranch had discovered a small cave which was near the [Rifle] ranch. . . . This is evidently a small cave in the head of Layton Canyon, which was near the Rifle Ranch. It was later known as the S & G Cave.”²² The validity of the Burdett Parks story is, therefore, very questionable.²³

Two other stories date the discovery of Jewel Cave to 1886. Both stories appeared in the local Custer newspaper. An article in the August 14, 1947, issue of the *Custer County Chronicle* newspaper, entitled “When Was Jewel Cave Discovered?,” noted that Jewel Cave, in 1886, had been claimed as a mine under the name “Hell Canyon Cave.” Around the same time, another short article in the *Custer County Chronicle* reported that a Frank Walsh wrote to the Custer newspaper from Los Angeles that Jewel Cave was discovered in 1886 by John Wells or his brother Dick Wells. “I was there at the time,” Frank Walsh wrote. Walsh went on to explain that he later purchased the Ernie Smith Ranch, about two miles down the canyon, and lived there for about ten years.²⁴ These two versions of discovery may or may not relate to Jewel Cave. Since Hell Canyon has more than one cave entrance, the discoveries described in these stories may refer to caves other than Jewel Cave.

²¹ Herb Con and Jan Conn, letter to Gail Evans-Hatch and Michael Evans-Hatch, June 21, 2004; Archives, National Park Service; Herb and Jan Conn, *The Jewel Cave Adventure* (St. Louis, MO: Cave Books, 1977), 22.

²² Ira Michaud, transcription of tape recording made by Ira Michaud, August 15, 1989, Library, Jewel Cave National Monument (hereafter cited as JECA).

²³ Further research needs to be conducted on the possible exhibition of Jewel Cave crystals in the 1893 Chicago World’s Fair and also on Burdett Park’s employment at Y-4 Ranch and Rifle Ranch to explore the validity of this story further. Mike Wiles, Jewel Cave National Monument, “Review Comments-March 21, 2005, Jewel Cave National Monument Historic Resource Study,” Midwest Regional Office, National Park Service, Omaha, NE.

²⁴ Future research might disclose purchase of the Smith Ranch by Frank Walsh and the exact location of the Ernie Smith Ranch in relation to Jewel cave and other known cave openings in Hell Canyon. “When Was Jewel Cave Discovered?,” *Custer County Chronicle*, August 14, 1947; “Says Jewel Cave Discovered in 1886,” *Custer County Chronicle*, c. 1947; both articles clipped and affixed to a page in Library, JECA.

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In 1893, the August 19 issue of the *Custer Chronicle* reported another encounter with a cave in Hell Canyon, possibly Jewel Cave. According to the article, a party of six (F. A. Towner, his daughter Carrie Towner, D. W. Webster, O. Webster, Mrs. Tamlyn, and Miss Jeneson) “drove to Hell’s²⁵ Canyon, Thursday morning [where] they intended to explore the cave, located in that vicinity, which is said to . . . rival the famous Wind Cave of this county.”²⁶ This local news item suggests that a cave, possibly Jewel Cave, was known in August 1893.

Another Jewel Cave “discovery” story was told by Jay D. Hatfield, a long-time resident of Neligh, Nebraska, and recorded by Alex Mitich in the March-April 1971 issue of *Bits and Pieces*, a small Newcastle, Wyoming, history newsletter. According to this account, Felix Michaud knew of the cave by the mid-1890s. Jay Hatfield distinctly remembered traveling to Custer with his father, John, in 1895, when Jay was twelve years old. At Custer’s annual Fourth of July celebration, the two Hatfields met Felix Michaud, who invited them to pitch their tent at his ranch cabin on Lightning Creek for an extended stay.

According to Hatfield, one day that summer Felix took the Hatfields to John Michaud’s (Felix’s purported brother²⁷) ranch a few miles away. Felix then guided young Jay and his father John Hatfield “into many rooms in a beautiful Crystal Cave; it is now the Government Jewel Cave.”²⁸ Seventy-five years later, two Jewel Cave park rangers (Dennis Knuckles and Mike Silbernagle) found what appeared to be the initials “F.M.” and the date “1898” carved in the wall in a side passage near the Kittycombs chamber, adding credence to the story that Jewel Cave had been entered before 1900 by Felix Michaud and, possibly by others, including the Hatfields.²⁹

²⁵ There has been some variation of the spelling of Hell Canyon over the years. In 1931, highway construction drawings spelled Hell Canyon as “Hell’s Canyon.” Most authorities today refer to this canyon as “Hell Canyon.” Mike Wiles, Jewel Cave National Monument, “Review Comments-March 21, 2005, Jewel Cave National Monument Historic Resource Study.”

²⁶ *Custer Weekly Chronicle*, August 19, 1893.

²⁷ Ira Michaud was mystified by the person named John Michaud. In a letter, dated December 20, 1970 written to Alex Mitich, Ira wrote: “I have listened to much talk over the years and in recent times have done considerable research regarding the Michaud family tree and no where was there any mention of John Michaud, who was a brother of Felix Michaud.” Quoted in Alex Mitich, “Jay D. Hatfield—Pioneer,” *Bits and Pieces*, March-April 1971, 4. See also Alex Mitich, “Cave Questions—Little Jewels,” *Bits and Pieces*, March-April, 1981, 16.

²⁸ Quoted in Mitich, “Jay D. Hatfield—Pioneer,” 4.

²⁹ Mitich, “Jay D. Hatfield—Pioneer”; Mike Hanson, *1988 Guidebook*. Rapid City, SD: Paha Sapa Grotto, 1988). Typed excerpt, Library, JECA.

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sometimes spelled “Busche”).³⁵ Charles (known as “Charley”) Walter Busch was a Michaud family friend from the French settlement in Cache la Poudre River Valley near Fort Collins, Colorado. Bush, a six-foot-tall robust man with a thick shock of dark hair, was the seventh son of eleven children born to Jackson A. and Sarah Bush.³⁶ Charley Bush had apparently been a friend of Felix Michaud’s brother, Francois Michaud, and his family, who lived in the Cache La Poudre River region of northeast Colorado near present-day Fort Collins. According to an old diary in the possession of a Francois Michaud family descendent, Charley Bush was present when the Michaud family in Cache la Poudre received a letter from Frank and Albert Michaud describing the wonders of Jewel Cave in great detail. The excited Bush apparently left for the Black Hills soon afterward. According to the June 8, 1901 *Custer Chronicle* article, Bush explored about one mile of the cave . . .

the walls of which are covered with the finest and most interesting formations. Stalactites and stalagmites of delicate structure and surpassing beauty, as well as of more massive forms abound in every room or gallery so far penetrated. . . . Through the passages a strong current of air passes outward, thus making the cave another wind cave.³⁷

Two other early accounts of Jewel Cave credited the Michaud brothers with its discovery in 1900. John I. Sanford, in 1902, wrote that:

The discoverers of Jewel Cave are working in the top of a yet unexplored cave of grand proportions, equal probably to Wind Cave in depth and extent. It was discovered in 1900 by the Michaud brothers, who were prospecting in Hell’s [sic] canon [sic], one of the rockiest, most precipitous canons [sic] and one of the most beautiful . . . They were letting themselves

³⁵ Charles Bush and his daughter, Grace Lois Bush Hatfield, both spelled their family name “Bush.” Grace Bush Hatfield, letter to Monta Huseby, Jewel National Monument employee in June 1985, Library, JECA. Ira Michaud reported, in 1989, that “Brusque” was the correct spelling of their name, but Charles decided to change the spelling to “Bush” because so many people misspelled it. Ira Michaud, transcript of tape-recorded remembrances, August 15, 1989, Library, Jewel Cave National Monument.

³⁶ Photograph and inscription, Charles Bush material, Library, Jewel Cave National Monument.

³⁷ “The Jewell [sic] Wind Cave,” *Custer Chronicle*, June 8, 1901.

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carefully down a chimney in the rocks and remarking [about] the favorable character of the place for a cave, when one of them noticed a couple of inches in diameter and called his brother's attention to it saying: 'There is the entrance to a cave.' The brother began pulling away the earth with his hand when the strong current of air blew a cloud of dust in his face.³⁸

In an April 1909 U.S. Forest Service document, "Report on the Jewel and Four Other Lode Claims," the author F. C. Schrader stated that: Jewel Cave "was discovered on August 18, 1900" by F. W. Michaud and Albert Michaud.³⁹ Two years later, Frank and Albert Michaud, in a letter to South Dakota U.S. Representative (from 1901 to 1907) Eben Wever Martin⁴⁰ asking for reimbursement for their development work at Jewel Cave, stated emphatically that they were "the discoverers and present owners of Jewel."⁴¹

The elaborate details of discovery presented in these and other early published stories provided the basis for nearly all discovery stories for nearly 100 years. Other publications and Michaud family members repeated and perpetuated the 1900 discovery story again and again. Long after Frank Michaud died in 1927, his widow, Mamie, during a 1959 conversation with Jewel Cave park ranger Walter Lienau, expressed certainty about Frank and Albert Michaud's discovery of Jewel Cave.⁴²

³⁸ Quote in Hanson, *1988 Guidebook*, typed excerpt.

³⁹ Schrader, "Report on the Jewel and Four Other Lode Claims," April 15, 1909, Library, JECA.

⁴⁰ Eben Wever Martin, born in Iowa in 1855, attended the University of Michigan, was admitted to the bar in 1880, and began practicing law in Deadwood, South Dakota (from 1886 to 1900). Although he ran unsuccessfully for the U.S. Senate in 1906, he filled the vacancy caused by the death of William H. Parker, in 1908, and remained in Congress until 1915. *Biographical Directory of the American Congress, 1774-1949* (Washington, DC: Government Printing Office, 1950), 1508.

⁴¹ Frank Michaud and Albert Michaud, letter to E. W. Martin, March 4, 1911, Library, JECA.

⁴² Walter Lienau (seasonal ranger at Jewel Cave National Monument), "Administrative History of Jewel Cave (consisting a compilation of notes taken by Lienau during the summer of 1959 from interviews with persons in Custer and with Mrs. Mamie Michaud. Typed summary of notes. JECA 1692, Archives, Mount Rushmore National Park.

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Many years later when Jay Hatfield was eighty-seven, he wrote in more detail about his 1895 visit to Jewel Cave in a letter to Ira Michaud. Rather than clarifying uncertainties in the date of discovery, however, Hatfield's latest account added to the confusion about when he had entered Jewel Cave and with whom. "Felix Michaud took us to his horse ranch 8 miles west of Custer on Lightning Creek," Hatfield recalled. He continued:

Felix Michaud took us about 5 miles southwest to a Michaud Log House near Hell Canyon—and the Michaud Man—or 2 Michaud Men and Felix and my father and I went near the House and Hell Canyon to a Lime Stone Cave—and we went down Pole ladders and Crawled through Holes into Rooms with lanterns and I have crystals now that I got in July 1895—Felix and my Father were Western Men and they were like Brothers—and Felix took us to many Places.³⁰

Near the end of his letter, Hatfield noted that he had been to Custer and the Black Hills many times. Hatfield may have been recalling a later visit to the cave, after the construction of the Michaud's two-story log cabin around 1902 and after the insertion of pole ladders in the cave.

A very tenable, but still possible, discovery story appeared in the May 30, 1896 issue of the *Custer Chronicle*. This local newspaper reported that: a "very handsome collection of Cave specimens, similar in character to the rare and beautiful 'box' specimens found in the Wind Cave taken from a subterranean chamber recently discovered while sinking a well on the ranch of H. D. Reynolds, located about 12 miles west of this city, were brought in Tuesday by Mrs. Reynolds and daughter, Mrs. C. Manahan. The chamber was encountered at a depth of 18 feet."³¹ Since Jewel Cave is roughly twelve miles west of Custer, the cave described might possibly be Jewel Cave.

One of the most plausible accounts of discovery was told to "LKL" (presumably Lyle Linch), Jewel Cave Park ranger in the 1940s. Long-time Custer resident Joseph Riley claimed in 1947 that Jewel Cave was "discovered" in 1897. The sixty-five-year-old Joe Riley recalled that he was one of six boys who found a small four-inch wide hole with wind blowing out, about thirty feet above what later became the historic cave entrance. Joe Riley, then around fifteen years old, was accompanied by Martin Riley, Clyde Holmes, Mark Holmes, Buck Raver, and Ray Sideley

³⁰ Jay D. Hatfield, letter to Ira Michaud, January 12, 1971, Michaud Private Collection, Billings, Montana.

³¹ *Custer Chronicle*, May 30, 1896.

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(spellings uncertain). Joe Riley became the brother-in-law of Frank Michaud (after Frank married Mary Katherine Riley in February 1905) and remained a long-time southern Black Hills resident. Also in 1947, Riley told ranger Linch that brothers Frank and Albert Michaud “discovered” this same hole with blowing wind in September 1900.³²

Prior to the Michaud brothers’ arrival in the Black Hills, the discovery of gold on the Klondike River in 1896 had lured Frank to British Columbia’s Yukon Territory as well as Alaska. Frank may have left his boyhood home near Fort Collins, Colorado, with his brothers Edward and Alfred around 1897, and spent the winter of 1897-1898 in Libby, Montana, with their sister Annie and her husband. The summer of 1898, Frank reportedly joined a man named Joseph Devereau and together they made their way north by boat up the coast of British Columbia and Alaska to Skagway. Here they disembarked and, over the next several months, packed mining supplies up over White Pass to Lake Bennett at the headwaters of the Yukon River in the Yukon Territory of Canada. The two men spent the summer of 1899 sluicing gravel in streambeds in search of gold. They left the gold country in the winter of 1899-1900 and headed by boat from Haines south to Seattle. In Seattle, the two men parted; Devereau returned to California and Frank Michaud headed east to his sister’s home in Libby, Montana.³³

At Libby, Frank reportedly met his younger brother Albert, and in the spring of 1900, the two brothers traveled southeast to the southern Black Hills of South Dakota, where they intended to go into the livestock business. A few miles east of Newcastle, Wyoming, (and about twenty-five miles west of Jewel Cave), they were invited to work on the spring cattle roundup on the LAK ranch. This they did for a few weeks, before continuing on their journey eastward across Tepee Canyon and, eventually, into Hell Canyon.³⁴

The story of Jewel Cave discovery by Frank and Albert Michaud in 1900 has been repeated often by many sources over the past century. The June 8, 1901, issue of the *Custer Chronicle* reported that Jewel Cave had been “discovered about a year ago.” This discovery, the newspaper claimed, was made by Charles Bush (the spelling used by Charles Bush himself, but

³² Joe Riley, in 1902, became a member of the Michauds’ “Jewel Cave Dancing Club.” Joe and Mary (“Mamie”) Katherine Riley, Frank Michaud’s future wife (in 1905), were siblings. Also see: LKL (presumably Lyle Linch), typed and handwritten notes, September 7 1947 and September 14, 1947, taken during a conversation with Joseph Riley. Three-ring binder, Library, JECA.

³³ Ira Michaud, transcribed tape-recorded remembrances, August 15, 1989.

³⁴ Ira Michaud, “Jewel Cave: What I Have Heard & Seen,” December 1970; Ira Michaud, transcript of tape-recorded remembrances, August 15, 1989.

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Frank's son, Ira, also believed that his father and uncle were the first to find the cave, although he puzzled over the date of their discovery and wondered if it might have been at least five years earlier than 1900.⁴³ After learning of Jay Hatfield's reported visit to Jewel Cave in 1895, published around 1909 in an article by Hatfield, Ira wrote to Mitich. "I think this article clearly shows that John Hatfield and son Jay were no doubt in Jewel Cave during 1895." Ira Michaud confessed that he had not "come up with a definite discovery date," but he was certain about the discoverers. "There is no doubt in my mind that my father Frank and Uncle Albert Michaud discovered the cave and were the first to make entry after enlarging a small original opening. . . . I have heard my father tell how they discovered the cave many times but cannot remember a time when he actually mentioned the date."⁴⁴

Ira Michaud elaborated on this discovery story in a twenty-eight-page memoir, handwritten in December 1970 for Alex Mitich, entitled "Jewel Cave: What I Have Heard & Seen."

(Alex Mitich, a Jewel Cave ranger, published a heavily edited and abridged version of Ira's memoir in the January-February 1971 issue of *Bits and Pieces*. Under the confusing similar title "Jewel Cave: What I've Seen and Heard.")

Ira wrote that in the early summer of 1900, his father Frank and Uncle Albert,

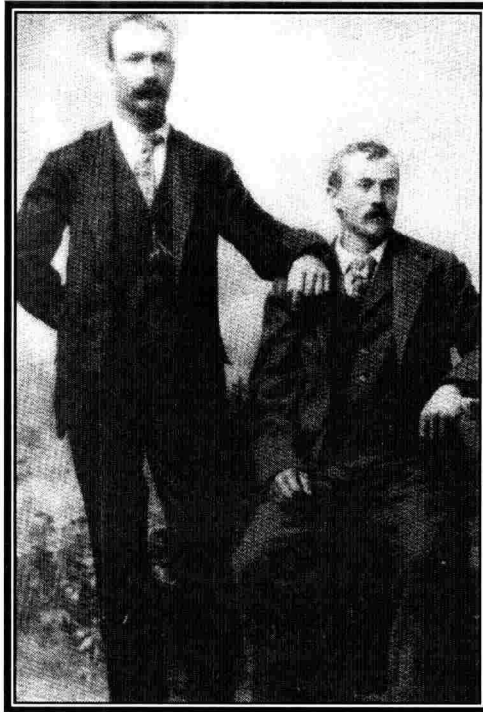


Figure 5-1. Frank Michaud and his younger brother Albert Michaud, taken around 1897 and before they arrived in the Black Hills. The Michaud brothers, along with Charles Bush, developed Jewel Cave as both a mining claim and a tourist attraction. Courtesy of Mrs. Ira Michaud, Billings, Montana.

⁴³ Ira Michaud, "Jewel Cave: What I Have Heard & Seen," December 1970. Accompanied by letter from Ira Michaud, at Billings, Montana, to Alex Mitich, at Newcastle, Wyoming. Library, JECA.

⁴⁴ Ira Michaud, letter to Jay Hatfield, December 20, 1970, Archives (JECA 1686), Mt. Rushmore National Memorial.

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Camped overnight in Hell Canyon, just below the spring . . . known as Prairie Dog Spring. the next morning, they started up Hell Canyon on a prospecting trip, and after a short while they heard a very weird sound coming from the hill side just above the rim rock. On investigation they found a small hole about fourteen inches in diameter through which a strong force of wind was escaping to the outside atmosphere. . . .The next morning . . . they were at the opening and found to their amazement that the force of wind through the opening was very slight and in fact was moving into the cavern instead of outward.⁴⁵

Ira Michaud, in 1989, repeated his earlier assertion that Frank and Albert Michaud discovered Jewel Cave; this time, however, he asserted it was definitely in the early summer of 1900.⁴⁶ This 1989 version of the Michaud discovery appears to be supported by the census records of 1915, which report that Frank Michaud first arrived in South Dakota in 1900.⁴⁷

It is certainly understandable how the discovery of Jewel Cave in 1900, or earlier, by Albert and Frank Michaud might have become the official and much-publicized story. The Michaud brothers, along with Felix Michaud and Charles Bush, were the first to claim the legal right to mine the “Jewel Tunnel” claim and to hold title to land encompassing the cave. Entered on the Jewel Lode claim are the words “by right of discovery . . .” along with the date of September 18, 1900. “Discovery” carried with it the right to mine the land; it did not create ownership. The Michaud brothers and, later, Frank Michaud’s family, relied on this “discovery” to argue strongly for compensation from the U.S. Forest Service and, later, the National Park Service for the time and expense they incurred to develop Jewel Cave.⁴⁸ Their repeated requests for compensation were based on the assertion that the government’s assumption of ownership was a “taking” of the land, under the doctrine of eminent domain. Both men were working

⁴⁵ Ira Michaud, “Jewel Cave: What I Have Heard & Seen,” December 1970, Library, JECA.

⁴⁶ Ira Michaud, transcribed tape-recorded remembrances, August 15, 1989, Library, JECA.

⁴⁷ “Frank Michaud,” 1915 Census Record, South Dakota Census, South Dakota State Archives, Pierre, South Dakota.

⁴⁸ Letters from the Michauds to the Forest Service. Also, Herb Conn, letter to Gail Evans-Hatch and Michael Evans-Hatch, June 21, 2004.

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hard to make a living and, in Frank's case, to support a growing family. Until the day he died in 1927, Frank hoped that their claim of "discovery" and ownership of Jewel Cave would be recognized and compensated, relieving his family's financial worries at last.⁴⁹

Many discrepancies exist among the various stories of discovery. Nobody knows with absolute certainty when Jewel Cave was "discovered" and by whom, and we may never know. But it matters little in the long history of the Hell Canyon area and Jewel Cave National Monument. Jewel Cave history has been influenced most by those who explored, promoted, and developed it. The credit for first developing and then promoting Jewel Cave surely goes to the Michaud brothers—Albert and Frank—and Frank Michaud's family.

Jewel Cave Development

Frank and Albert Michaud worked tenaciously over many months in the early 1900s to explore Jewel Cave and to develop it by making the cave more accessible to the public. They first endeavored to create a larger opening in the cave and also improve the access between chambers in the cave. According to Ira Michaud, Frank Michaud's son, they used "a few light charges of powder and [did] some chiseling and hammering" to enlarge the opening so that a person could enter the cave and descend on a rope into a cavern near the first fork in the tunnel. They soon discovered another opening and passageway into the cave from under the rim rock, that had been "filled with hard packed clay mixed with rocks." (Joe Riley, Frank Michaud's future brother-in-law, recalled that he and five other boys who encountered Jewel Cave in 1897 found a hole about thirty feet above the Michauds' blasted opening; this may have coincided with the earlier opening.) Near this spot the Michaud brothers reportedly excavated a new entrance, which has since become known as the "historic entrance" to Jewel Cave in the side of Hell Canyon.⁵⁰ (This same entrance was later

⁴⁹ There is an important distinction between the common understanding of "discovery" and the legal mining law concept of "discovery." A mining claim could be created only after a prospector found evidence of a mineral, and, in the case of a "lode claim," dug a ten-foot-deep "discovery hole" that clearly revealed existence of the mineral. "Discovery" in the legal sense was always followed by filing some public notice, usually called a "location certificate". Therefore, based upon extant public records, there can be no doubt that the Michaud brothers "discovered" Jewel Cave, in the legal sense.

⁵⁰ Quote and information from Ira Michaud, "Jewel Cave: What I Have & Seen," December 1970; U.S. Forest Service, "Report on Mining Claim," Jewel, located November 15, 1905, form completed February 19, 1908, Library, JECA.

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modified by the Civilian Conservation Corps in the 1930s.) The June 8, 1900, issue of the *Custer Weekly Chronicle* reported that: “Construction work has already been done to enlarge the smaller passages, so that the cavern can be more easily entered.”⁵¹

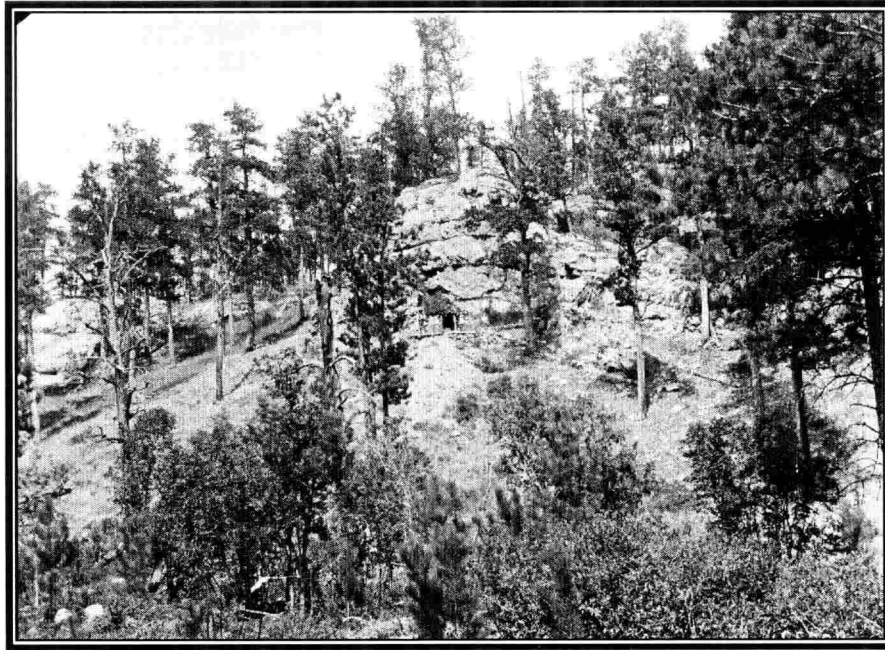


Figure 5-2. Jewel Cave timbered entrance (center of photo), looking up from Hell Canyon, in 1916. Courtesy of Jewel Cave National Monument (JECN 2645), deposited at Mount Rushmore National Memorial.

The Michaud brothers then timbered the first twenty-four feet of Jewel tunnel from the enlarged entrance. They labored at the opening for several weeks. Every four feet or so, the Michauds placed seven-foot-high vertical pine posts. Heavy timbers were then extended across the tops of the vertical posts as well as along the bottom to stabilize them.

Finally, a flat roof and side walls made of split logs enclosed the twenty-four-foot-long timber-framed entry passageway to keep the friable ceiling and side walls from caving in on visitors.⁵² Inside this split-log

⁵¹ “The Jewell [sic] Wind Cave,” *Custer Weekly Chronicle*, June 8, 1901.

⁵² It seems likely that this twenty-four-foot-long timber-frame tunnel may have extended to the outside beyond the actual cave entrance in the side of Hell Canyon, in order to keep loose rocks from falling down the steep canyon sides into the cave opening. Over time, the loose rock and dirt around the cave opening may have

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tunnel, the Jewel Cave developers installed rails on hand-hewn timbers for the wheels of an old mining car, which carried a wooden box crafted by the Michauds. About halfway (twelve feet) through the timbered tunnel, the Michauds installed a heavy plank door that could be locked. This door was destroyed many times over the years by vandals and had to be replaced often. After twenty-four feet, the stability of the cave ceiling and walls did not require any timber bracing or enclosed split-log tunnel.⁵³

Frank and Albert Michaud then turned to constructing ladders and steps to safely connect the labyrinth of chambers and tunnels to the right of the fork, a few feet back from the cave entrance. Long timber poles were used to construct ladders. In order to move them around sharp corners in the twisting passageway, the Michauds cut these poles into shorter lengths, when necessary, and assembled the completed ladders at the site where needed. Additionally, "excavations and openings [were] made at different places and levels extending back for ½ mile or more," according to a U.S. Forest Service "Report on Mining Claim" completed in February 1908.

During their early years of developing Jewel Cave, the Michauds followed the main descending wind passage for a distance of one and one-half miles, constructing ladders, platforms, and walkways.⁵⁴

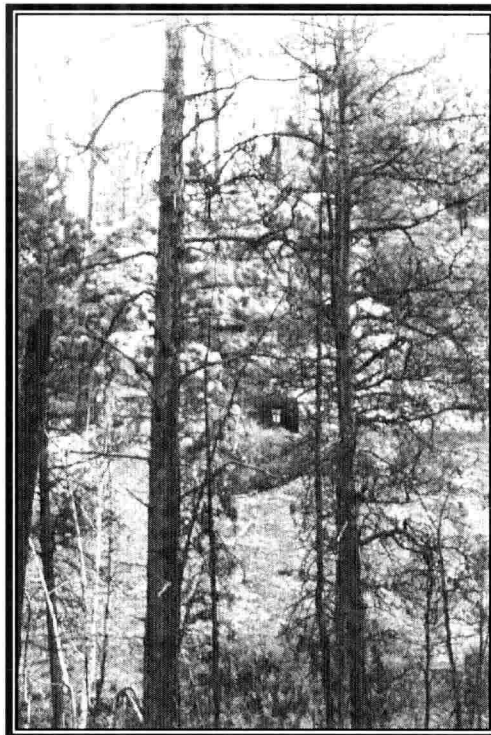


Figure 5-3. Jewel Cave's darkened and recessed opening as it appeared from across Hell Canyon in May 2004. Photo by Gail Evans-Hatch. Courtesy of Jewel Cave National Monument, deposited at Mount Rushmore National Memorial

been removed, thus causing the cave opening to recede into the hillside and reduce the need for the protective timber-framed enclosure.

⁵³ Ira Michaud, "Jewel Cave: What I Have Heard & Seen," December 1970.

⁵⁴ Quote from H. C. Neel and C. W. Fitzgerald, "Report on the Proposed Jewel Cave Game Preserve," September 1907, Archives, Mount Rushmore National Memorial. Also see U. S. Forest Service, "Report on Mining Claim," Jewel, located

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As this initial Jewel Cave development work continued, the Michaud brothers were joined by Charles Bush, a family friend from the Cache la Poudre River Valley in northeastern Colorado. Frank and Albert welcomed Bush as a partner in their Jewel Cave exploration and development venture. Arriving in the Black Hills by late July or August 1900, Bush was probably immediately put to work assisting with various cave development projects. Felix Michaud, then around sixty, may have also helped with some of these early development activities; however, his contribution to the venture is undocumented in any literature.

At some point during the fall of 1900, the Michauds and Bush determined that their development efforts and Jewel Cave's potential as a tourist attraction warranted securing a formal claim to Jewel Cave property. Not only did they perceive that the cave offered income potential, but they also believed that adequately preparing the cave for visitors required the acquisition of some legal rights to both the cave and the surface area surrounding to its entrance. The Michaud brothers, along with their father and Charles Bush, rode into Custer and filed a "location certificate" at the Custer County Courthouse on October 31, 1900.⁵⁵ This location certificate gave the Michauds the right to mine the cave, an activity allowed on forest reserve land.⁵⁶

November 15, 1905, form completed February 19, 1908; Ira Michaud, "Jewel Cave: What I Have Heard & Seen," December 1970.

⁵⁵ Neel and Fitzgerald, "Report on the Proposed Jewel Cave Game Preserve," September 1907.

⁵⁶ While living in the Black Hills in the early 1900s, Bush established a horse ranch about ten miles from Custer, South Dakota, where he is said to have constructed one of the largest horse tracks in the West. Bush married Laura Marsh, who gave birth to three children: Holmer Francis, Mable Marie, and Grace Lois Bush Hatfield—the only child to live to adulthood. The Bush family moved to a farm in Orient, Adair County, Iowa, around 1905. The Bush family spent the summer of 1915 camping near Custer, South Dakota, possibly near or on their old ranch. Charles Bush died in early 1916 of typhoid fever. Grace L. (Bush) Hatfield, letter to Monta Huseby, June 1985; Charles Bush, letter to Laura and Grace, June 23, 1916; and hand-written notes about the Bush family, all in Library, Jewel Cave National Monument. Also see Ira Michaud, transcribed tape-recorded remembrances, August 15, 1989.

The Legal Environment

The complexity of the Michauds' struggles to obtain title to the cave can be more fully appreciated with an overview of the mining law of that time.⁵⁷ The first federal statute that is relevant to this history is section 22 of Title 30 of the United States Code, enacted in May 1872.

All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.⁵⁸

Under the statute, if a miner met certain requirements associated with actually “discovering” a mineral of value, including filing the required public notice of the discovery and continuing to perform a certain amount of work developing the mine, the miner acquired a “qualified title,”

⁵⁷ C. C. O'Harra, “The Earliest Mining Laws and Mining Organizations in the Black Hills, *The Black Hills Engineer*, November 12, 1924.

⁵⁸ 30 U.S.C. 22 [Title 30 of the United States Code, Section 22.] Note on the creation of a statute: A proposed law is referred to as a Bill, if the bill is enacted by Congress, it becomes an Act. An act is initially published in a multi-volume set called *Statutes at Large*, then the Act is dissected and where appropriate, different portions of the Act will be inserted in different portions of the federal code. This last step is essential since almost all acts deal with many issues. As a bill it was subject to many compromises and many “riders.” Consequently, a single Act may include both the requirements for obtaining a patent on a mining claim and a portion spelling out the crime for falsifying the application for a patent. The patent application requirements would be inserted in that portion of the United States Code dealing with mining (Title 30), and the portion of the Act dealing with the crime of falsifying patent applications would be inserted in that portion of the United States Code dealing with crimes (Title 18). Consequently, a federal Act can be read in its entirety by reading it in *Statutes at Large*, but seeing precisely how the various portions of the Act affect the law necessitates that its portions be read in the context of other, relevant law, which is found in the *United States Code*.

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empowering that person to remain in possession of the mine.⁵⁹ The easiest way of appreciating the difference between what the Michauds owned by virtue of a mining claim and other forms of “title” to land can be developed by comparing some aspects of the two:

1. The title to a mining *daim* is acquired by possession, and it may be lost by leaving permanently. Other forms of title, e.g. title in fee simple, cannot be lost by simply leaving.

2. Title to a mining *daim* requires a certain amount of labor be performed on the claim each year, otherwise the title is lost. Fee-simple title does not require annual labor to retain it.

3. Specific, detailed procedures must be followed in order to transform a *daim* into a fee simple title. Those procedures are set forth in mining district rules, territorial statutes, state statutes, federal agency regulations, and federal statutes.⁶⁰ These procedures are vastly different from the procedures required to obtain fee-simple title to agricultural, homesteaded land.

The federal statute in force when the Michauds found Jewel Cave required a “discovery” be made before a person had any mining rights⁶¹

⁵⁹ *Bradford v. Morrison*, 212 U. S. 389, 29 Sup. Ct. 349, 53 L. Ed. 564. [Page 389 of volume 212 of *United States Reports*; page 349 of volume 29 of *Supreme Court Reporter*; and page 564 of volume 53 of *The Lawyer's Edition*.] Note: The fact that the case is reported in *United States Reports* (U.S.) tells the reader that the case is a United States Supreme Court case.

⁶⁰ As alluded to above, where there is conflict between statutes and regulations: federal law controls state law; federal statutes take priority over federal regulations; federal court decisions take priority over state court decisions; and decisions of the United States Supreme Court take priority over decisions by other federal courts. Courts at all levels take great pains to find interpretations of various statutes and regulations to avoid conflict, and where such an interpretation is reasonable, that interpretation will be applied. The single most important exception to this general rule of priority is the situation where the federal government delegates powers to the state or even to a mining district. For example, section 28 of the 1872 Mining Law states, in part: “The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced”

⁶¹ 30 U. S. C. 23 [Title 30, section 23 of the *United States Code*]. Note: most of the federal mining laws have been substantially amended since the early 1900s, consequently, the law governing the Michaud claim may or may not be the law presently reported in the *United States Code*. Throughout this section, the law discussed is only the law that was in force at the time of the Michaud association with Jewel Cave; present-day mining law is not addressed. For example, federal legislation in 1920 removed some minerals such as oil, gas, oil shale, phosphate and

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(there are a couple other requirements, as well, but “discovery” must take place before the other steps are necessary). Discovery did not require actually finding any specific mineral in any specific quantity; rather it merely required finding something on the ground that would lead a reasonable person with mining experience to believe that minerals were present in amounts warranting the expenditure of funds to mine it. “It is sufficient that it [the discovery] disclose such a crevice as a miner would be willing to further open and follow.”⁶² As stated by the United States Supreme Court, “It [the discovery] must justify a person of ordinary prudence to further expenditure in an effort to develop a paying mine.”⁶³ Almost always, the requirement for discovery under the then-existing federal statute was that a “discovery hole” be dug, or, as in the case of the Michauds, a preexisting tunnel be examined for evidence of the probable existence of valuable minerals.⁶⁴

Once “discovery” is made, the miner must clearly mark the boundaries of his or her claim, and leave some notice in the area alerting others to the existence of the claim – this process of identifying the boundaries and leaving notice on the ground is called “location.”

sodium from the Mining Act Laws and made them subject to the Mineral Leasing Act; congress amended the mining laws in 1955 removing “common varieties” of stone such as sand, gravel, cinders, and pumice from the Mining Acts; in 1976 congress enacted the Federal Land Policy and Management Act (43 U.S.C 1701, *et seq*), which led to federal regulation of mining claim location and mining methods. However, none of these statutes affect any rights the Michauds may have acquired.⁶² *McShane v. Kerkle*, 18 Mont. 208, 44 P. 979 [Page 208 of volume 18 of *Montana Reports*; the same case is also reported at page 979 of volume 44 of *Pacific Reporter*.] When a state court (such as a South Dakota state court) is unable to find a case from that state, it frequently will search for a case in a sister state (such as Montana) dealing with nearly identical facts and law.

⁶³ *Cameron v. United States*, 252 U. S. 450, 40 Sup. Ct. 410, 64 L. Ed. 659. See also *United States v. Coleman*, 390 U. S. 599 (1966), and Kenneth Hubbard and Scott Hardt, “The General Mining Law and the ‘Comparative Values’ Test – Old Law, New Law, or Non-Law?” 48 *Rocky Mt. Min. L. Inst.* 16B, Westminster, CO: Rocky Mountain Mineral Law Foundation, 2002.

⁶⁴ It is very important to note that when an application for a patent was filed with the Land Office at the time of the Michaud’s involvement with Jewel Cave, the Land Office would not enquire into the actual value of the minerals on the claim. It could only become an issue in two instances: 1) where there are two conflicting claims, one an agricultural claim and one a mineral claim under the Mining Acts, and 2) where the issue is raised by the federal government attacking the issuance of a patent. In both instances, a formal objection based upon lack of mineral wealth must be filed with the Land Office. See Morrison, *Mining Rights on the Public Domain*, 194, and 247.

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The notice can, and often was, merely a handwritten note left in a tin can placed atop a pile of stones.⁶⁵ The miner acquired the right to occupy and mine the land when the location certificate was filed.⁶⁶

As mentioned above, even after completing all these steps, if the miner failed to perform the annual work required by the federal statute (\$100 per year) each year, he might lose his claim. Another miner could come onto the land, go through the discovery, location, and filing of the location certificate, and win the claim from the miner who failed to perform the annual labor. However, if the original miner can returned and recommenced work before any newcomer intervenes, he preserved the claim.⁶⁷ At the time of the Michauds' involvement with Jewel Cave, Section 28 of the Mining Law mandated the annual labor requirement:

On each claim located after the 10th day of May 1872, and until a patent has been issued therefore, not less than \$100 worth of labor shall be performed or improvements made during each year. . . . and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location.⁶⁸

Courts have interpreted this statute as not requiring that annual labor continue after a complete and accurate formal request has been filed for a patent with the Land Office. While the complete and accurate formal request for a patent remains on the Land Office books, the land is withdrawn from the public domain even if the patent application is later found defective.⁶⁹ Importantly, while annual labor is required before the application for a patent is filed, there is no requirement that notice be filed each year of labor done.

⁶⁵ Morrison, *Mining Rights on the Public Domain*, 36.

⁶⁶ 30 U. S. C. 28. See also Walter G. Miser, "South Dakota Mining Law," in Francis C. Lincoln, Walter G. Miser and Joseph B. Cummings, *The Mining Industry of South Dakota*, Rapid City, SD: South Dakota School of Mines, 1937.

⁶⁷ Morrison, *Mining Rights on the Public Domain*, 104 and 122.

⁶⁸ 30 U. S. C. 28

⁶⁹ Morrison, *Mining Rights on the Public Domain*, 111. Morrison cites seven cases supporting this assertion, including the U. S. Supreme Court case of *Berson Co. v. Alta M. & S. Co.*, 145 U. S. 428, 12 Sup. Ct. 877, 36 L. Ed. 762.

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Once a miner has made a “discovery,” staked his location on the ground, left written notice somewhere on the claim, filed a location certificate, and performed the requisite annual labor for at least five years, the miner is then eligible to apply for a patent. Before turning to the formal requirements involved in applying for a patent, it is important to note that even though the Michauds’ claim became part of a National Forest, that fact had absolutely no bearing on the rights of the Michauds. The Mining Acts permit prospecting, discovery, and location of mining claims on national forests exactly as they would on non-reserved or non-national-forest land. The only difference is that the forest ranger is authorized to examine and report whether it is a *bona fide* claim.⁷⁰

In the location of a claim upon a National Forest the discovery, staking, and record are perfected with no reference to the fact of its being upon such reserve; nor does the supervision of the forest ranger affect the title or the possessory status, but his suggestions in regard to use of timber must be heeded. If there be no mineral value upon which to locate and the ranger assert such fact, it is not followed by an action on his part to set aside the claim, but when application for patent is made, a protest on this ground may be made on behalf of the parties or department supposed to be looking after the protection of the forests.⁷¹

The final step taken by many miners was obtaining a patent from the United States. A “patent” is simply a “deed” issued by the United States. By the time the Michauds may have become interested in filing for a patent, the procedures were governed by Land Office Regulations that were originally promulgated in 1901, and remained in effect, with some modifications, at least until 1936. One difficulty in examining these regulations with the Michauds in mind is the difficulty of changing federal agencies. When the regulations were first issued in 1901, there was an Office of the Surveyor General, which no longer exists; similarly, there was the office of Receivers of United States Land Officers, which no longer exists. However, the procedures themselves are clearly presented in the 1901 regulations. To apply for a patent under these regulations, a miner had to comply with the following procedural steps:

⁷⁰ *Cameron v. United States*, 252 U. S. 450, 40 Sup. Ct. 410, 64 L. Ed. 659

⁷¹ Morrison, *Mining Right on Public Domain*, 430.

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1. Obtain an official survey of the claim made under authority of the surveyor general of the state of South Dakota.
2. Post a copy of the plat in a conspicuous place on the claim along with a notice of his intention to file for a patent.
3. File a copy of the plat and the field notes of the survey with the county register together with an affidavit executed by at least two witnesses attesting to the fact that the claimant posted a copy of the plat together with notice of intent to file for a patent on his claim.
4. File an application for a patent with the Land Office. The application must include:
 - a. A statement under oath that the applicant has complied with all federal, state, and local requirements for establishing a claim, and therefore has a possessory right to the claim
 - b. brief narration presenting the facts constituting such compliance, the origin of his possession
 - c. A full description of the kind and character of the vein or lode and whether ore has been extracted, and if so, in what amount and of what value
5. Publish the application for patent in a local newspaper for sixty days.
6. File with the Land Office a certificate of the surveyor general that at least five hundred dollars worth of labor has been expended or improvements made.

After all six steps have been finished, the Commissioner of the General Land Office will grant a patent.⁷²

It is very important to note that although a miner may apply for and obtain a patent if all the requirements are met, it is not an obligatory step. As long as the annual labor is performed and the discovery and location requirements have been met, the miner will retain a possessory title to the claim, and may continue to mine and remove minerals from the claim.⁷³

Developing Jewel Cave to Attract Visitors

The Location Certificate identified Jewel Cave (referred to as the "Jewel Tunnel" on the certificate) as being situated thirteen miles west of Custer in an "unorganized mining district." The Jewel Tunnel claim

⁷² Morrison, *Mining Rights on Public Domain*, 511.

⁷³ Randy Hubbard, "The 1872 Mining Law: Past, Present, and Future?" 17 *Natural Resources & Environment*, 149, New York: American Bar Association, 2003.

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encompassed a 1,500 by 3,000 square-foot rectangular plot of land⁷⁴ with the tunnel opening about 100 feet back from the southern side of the claim. The stated purpose of the location certificate was for “discovering and working veins, lodes, ledges, and deposits” on the claim.⁷⁵ Locating the Jewel Tunnel mining claim provided an initially inexpensive way to claim the right to use the cave and the 103 acres encompassing the tunnel opening, even though the stated purpose of the location certificate did not specify that the Michauds had recreational development in mind. Locating and filing for a mining claim was probably the only financial and legal means available to the Michauds, at that time, to obtain the right to occupy the land. Probably believing that this location certificate would help protect the time and money they had already invested to make Jewel Tunnel accessible to the public, the Michauds and Bush continued with their development work on the 103-acre Jewel Tunnel claim site described in the location certificate.

A road that permitted the transport of building materials and, ultimately, visitor access to the cave next captured the attention and energy of the four Jewel Cave partners. Soon after the Michauds had arrived at the cave and begun work on its interior, they had reportedly picked and chiseled a crude road from the bottom of Hell Canyon up to a point slightly below the blasted cave opening and then along the gradually sloping ridge on the northeast side of Hell Canyon above the cave opening. This narrow track may have been used by the Michauds merely for moving felled logs from the sides and ridges of Hell Canyon to the cave opening.⁷⁶

A good road that provided access to Jewel Cave for travelers coming from Custer and Newcastle, Wyoming, was needed. Construction of the Burlington Northern Railroad across Wyoming spawned the founding of Newcastle in 1889. In the 1890s, a rough thirty-seven-mile road between Custer and Newcastle came into being. By 1900, the combined population of Newcastle and Weston County, Wyoming, reached 3,203, slightly more than the 2,728 people who resided in neighboring Custer County, South Dakota.

After the partners had identified a site for a residence near Jewel Cave spring (back from the sloping ridge above Jewel Cave opening), the Michauds and Bush blazed a rough road from the Custer—Newcastle road. Their road ran approximately one and one-half miles from just below Lithograph Spring, westward over a pass and along the bottom of a side draw, down to the spring and the Michaud home site. Their home site was

⁷⁴ This equals about 4,500,000 square feet or 103.31 acres. (4,500,000 sq. ft. divided by 43,566 sq. ft., the equivalent of one acre).

⁷⁵ “Location certificate of Jewel Tunnel claim,” October 31, 1900, Placer Records, Book 2, p. 552, Custer County Courthouse.

⁷⁶ Ira Michaud, “Jewel Cave: What I Have Heard & Seen,” December 1970.

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near and below the present juncture of U.S. Highway 16 and the short north-south road to the historic 1930s Jewel Cave ranger cabin. The partners' one- and one-half-mile road took several months to complete, and cost around \$250.⁷⁷ The June 8, 1901, issue of the *Custer Weekly Chronicle* reported that according to a Michaud brother, "... the road which has been under construction by himself [a Michaud brother] and associates to the Jewell [sic] cave in Hell's [sic] Canyon, thirteen miles west of Custer, has been completed and is now open for travel to visitors to the cave."⁷⁸

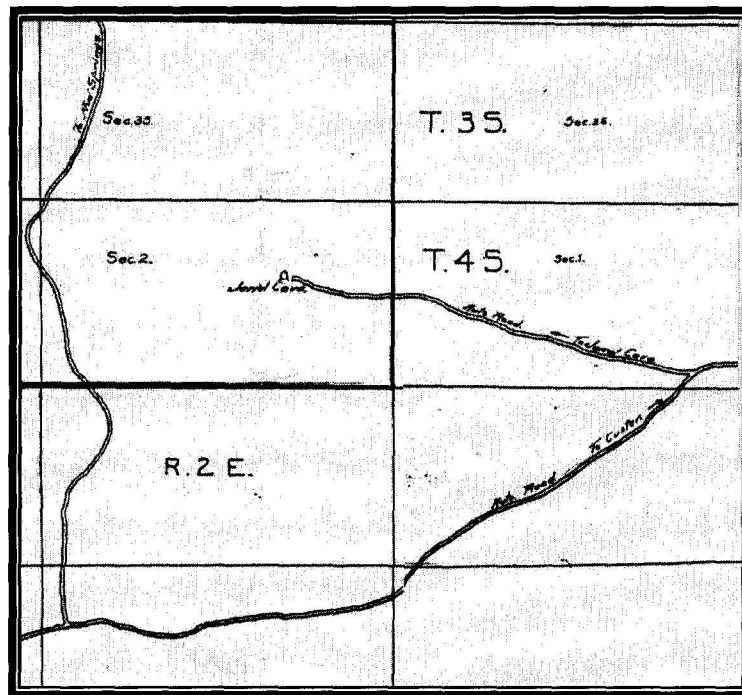


Figure 5-4. This 1908 map of Jewel Cave shows the one- and one-half mile auto road built by the Michaud brothers and Charles Bush to Jewel Cave from the road to Custer. Courtesy of Jewel Cave National Monument.

Construction of a residence and associated outbuildings on the 103-acre Jewel Tunnel claim site consumed the Michauds attention in 1901 and 1902. "As soon as the road was made passable," Ira Michaud later

⁷⁷ U.S. Forest Service, "Report on Mining Claim," Jewel, located November 15, 1905, form completed February 19, 1908; Ira Michaud, "Jewel Cave: What I Have Heard & Seen," December 1970.

⁷⁸ "The Jewell Wind Cave," *Custer Weekly Chronicle*, June 8, 1901; Walter Lienau (seasonal ranger at Jewel Cave National Monument), "Administrative History of Jewel Cave," (transcribed notes from interviews with Mamie Michaud, August 4, 1959, JECA 1692, Archives, Mount Rushmore National Memorial).

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wrote, “a spot was leveled off near the spring for a large log building to be erected for a home as well as a place where visitors to the cave might stay overnight, as it was a long trip with team and buggy from Custer in those days.”⁷⁹ This new large log building, measuring thirty by eighteen feet, replaced a much smaller log cabin built by the Michaud brothers in their first year there. The Michauds and probably Bush felled nearby yellow pine (commonly known as Ponderosa pine) and hauled it to the site near the spring on gently sloping ground above Hell Canyon and about one-eighth mile north of the cave entrance. Here, they constructed a two-story log cabin with a porch across the front and rustic log details under the eaves.

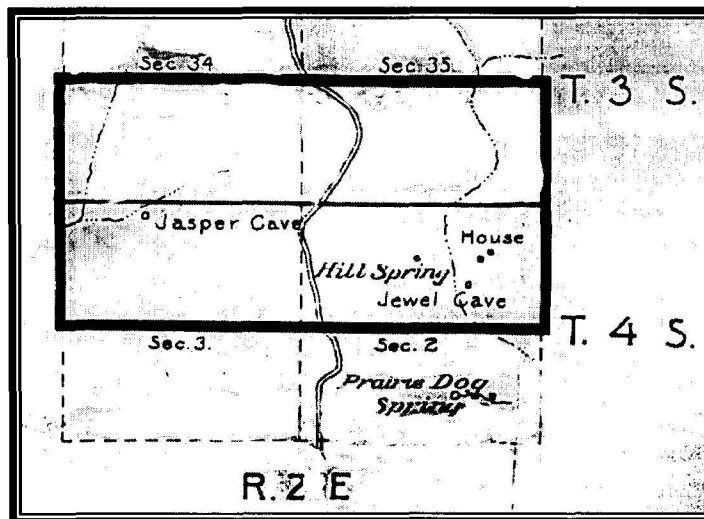


Figure 5-5. This 1908 Forest Service map shows the Jewel Cave and Jasper Cave openings (circles) along with the Michauds' two-story log house and the log barn/stable (black squares), located to the east of Hill Spring. To the south was Prairie Dog Spring and probably the nearby “old Kirk cabin,” used in the late 1920s by Ira Michaud and other Jewel Cave guides. Courtesy of Jewel Cave National Monument.

Custer resident John I. Sanford described the log structure in 1902 as “a commodious log hotel of two stories [. . . providing hospitable shelter for the visitors, who will ever cherish the memory of a visit to the romantic place.”⁸⁰ A log food-storage cache—a ten-square-foot building with three and one-half feet of clay insulation between it and an outer fourteen-square-foot building—was constructed near the large log house. A small log cabin, used as the Michauds' shelter the first winter, later became a chicken coop.

⁷⁹ Ira Michaud, “Jewel Cave: What I Have Heard & Seen,” December 1970.

⁸⁰ John I. Sanford, *The Black Hills Souvenir* (Denver, CO: Williamson-Haffner Engraving Co., 1902), 218.

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The Michauds also built a sixteen-by-eighteen-foot log barn and a small shed or spring house, measuring twelve by fourteen feet, near the spring. All the logs used were probably local yellow pine (Ponderosa pine); the estimated cost to construct the buildings was \$400.⁸¹

Between 1900 and 1903, the “Michaud brothers spent almost their entire time developing the cave,” according to a 1907 U.S. Forest Service report. In November 1905, the Michauds estimated that they had spent around \$1,650 to develop the cave, road, and nearby buildings. By September 1907, the Michauds reported that they had spent \$6,000 for labor and materials to develop the Jewel Cave claim.⁸²

The Michauds had another reason to develop Jewel Cave. Not only did this work help them achieve ownership according to existing mining laws. Development of Jewel Cave made it more accessible to visitors.

The Wind Cave Example

The Jewel Cave claimants only needed to look toward Wind Cave, around twenty-five miles to the east, to see how another cave in the region had been developed as a tourist attraction. Interest in Wind Cave first began to grow after 1881, when Tom and Jesse Bingham encountered the cave’s strong wind blowing through a small hole and enlarged the cave opening to permit entrance. In 1890, Jesse McDonald and his family began developing Wind Cave as a tourist attraction. They built a small log cabin over the enlarged cave entrance, explored and named tunnels and rooms in the cave, and collected rock specimens that McDonald took to the towns of Hot Springs and Custer to arouse interest in Wind Cave. The McDonalds soon began guiding curious visitors through the cave. After Jesse McDonald sold half his interest in Wind Cave to John Stabler, manager of a Hot Springs hotel, the partners worked together to publicize the cave. A building near the entrance was constructed in 1893 to accommodate and serve meals to visitors and a daily stage began operating between Hot Springs and Wind Cave. In May 1893, “the proprietors of Wind Cave have planned an excursion for the [newspaper] editors of the Black Hills. . . .

⁸¹ U.S. Forest Service, “Report on Mining Claim,” “Jewel” lode, November 17, 1905, form completed February 19, 1908; Ira Michaud, “Jewel Cave: What I Have Heard & Seen,” December 1970; Lyle Linch, typed notes of conversation with Mamie Michaud, Francis Michaud and family, and Joe Riley, September 14, 1947, Library, JECA.

⁸² U.S. Forest Service, “Report on Mining Claim,” Jewel, located November 15, 1905, form completed February 19, 1908; Neel and Fitzgerald, “Report on the Proposed Jewel Cave Game Preserve,” September 1907.

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The newspaper men and their ladies will meet at Hot Springs . . . and will leave for the cave in coaches. Dinner [mid-day meal] will be served there, and in the afternoon . . . the party will explore the cave.”⁸³ That same year, Wind Cave attracted national recognition when Jesse McDonald and his son, Alvin, displayed cave specimens and a ten-foot-square map of the cave in the Worlds’ Columbian Exposition in Chicago, attended by thousands from all over the world.⁸⁴ That summer, over 900 people visited the cave.⁸⁵

In 1898, extensive work had been completed to open up small passages and connect them with numerous ladders. Two U.S. Geological Survey geologists came to investigate the reported wonders of Wind Cave that year. In the summer of 1899, Wind Cave attracted around 1,000 visitors. An average of 1,800 people visited the cave annually around the turn of the twentieth century. The McDonalds and one or two other families made their living, at least in part, from the \$1-per-person entrance fee and from the sale of rock specimens taken from the cave.⁸⁶

Similar to the Wind Cave promoters in the 1890s, the Michaud brothers, at first attempted to draw attention to Jewel Cave through the local media. The June 8, 1900, issue of the *Custer Weekly Chronicle* printed an excited account of the geologic wonders of Jewel Cave, given to the newspaper by one of the Michaud brothers. “Stalactites and stalagmites of delicate structure and surpassing beauty, as well as more massive forms, abound in every room or gallery thus far penetrated.” Jewel Cave is “now open for visitors,” the newspaper proclaimed.⁸⁷ A year later, in 1901, the *Chronicle* reported that “one of the most interesting exhibits of the Mineral Palace [a place for exhibiting minerals, located in Deadwood] is the collection of crystals from Jewel Cave, 12 miles west of Custer. . . . Several hundred pounds of the crystals are on exhibition, and they are almost identical with those coming from the crystal cave of Lawrence county.”⁸⁸ Albert Michaud served on Deadwood’s Quatro-Centennial committee that selected minerals for this exhibit.⁸⁹ The Jewel Cave developers probably

⁸³ *Custer Weekly Chronicle*, May 6, 1893.

⁸⁴ *Custer Weekly Chronicle*, May 13, 1893.

⁸⁵ *Custer Weekly Chronicle*, August 26, 1893.

⁸⁶ Kathy Mason, “Adapting to Endure: The Early History of Wind Cave national Park, 1903-1916,” *South Dakota History* 32: 2 (Summer 2002), 150-52. Also see John W. Bohi, “Seventy-five Years at Wind Cave: A History of the National Park,” *South Dakota Historical Collection* 31 (1962), 365-420 and Luella Agnes Owen, *Cave Regions of the Ozarks and Black Hills* (Cincinnati: The Editors Publishing Company, 1898), 118-61.

⁸⁷ “The Jewell [sic] Wind Cave,” *Custer Weekly Chronicle* June 8, 1900.

⁸⁸ The Mineral Palace in Deadwood was torn down in 1902 to make way for a new hotel. “Custer County’s Exhibit,” *Custer Weekly Chronicle*, July 13, 1901; *Custer Weekly Chronicle*, March 8, 1902.

⁸⁹ “Quatro-Centennial Meeting,” *Custer Weekly Chronicle*, June 8, 1901.

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learned that the exhibition of specimens from nearby Wind Cave at the 1893 World's Columbian Exposition in Chicago had generated substantial national publicity for that cave, and hoped their exhibit in the Mineral Palace would do the same for Jewel Cave.⁹⁰

In 1902, the promotional book *The Black Hills Souvenir* expounded on the “great wonders” of Jewel Cave, along with those of Wind and Crystal caves.

The three great caves of the Black Hills . . . are the greatest and most wonderful caves known to exist anywhere. . . . Judging from the evidences of both Wind and Crystal Caves, the discoverers of Jewel Cave are working in the top of a yet unexplored cave of grand proportions, equal probably to Wind Cave in depth and extent.

The author claimed, probably erroneously, that since discovery of Jewel Cave by the Michaud brothers in 1900, “subsequent exploration opened thirteen miles of passageways and 270 chambers, some among the grandest to be seen in any cave.” Photographs of “Onyx Hall” and a close-up view of “frost work” accompanied the article.⁹¹ The Michauds and Bush could not have hoped for a more laudatory promotional description of Jewel Cave. In early April 1903, the local *Custer Chronicle* presented another short piece on Jewel Cave. “Jewell [*sic*] Cave . . . has proven under the development and investigation of its discoverers,” the newspaper asserted, “to be one of the most wonderful and beautiful of all the grand subterranean vaults which have yet been explored by man.”⁹²

The Michauds also organized a dance club to help advertise and promote Jewel Cave. The Jewel Cave Dance Club first gathered at the newly completed log building near the cave in the fall of 1902. The dance club probably met at the two-story “Dance Hall” only in the colder months of the year, when mining and ranching activities slackened, and it may have existed for only two or three years.

The Jewel Cave Dance Club, which probably helped keep news of Jewel Cave in the minds of locals, included young single men from the surrounding countryside. In addition to Frank and Albert Michaud, the six young men who reportedly found the cave in 1897 (Joe Riley, Martin Riley, Mark Holmes, Clyde Holmes, Buck Raver, and Ray Sideley) were also members. The other early dance club members included: Charles Aikin,

⁹⁰ Kathy S. Mason, “Adapting to Endure: The Early History of Wind Cave National Park, 1903-1916,” *South Dakota History* 32: 2 (Summer 2002), 152.

⁹¹ Sanford, *Black Hills Souvenir*, 218.

⁹² “The Jewell Cave,” *Custer Chronicle*, April 4, 1903.

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Eugene Aiken, Fred Babcock, George Babcock, Will Babcock, Fred Beck, Vance Coe, Andy Cook, Horace Fowler, Mel Hight, Guy Holmes, John Holiday, Eugene LaRue, Frank LaRue, Albia (or Albion) Lindstrom, Gus McKenna, Tommy Pope, Will Precuniar, Slim Richmond, Jim Riley, and George Small. (Interestingly, Charles Bush and Felix Michaud were not listed as members of the dance club, and the club apparently had no women members.)⁹³

Several of the dance club members were listed in the June 1900 census for Custer County. In June 1900, George, William, and Fred Babcock were ages nineteen, seventeen, and fourteen, respectively; their

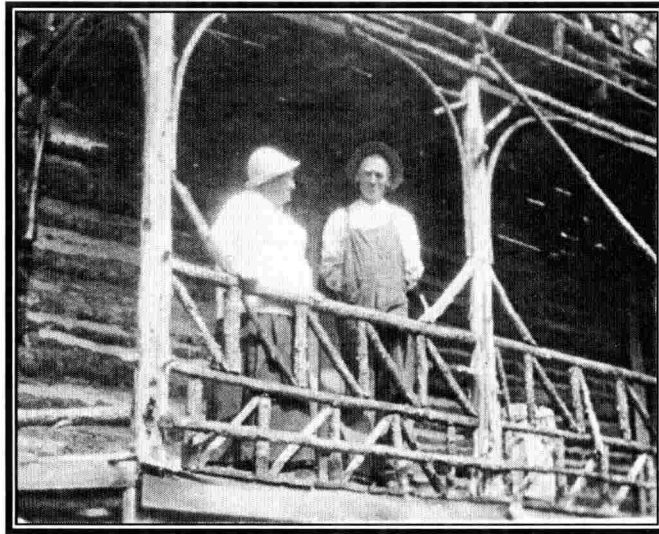


Figure 5-6. Two visitors on the front porch of the rustic two-story 18' x 30' house, completed around 1902. Photograph dates from around 1916, eight years after the creation of the Jewel Cave National Monument. Courtesy of Jewel Cave National Monument (JE:CA 1805), deposited at Mount Rushmore National Memorial.

father worked as a “stockman.” Vance Coe, whose family lived near the Babcocks, was eighteen in 1900; his father farmed. Andy Cook, a “cowboy,” was age twenty-one in June 1900. Albia Lindstrom, age eighteen and son of a farmer, worked as a “day laborer.”⁹⁴

The Jewel Tunnel claimants succeeded to some degree in attracting attention and bringing tourists to Jewel Cave. Members of a national

⁹³ Lyle Linch, typed notes from interview with Mamie Michaud, Francis Michaud and family, and Joe Riley, September 14, 1947.

⁹⁴ “Twelfth Census of the United States, Schedule No. 1—Population,” Custer County, South Dakota, June 1900.

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outdoor organization, possibly either the Audubon Society or National Geographic, came to Jewel Cave around 1902.⁹⁵ A prominent geologist also visited the cave in the early years of the Michauds' venture. But the trickle of visitors to Jewel Cave in the early years never became a torrent.⁹⁶

The Michauds were only able to advertise Jewel Cave locally. Additionally, Jewel Cave was competing for attention with other attractions in the southern Black Hills, such as the more accessible Wind Cave National Park, which benefited from promotion by the Chicago & North-Western Railway (earlier known as the Fremont, Elkhorn, and Missouri Valley Railroad). After 1902, tourist literature on the Black Hills often did not even mention Jewel Cave.



Figure 5-7. Stone foundation of Michaud log house, May 2004. Photo by Gail Evans-Hatch, Courtesy of Jewel Cave National Monument, deposited at Mount Rushmore National Memorial.

A 1903-1904 tourist publication promoting the Black Hills devoted most of its attention to Wind Cave, which had been recently set aside as a national park (in early 1903), and, importantly, was accessible from the town of Hot Springs, a community served by the Chicago & North-Western Railway since 1886. Records of visitors to the cave, which were first kept in 1905, showed that Wind Cave received 2,887 people in 1906, 2,751 in 1907, and 3,171 in 1908. Jewel Cave, in contrast, had no one present after around 1905 to give regular cave tours and systematically

⁹⁵ Ira Michaud, transcribed tape-recorded remembrances, August 15, 1989.

⁹⁶ Neel and Fitzgerald, "Report on the Proposed Jewel Cave Game Preserve," September 1907.

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record the number of cave visitors. The Michaud brothers were mostly occupied making a living away from the cave.⁹⁷

Additionally, at Hot Springs, several stage lines ran round trip from the railroad depot daily to Wind Cave, less than ten miles to the north, in six to eight hours “at reasonable rates.” This same booklet barely mentioned Crystal Cave (about twelve miles south of Deadwood) and Onyx Cave, “a point of interest near Hot Springs [four miles southwest of Wind Cave . . . but] not as large as Wind Cave.” Jewel Cave was neither mentioned nor shown on the accompanying detailed map of the Black Hills.⁹⁸

The absence of any mention of Jewel Cave in this 1903-1904 publication may be an indication of the Michauds’ diminishing energy to promote Jewel Cave, as they struggled to overcome the challenges of poor road access, competition from Wind Cave’s ascending status and publicity as a national park, and limited funding. They may also have been hampered by the fact that they had the legal right only to mine Jewel Cave and not own it. In addition to only charging a moderate fee for their services as guides in the caves, the Michaud family believed, later on, that local Custer businessmen discredited Jewel Cave to visitors, describing it as little more than a “rat hole in the ground.”⁹⁹ The Michauds’ limited funds apparently kept them from making continued extensive improvements to Jewel Cave and from promoting the cave more widely.¹⁰⁰ Jewel Cave, in short, had neither the economic or human support nor the regional and local transportation access to attract tourists in the early 1900s.

The Michauds’ shortage of finances mandated that at least one of the three active partners work elsewhere for wages, while the other two worked to improve Jewel Cave at least initially. The Michauds and Bush probably adopted this plan nearly from the outset of their involvement with Jewel Cave. “One partner would go out and work, sometimes in the mines and other times in the timber and sawmills to replenish the grubstake and buy supplies,” Ira Michaud later recounted.¹⁰¹ Beginning around 1903, the two Michaud brothers as well as Bush spent only three or four months a year working on Jewel Cave and giving tours to visitors. At other times, they took seasonal jobs on nearby ranches or in local mines.¹⁰²

⁹⁷ O’Harra, *O’Harra’s Handbook of the Black Hills*, 129, 165.

⁹⁸ *The Black Hills: A Description of a Wonderful and Picturesque Mining Region and Natural Sanitarium* (Chicago: Passenger Department, Chicago & North-Western Railway, 1903, 21-22.

⁹⁹ Michaud, transcribed tape-recorded remembrances, August 15, 1989.

¹⁰⁰ Neel Fitzgerald, “Report on the Proposed Jewel Cave Game Preserve,” September 1907.

¹⁰¹ Ira Michaud, “Jewel Cave: What I Have Heard and Seen,” December 1970.

¹⁰² Neel and Fitzgerald, “Report on the Proposed Jewel Cave Game Preserve,” September 1907.

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The Michauds and Bush, around 1904, reportedly decided to apply for a patent to “Jewel Tunnel” claim. According to the Michaud family, the Michauds waited for months for word about their request for a patent from the Department of the Interior. Finally, after apparent protracted deliberations regarding Jewel Cave, the Michauds were reportedly denied a patent request for reasons that are still unclear. The Michauds and Bush may not have spent the required time or money to improve Jewel Tunnel as a mining claim and, thus, gain ownership. Perhaps the Jewel Tunnel claim partners had failed to make a convincing argument that the cave was a legitimate mineral claim.¹⁰³

Wind Cave developers had recently encountered a similar difficulty. In 1900, after protracted litigation between different parties claiming separate mining and agricultural rights to Wind Cave, the federal government determined that the parties vying for control of Wind Cave had no legitimate claims, since there was insufficient evidence that the cave had mineral or agricultural value. (The absence of legitimate claims reportedly facilitated the creation of the Wind Cave National Park three years later.)¹⁰⁴ Whatever the reason(s), the Department of the Interior denied the Michaud brothers and Charles Bush the coveted patent for Jewel Cave.

Michauds’ Continued Struggle

With hopes of obtaining fee-simple title to Jewel Cave and the ground above it now dashed, the original group of four Jewel Tunnel claimants began to go their separate ways beginning in late 1904. Albert Michaud turned away from Jewel Cave to other pursuits to make a living. In late December 1904, he filed a claim on mining property he intended to work (for which he was granted a patent in March 1909).¹⁰⁵ Around 1905, Albert settled on a homestead on Ruby Gulch, a small tributary of French Creek near Custer, where an early gold-mining district had recently regained prominence after the discovery of a rich gold ledge in the area.¹⁰⁶ In 1905, Charles Bush became seriously involved in horse ranching, about ten miles from Custer. In February that year, he borrowed \$100 from the Custer County Bank to purchase four gelding horses. Grace Lois Bush Hatfield, Charles Bush’s daughter, recalled many years later that her father probably

¹⁰³ Ira Michaud, “Jewel Cave: What I Have Heard and Seen,” December 1970; Mike Hanson, editor, “Jewel Cave National Monument,” Paha Sapa Grotto’s *1988 Guidebook*, 1988.

¹⁰⁴ Mason, “Adapting to Endure,” 154-155.

¹⁰⁵ United States to Albert Michaud, NW ¼ of Section 25, T2S, R6E, BNW, December 31, 1904, Vol. 3, p. 109, Custer County Courthouse.

¹⁰⁶ Ira Michaud, “Jewel Cave: What I Have Heard & Seen,” December 1970.

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built a log cabin for himself on his horse ranch. Like so many early Euro-American settlers, “he was a natural born carpenter,” Grace Hatfield observed.¹⁰⁷

On November 11, 1905, Frank and Albert Michaud sold part of an interest in the Jewel Tunnel claim for \$600 to Bertha Cain of St. Louis, Missouri. On November 15, Frank and Albert Michaud and Bertha Cain filed a new Location Certificate on the “Jewel” lode, “discovered about the year 1900.”¹⁰⁸ This claim, which encompassed twenty acres, was entered on November 17. According to a U.S. Forest Service “Report on Mining Claim” for Jewel Lode, completed in February 1908, the claim had not yet been surveyed.¹⁰⁹ On November 28, 1905, Frank Michaud purchased one-fourth interest in Jewel Tunnel claim from Charles W. Bush for \$300. By this time, Bush had already moved to Orient, Adair County, Iowa, where he took up farming.¹¹⁰ Finally, little more than a month later on January 3, 1906, Frank Michaud and Albert Michaud sold another one-sixth interest in Jewel Cave for \$300 to Bertha Cain.¹¹¹

Felix Michaud, who appears to have been excluded from the Jewel Cave patent process and was not included in the 1905 legal transactions involving Jewel Cave, decided to leave the Custer area as winter approached in 1905. After thirty years residence there, Felix Michaud, then in his mid-sixties, left his cabin on Lightning Creek and traveled 1,800 miles to the home of his three other children (Edward, Annie, and Alfred) in Terrace, British Columbia. In February 1906, Felix Michaud died near Terrace and was buried on the banks of the Skeena River.¹¹²

Frank’s life also took a turn in 1905. On February 12, 1905, Frank married Mary (“Mamie”) Katherine Riley, the sister of Joseph and Martin Riley, two of the six boys who claimed to have “discovered” Jewel Cave in 1897 and, later, became members of the Jewel Cave Dance Club. Frank

¹⁰⁷ Charles Bush, payable to Custer County Bank, \$100, Chattel Mortgage, February 7, 1905, Custer County Courthouse; Grace Lois Hatfield, letter to Monta Huseby, July 31, 1984, Library, JECA.

¹⁰⁸ When a claim was abandoned (not worked for a period of time -- usually one year) a new location certificate could be filed resurrecting the original claim, provided no one else in the interim filed a certificate of their own.

¹⁰⁹ An official survey as one of the first steps required to qualify for a patent.

¹¹⁰ Photographs of Charley Bush and other members of the Disciples of Christ Church Bible Study class, including his wife Laura Bush, Library, JECA.

¹¹¹ Frank Michaud and Albert Michaud to Bertha Cain, November 11, 1905, “Mining Deed Record,” Vol. 5, p. 124; Charles W. Bush to Frank W. Michaud, November 28, 1905, “Mining Deed Record,” Vol. 5, p. 120; and Frank W. Michaud and Albert Michaud to Bertha Cain, January 3, 1906, “Mining Deed Record,” Vol. 5, p. 122, all at Custer County Courthouse.

¹¹² Monica Michaud Weldon, e-mail communication with Yvonne Moen, Terrace, British Columbia, July 19, 2004, forwarded to Gail Evans-Hatch, July 26, 2004.

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Michaud may have gotten to know Mamie Riley at the “Dance Hall” at Jewel Cave.

Mary Katherine Riley was born to Matthew Riley and Sarah Jane McKenna Riley in Dubuque, Iowa, on May 1, 1883. After moving to the Fort Robinson, Nebraska, area in the mid-1880s, the Riley family, which included two boys younger than Mary Katherine, relocated to the Black Hills around 1892 and settled on a branch of Lightning Creek in the vicinity of Four Mile, about four miles west of Custer on the old Cheyenne Trail.¹¹³



Figure 5-8. Thirty-three-year-old Frank Michaud and twenty-one-year-old Mary Katherine Riley Michaud in their wedding portrait, February 22, 1905. The Michaud couple raised five children between 1905 and 1913.
Courtesy of Mrs. Ira Michaud, Billings, Montana.

Like Felix Michaud, the Riley family took up horse ranching. The marriage in 1905 of thirty-three-year-old Frank and twenty-one-year-old Mamie merged the Michaud and Riley families.¹¹⁴

The couple first lived in the two-story log “Dance Hall” at Jewel Cave while Frank probably continued to make some improvements to the cave and occasionally guided tourists through the cave. During the first

¹¹³ The 1915 South Dakota census notes that Mamie Riley had arrived in South Dakota twenty-six years earlier, or in 1892. Census record, “Mame [sic] Michaud,” 1915, South Dakota State Census, South Dakota State Archives, Pierre, South Dakota. Also see Ira Michaud, “Jewel Cave: What I Have Heard & Seen,” December 1989.

¹¹⁴ “Services Held for Mamie Michaud,” *Custer County Chronicle*, March 18, 1965; Birth records of Michaud children (James Francis, Ira, Joseph, Marie Jane, Mary Anna), Custer County Courthouse; James Francis Michaud, “Certificate of Death,” May 22, 1986, Department of Health, State of South Dakota; “Michauds, Rileys ‘Come Home’ for Family Reunion,” *Custer County Chronicle*, September 8, 2004.

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three years of their marriage, Mamie Michaud gave birth to her first two children: James Francis (born December 3, 1905) and Ira (born March 2, 1907). Frank's occupation was listed as "farmer" (also "ranch man") when James Francis was born in 1905. He most likely worked on a ranch near Jewel Cave. By the early spring of 1907, the Michaud couple and their two children had moved to Myron O'Connor's sawmill, where Frank was employed as a "laborer."¹¹⁵ O'Connor, a resident of the Custer area since 1888, had operated sawmills successfully in several different locations in the Black Hills. When Michaud worked at O'Connor's in the early 1900s, the mill was moved often to remain close to timber stands. (The O'Connor Mill remained in business, operating at different locations, for around a century.)¹¹⁶

In 1905 and early 1906, Frank and Albert Michaud tried one last time to obtain ownership of Jewel Cave by meeting the requirements of mining law. The failure to obtain a patent for Jewel Cave, the disappointing financial return from the Michauds' promotional efforts, and Frank's marriage to Mamie in 1905 put increasing pressure on Frank to bolster his income. In late 1905 and early 1906, Frank Michaud, Albert Michaud, and Bertha Cain located five mining claims in the Black Hills Forest Reserve about twelve and one-half to thirteen miles west of Custer in Hell Canyon. "Jewel" Lode claim, encompassing Jewel Cave, was located on November 15, 1905. Four other adjoining claims were located between January 22 and February 24, 1906: "Golden Rod," "Cleveland" (both on January 22, 1906), "Denver" (on January 23), and "Gem" (on February 24).

All five claims adjoined each other, could be reached from the two-mile-long road to Jewel Cave built by the Michauds in 1900, and encompassed twenty acres each, or a total of 100 acres. The five claims, which together nearly equaled the 103-acre "Jewel Tunnel" claim located by the Michauds and Bush in 1900, covered much of the same land included in the 1900 Jewel Tunnel claim. The U.S. Forest Service reports on the five mining claims, completed in February 1908, noted that none of these claims had been surveyed or patented at the time the report was completed¹¹⁷

¹¹⁵ Birth records for James Francis, Ira, Marie Jane, and Mary Anna Michaud, give Frank's occupation. Birth records, Custer County Courthouse; South Dakota census records, F. W. Michaud, 1905 and 1915, South Dakota State Archives, Pierre, South Dakota; Ira Michaud, "Jewel Cave: What I Have Heard & Seen," December 1970; Ira Michaud, transcribed tape-recorded remembrances, August 15, 1989; Jessie Sundstrom, editor, *Custer County History to 1976* (Custer, South Dakota: Custer County Historical Society, 1977), 75 (photo of New York Mica Mine workers with Frank Michaud in the group).

¹¹⁶ Martha Linde, *Sawmills of the Black Hills* (Rapid City, South Dakota: Martha Linde, 1984), 13.

¹¹⁷ U.S. Forest Service, "Report on Mining Claim," (Jewel, Golden Rod, Cleveland, Denver, and Gem claims), located November 15, 1905, January 22, 1906, January

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The Michaud brothers' and Bertha Cain's location of the five mining claims above Jewel Cave was just one more attempt by the Michauds since their arrival in the Black Hills to find a way to make a living from the unique natural attributes of Jewel Cave, both as a miner resource and as a tourist attraction. Between 1900 and 1908, their dual approaches to developing the resources of Jewel Cave proved only marginally successful.

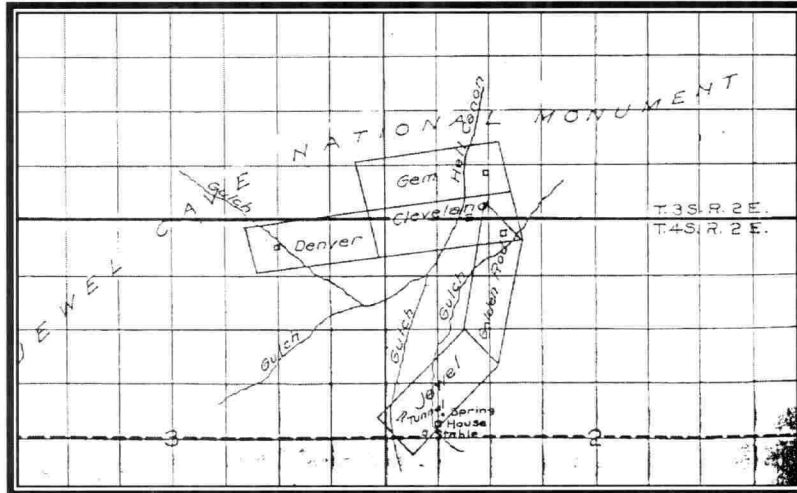


Figure 5-9. This sketch map shows the five mining claims located by the Michaud brothers and Bertha Cain in late 1905 and early 1906, which fell nearly in the boundary of Jewel Cave National Monument when it was created in February 1908. The entrance to Jewel Cave and the Michaud log house and stable are located inside the Jewel mining claim. From "Report on the Jewel et al Lode Mining Claims and the Jewel Cave," June 1911. Courtesy of Jewel Cave National Monument (JECA 1655/126), deposited at Mount Rushmore National Memorial.

23, 1906, February 24, 1906, respectively, forms completed February 19, 1908, Library, JECA.