

No. *063-1*
2177-1

Office of State Engineer
DOCUMENT FILE

Name of Applicant

John B. Case

Douglas Lake

S. B. Case

L. S. Mitchell

Date of Priority

December 10, 1889

County

Butte # *2177-1*

Location: *Redwater Creek*

1000 in.

Location of Water.

Know all men by these presents That we, the undersigned, residents of Butte County and State of South Dakota have located, claimed and appropriated and do hereby claim, locate and appropriate one thousand (1000) inches of the water of the Red-water creek to be taken out at a point on the west side of said creek near the center of the South east quarter of the South west quarter of Section 25 in Township 8 North of Range 2 East B. H. M. and to be carried and conveyed in ditch and flume from that point in a Northwesterly direction through, by and along the South west quarter of Section (24) and North east quarter of Section (23) and the west half of Section (14) same town and range to a point on Willow creek in the central part of the North west quarter of Section (14) same town and range. The said water to be used for agricultural and other domestic purposes, all the above location being in Butte County and State of South Dakota
December 10th 1889.

Conveyed.

John B. Case.
Douglas Sayre.
O. Baird.
L. L. Mitchell.

Certified Copy

JOHN B. CASE
DOUGLAS SAYRE
S. BURD
L.S. MITCHELL

_____ Dakota, }
County of *Butte* } ss.

Filed for record _____ 10 _____
Dec. _____ A.D. 1884

at *10* o'clock *A.M.*, on 3d record in
book *7* on page *116*

P. Miller
Register of Deeds

By _____
No. 063-1 Deputy

2177
Subscribed and sworn to before me
this _____ day of _____
A.D. 1884
at _____
Oct. 17
H. E. Frost
Register of Deeds
by *Ada Miller*
Deputy

Redeemed

Location of Water.

Know all men by these presents: That we, the undersigned, residents of Butte County and State of South Dakota have located, claimed and appropriated and do hereby claim, locate and appropriate one thousand (1000) inches of the water of the Redwater creek to be taken out at a point on the west side of said creek near the center of the South east quarter of the south west quarter of Section 25 in Township 8 North of Range 2 East B. H. M. and to be carried and conveyed in ditches and flumes from that point in a North westerly direction through, by and along the South west quarter of section (24) and North east quarter of Section (23) and the west half of Section (14) same town and range to a point on Willow Creek in the central part of the North west quarter of Section (14) same town. and range. The said water to be used for agricultural and other domestic purposes, all the above location being in Butte County and state of South Dakota, December 10" 1889.

John B. Case.

Douglas Sayre

S. Burd.

L. S. Mitchell.

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2177

COPY

No. 06-3-1

Water Right

Located by

John B. Case et al

December 10th 1889

Butte County.

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES.

I hereby certify that the within and foregoing instrument is a true, correct and complete transcript of the instrument which it purports to be, as the same was filed for record in the office of the State Engineer.

Witness my hand and official seal, done at my office in Pierre, State of South Dakota this 2nd day of November 1889.

Samuel H. Lea

State Engineer.

By B. B. Lea

Deputy

Admission Creek

Butte County and State of South Dakota, December 10th 1889.

Containing certain descriptive evidence, all the above location being in

Section (14) some town and range. The said water to be used for agri-

point on Willow Creek in the central part of the North west quarter of

Section (23) and the west half of Section (14) some town and range to s

long the south west quarter of Section (24) and North east quarter of

lines from that point in a North westerly direction through, by and s-

range 3 East T. 1. N. and to be divided and conveyed in ditches and

quarter of the North west quarter of Section 22 in Township 8 North of

range 3 East T. 1. N. and to be divided and conveyed in ditches and

COUNTY OF BUTTE. :

John E. Case, being first duly sworn, on oath says, that he is the plaintiff in the above entitled action; that he has read the foregoing complaint and knows the contents thereof, and that the same is true of his own knowledge, information and belief.

John B. Case

Subscribed and sworn to before me this 17th day of July, 1911.

(Deal)

O. E. Farnham
Notary Public.

In the Circuit Court of the Eighth Judicial
Circuit of the State of South Dakota in and for Butte County.

JOHN B. CASE,

Plaintiff,

-VS-

HOMESTAKE MINING CO., a corporation; REDWATER LAND
& CANAL CO., a corporation; SAMUEL B. JOHNSON,
ANNA DURST, FRANK REINBAUGH, S. C. SIMMONS, LOUIS
STURIS, JACOB SHROYER, J.M. EATON, FLOYD COOK, B.M.
LONG, T.J. DAVIS, MARY FORSYTHE, A.H. RALTZ, DANIEL
P. ROBERTS, LON HOLT, DAVID R. EVANS, JOHN R. JOHNS,
A. G. CHALLIS, HENRY WIDBOSS, AMOS WARNER, HENRY G.
WEARR, JAMES D. HARDING, LOUIS KEMPER, GEORGE PASCO,
HENRY KEETS, GEORGE MURRAY, JOHN H. BURNS, HORACE
REED, D. T. REED, ELIZABETH MCALLEN, JOHN J. COEY,
MORRIS WELCH, WILLIS G. HAMILTON, JOHN TIMMEY,
ARTHUR NICHOLS, SAMUEL RICE, JOSEPH PASCO, RICHARD
REEBY, JESSE DRISCOLL, DAL DRISCOLL, MRS. JAS.
McLAREY, MRS. MORRIS WELCH, C. E. ZINK, FRED ACKLES,
M. McGURGAN, MAX FREEDWALL, HENRY CURNOW, MRS. Wm.
COOK, PETER CRAGO, SALLY RALPH ESTATE, B.H. DORSEY,
BILL RITZKE, D.R. THOMPSON, PAULINE THOMPSON, Wm.
THOMPSON, Wm. URE, H. J. McGOFFIN, D. J. ECKERT, Wm.
SCHMIDT, TODD H. PETTIGREW, RALPH MILLER, MRS. COW-
GILL, Wm P. LINDLEY, THOMAS HEMMER, O. CHRISTENSEN,
HENRY MURRAY, W. H. MURRAY, JOHN MURRAY, C. W. PETTI-
GREW, ROBERT MAGGREGOR, HENRY NICHOLS, FRED ERNEST,
JOHN COOK, MRS. W. M. GIBBS, ROBERT WILLIAMS, F. MILLER,
FRANK JOHLY, GEORGE BROST, JOHN BASSE, GUS ECKERT,
MRS. HANS CHRISTENSEN, IVER ROOD, J. W. CRIST,
S. B. ROBERTLY, MRS. JOHN WILSON, C.P. WILLIS, MARGARET
HAMILTON, EVA KORDER, J.C. ABBOTT, G.M. FISH, E.J. TREATHWAY,
AUGUST ROSS, KEVIN LINDSEY, K.M. KEMPER, CHIP ROBINSON, MRS.
ALICE TOWN, ROBERT EVANS, DICK HANFEG, ORA WHALEY,
HENRY LEPILA, MILTON BRIDEN, GEO. W. NEWTON, JOSEPH SHULER,
Wm. CARTHEY, J.C. GREEN, PLUMMER, J. VAUGH, S.
SHIPLEY, Wm. POWELL, JOHN PEARSON, J.C. CLARK, A.T. ADAMS,
F.L. COOKE, J.R. MANGAING, J.E. WATSON, MRS. A.W. DREW, J.C.
KING, FRANCIS CORNELL, A. MILLER, MRS. BETTIE LUNDGREN,
MRS. M.E. BOIS, H.L. SCOGGINS, DAVID ERSKINE, FRANK ADAMS,
H.H. KIMMEL, EL PACKER, J.S. POTTS, P.D. PRYOR, D. ROSS,
W.A. RIZOR, Wm. SMITH, T.M. SEIFERT, BENJ. SCHOBEL, K.G.
TOWN ESTATE, H.E. WOOD, D. WATSON, ANDREW PETERSON, J.S.
PRATT, G.W. NASH, J.B. MOVEY, W.R. MANGWING, G.W. LEMNACH,
MRS. AUGUST LONGHALL, MRS. C.H. LEWIS, J.D. KINGSLEY, E.L.
WALGREEN, FRANK DUFFIELD, H.M. HENTON, TIM JOHNS, MRS.
J. HARRIMAN, E. GOLDEN, TOM GARNETT, B.J. GARNETT, PLENN
GARD, GEORGE GOST, MARTHA DAVIS, MRS. H. DOTSON, J. C.
ROBINSON, GEO. DOGROTE, MRS. S.L. DUBBIN, MRS. F.L. COOKE,
Wm. CASE, MRS. J.W. CALDWELL, MRS. WOOD COLLETT, MRS. ED.
CACHLIN, WELS BRACKET, PETER CATHICH, MRS. GEO. BOLAND,
J.W. BLANK, FRANK BAKER, H. BROWN, MRS. HERRILL, Wm. R.
ADAMS, H.L. ANDERSON, and TOM MATTHEWS; and all persons,
firms, associations or corporations, or ditches, and all
lands, claiming or having any right, by appropriation,
riparian, or otherwise, to the use of the waters of the
Belle Fourche River, Redwater River, Spearfish Creek,
Crew Creek, or streams or waters arising tributary to
or in the watershed of said described streams,

Defendants.

S U M M O N S .

THE STATE OF SOUTH DAKOTA, SENDS GREETING;

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to answer the complaint of the plaintiff herein, a copy of which is on file in the office of the Clerk of Courts of Butte County, South Dakota, and to serve a copy of your answer to said complaint on the subscriber at his office in the City of Belle Fourche, South Dakota, within Thirty Days after the service of this Summons upon you, exclusive of the day of service, and if you fail to answer the complaint within that time, plaintiff will apply to the Court for the relief demanded,

Dated at Belle Fourche, S.D. this 17th day of July, 1911.

O. S. Parham
Attorney for Plaintiff.

In the Circuit Court of the Eighth Judicial
Circuit of the State of South Dakota in and for Butte County.

JOHN B. CASE, Plaintiff;

- VS -

HOMESTAKE MINING CO., a corporation; REDWATER LAND
& CANAL CO., a corporation; SAMUEL B. JOHNSON,
ANNA DURST, FRANK HEINBAUGH, S.C. SIMMONS, LOUIS
STURIS, JACOB SHROYER, J.M. EATON, FLOYD COOK,
B. M. LONG, T. J. DAVIS, ~~THOMAS~~ FORSYTHE, A. H.
RALTZ, DANIEL P. ROBERTS, ION KOLT, DAVID R.
EVANS, JOHN R. JONES, A.G. CHALLIS, HENRY WIDDOSS,
AMOS WARNER, HENRY G. WEATE, JAMES D. HARDING,
LOUIS KEMPER, GEORGE PASCO, HENRY KEETS, GEORGE
MURRAY, JOHN H. BURNS, HORACE REED, D. T. REED,
ELIZABETH McALPHER, JOHN J. COEY, MORRIS WELCH,
WILLIS G. HAMILTON, JOHN TIERNEY, ARTHUR NICHOLS,
SAMUEL RICE, JOSEPH PASCO, RICHARD REEBY, JESSE
DRISCOLL, DAL DRISCOLL, MRS. JAS. McLARKY, MRS.
MORRIS WELCH, C.E. EINH, FRED AGILES, H. McCURGAN,
MAX FREDWALL, HENRY CURNOW, MRS. WIL. COOK, PETER
CRAGO, SALLY RALPH ESTATE, D.M. DORSEY, WILL HIT-
ZELL, D.R. THOMPSON, PAULINE THOMPSON, Wm. THOMPSON,
Wm. URE, M. J. McGOFFIN, D.J. TOOMEY, Wms. SCHMIDT,
TODD M. PETTIGREW, RALPH MILLER, MRS. COWGALL, Wm.
P. LINDLEY, THOMAS BEILER, O. CHRISTOPHERSON, HENRY
MURRAY, W.H. MURRAY, JOHN MURRAY, C.M. PETTIGREW,
ROBERT MacGREGOR, HENRY NICHOLS, FRED BERNST, JOE
COOK, MRS. W.H. GIBBS, ROBERT WILLIAMS, P. MILLER,
FRANK JOLLY, GEORGE BROST, JOHN SASSE, GUS ECKERLE,
MRS. HANS CHRISTENSEN, IVER ROOD, J.W. CRIST, S.B.
MOBERLY, MRS. JOHN BRADKE, C.P. WILLIS, MARGARET
HANLINTO, EVA MORDEN, J.C. ABBOTT, G.M. FISH, W.J.
TREATWAY, AUGUST ROSS, Wm. FIELDSSEN, H.M. KEMPER,
CLIF ROBINSON, MRS. ALICE TONN, ROBERT EVANS, DICK
HATHWIG, ORA WHALEY, HENRY LEPLA, MILTON BRANN, GEO.
W. HINTON, JOSEPH SHULER, Wm. CARTHEY, J. C. GREEN,
PLUMER, J. VAUGH, S. SHIPLEY, Wm. ROWMAN,
JOHN PEARSON, J.C. CLARK, A.T. ADAMS, F.L. COOKE, J.R.
MANWALING, J.E. WALTON, MRS. A.W. DREW, J.C. KING, FRANCIS
CORNBELL, A.A. MILLER, MRS. NETTIE LUNDGREN, MRS. H.E.
BOIS, M.L. SCOGGINS, DAVID KRSZINE, FRANK ADAMS, H.H.
KIEHL, E.M. PACKARD, J.S. POTTS, P.D. PRYOR, DARGSS,
W.A. RIZOR, Wm. SMITH, W.P. SEIFERT, BENJ. SCOEGER, M.C.
TONN ESTATE, H.E. WOOD, D. WATSON, ANDREW PETERSON, J.S.
FRATE, G.W. NASH, J.B. MOVEY, W.R. MARHVING, G.W. MEWACH,
MRS. AUGUST LONGHALL, MRS. C.N. LEWIS, J.D. ZINGSLEY, M.L.
WALGREEN, FRANK DUNNING, H.M. HINTON, TIM POLEY, MRS.
PETER HENDRICKSON, MRS. ELIZABETH HILL, MRS. J. HARRI-
MAN, R. GOLDEN, TOM GARRETT, B.J. GARRETT, PETER GARD,
GEORGE GOST, MARTHA DAVIS, MRS. H. DOTSON, J.C. ROBINSON,
GEO. De GROTE, MRS. S.L. DUBBIN, MRS. F.L. COOKE, Wm. CASE,
MRS. J.W. CALDWELL, MRS. WOOD COLLETT, MRS. De CACHLIN,
HELS BRADKE, PETER BARNIER, MRS. GEO. BOLAND, J.W. BLAKE,
FRANK BAZER, H. BROWN, MRS. MERRILL, Wm. R. ADAMS, H. E.
ANDERSON and TOM HATHWIG; and all persons, firms, asso-
ciations or corporations, or ditches, and all persons, firms,
lands, claiming or having any right, by appropriation,
riparian, or otherwise, to the use of the waters of the
Belle Fourche River, Redwater River, Spearfish Creek, Crow
Creek, or streams or waters arising tributary to or in
the watershed of said described streams,

Defendants.

COMPLAINT.

Now comes the plaintiff, and for a cause of action against the defendants, complains and alleges as follows:

I.

That the plaintiff is the owner of an undivided one-fourth interest in the right to take 1000 inches of water from the Redwater River for beneficial, irrigation and domestic uses, which water right is based upon the location and appropriation of said water by L.S. Mitchell, John B. Case, S. Burd and Douglas Sayre filed the 10th day of December, 1889, and is of record in the office of the Register of Deeds of Butte County, South Dakota, in Book 7, page 116 thereof; that in the year 1889 a ditch was constructed from the point where said water was taken out of said stream, to-wit: At a point on the West side of said stream near the center of the Southeast Quarter of the Southwest Quarter of Sec. 25, Tp. 8 N. Rg. 2 E. B.M.

and extended in a northwesterly direction for a distance of 4 miles, was about 6 feet in width and carried about 1000 inches of water; that since the 9th day of July, this plaintiff has been and is now the owner of the Northeast Quarter of Section Twentytwo, Township Eight North of Range Two East Black Hills Meridian, ^{together with his grantors} and has been for the past 20 years beneficially using the water from said Redwater River by virtue of his interest in said appropriation and the ditch constructed and operated thereunder for the irrigation of said land, or so much thereof as can be irrigated; that by reason of said appropriation and location this plaintiff is entitled to an undivided one-fourth interest in and to 1000 inches of water at the place where said ditch is taken out of said stream; that the location of the headgate of said ditch, which is known as the West Side Ditch, is on the West bank of said Redwater, at a point on said River below the confluence of said Redwater River with the Spearfish and Crow creeks.

11.

That the defendants, the Homestake Mining Co. and the Redwater Land & Canal Co., are corporations, duly organized and existing under and by virtue of the laws of the State of South Dakota.

III.

That the said ^{Belle Fourche River,} Redwater River, the Spearfish and Crow Creeks are located in Lawrence and Butte Counties, South Dakota, and are one and the same stream system, and that a great portion of the waters of ^{Belle Fourche River and} Redwater River come from the said Spearfish and Crow Creeks.

III.

That the defendants above named are the owners of, or claim to have some right, title or interest in and to lands along the said ^{Belle Fourche River,} Redwater River, Spearfish and Crow Creeks, and that they claim some interest in the waters of said streams for irrigating purposes, and that said defendants are diverting the waters from said streams without right and are unlawfully appropriating the said waters for their own use and to irrigate lands which are not entitled to water from said streams, and are appropriating the water for other uses, to the irreparable damage and injury of this plaintiff; that the plaintiff has no plain, speedy or adequate remedy at law.

WHEREFORE.- Plaintiff demands judgment as follows:

That the Court direct the State Engineer of the State of South Dakota to make and furnish, for the purpose of adjudicating the various water rights of the aforesaid stream system, a complete hydrographic survey of such stream system and water shed.

That the various ^{to the beneficial use of water} rights and all thereof now existing within said stream system and watershed be in this action adjudicated by this Court, and particularly the right of the plaintiff and the parties defendant herein.

That the Court fix the date of priority and the amount of water and nature of the waterright to which this plaintiff and all the defendants are entitled.

That the parties defendant be permanently restrained and enjoined from any unlawful appropriation or use of the waters of said stream system.

For such other and further relief as to the Court may seem just and meet.

(C) S. W. R. R.
Attorney for Plaintiff.

063-1

June 20, 1972

Mrs. Geraldine R. Heinbaugh
P. O. Box 219
Belle Fourche, South Dakota 57717

Dear Mrs. Heinbaugh:

Reference is made to your letter of June 14, 1972, in which you write how an upstream neighbor has changed ditch conditions on the West Side Ditch resulting in your having more problems than usual in obtaining irrigation water and also resulting in increased washout and pollution conditions.

Water distribution within one ditch company's area is a function of that ditch company and the Water Resources Commission normally should not become involved. However, a member of the Commission staff will visit with you and check the situation, probably sometime during the next thirty day period.

Sincerely,

J. W. Grimes

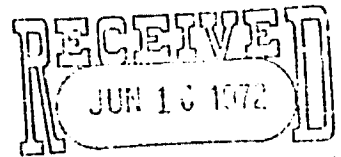
JWG/DD/rjb

Visited during summer of 1972 and discussed with Mrs. Heinbaugh. suggested if there was a possible problem & member of public was indicated as priority & ditch company meeting but it was not people from Belle Fourche area. said there was not priority in the water distribution. the Commission staff would be in position to bring the situation to the attention of the

Belle Fourche, S. Dak.

June 14, 1972

S. D. Water Resources
att. J. W. Grimes
Pierre, S. Dak.



STATE WATER RESOURCES COMM.
PIERRE, SOUTH DAKOTA

Dear Mr. Grimes:

Your name was given to me by Lauren Davis,
who suggested I write you of my water problem.
I'm on an irrigation ditch - the West Side
Ditch Co. which my ^{late} husband's father was one
of the founders of this ditch Co. There is
always a problem of the ditch runners at this
end of the ditch getting water. But the
past few years it has gotten worse. We
get absolutely no water, yet are expected to
pay for ditch repairs & cleaning etc. above.

The neighbor moved a ditch on his property a
year or two ago - the only way I could water on
my east field was thru this ditch. I protested
that he moved it anyway and now all
waste water etc. goes over his field &
pasture. I can't get water thru the regular
ditch there as it was. Built a crossing
for his own use right over the ditch.
At another point the main ditch on
his property is so eroded from pigs

2. ... cows and calves tearing it down, that, again,
any water that could get that far would
go over his pasture instead of running
into my ditches. He is free of our ditch, and so
I can't impress him of my needs. Then with
west of my house and the land where my road
joins the main road into town - the grade
his land and it runs down along the fence
on my side & into the creek. This seeps
under my road & is constantly tearing to
/ loose gravel loaded & kicked up my road
in that area. The drainage comes thru
pig pens & his sewer disposal & is put in.
The creek is so polluted from his barn yard
that we can no longer have fish & mammals
in the creek. It is so polluted that green
slime & manure ride along on top of water.

So then now say - I can make him put a
ditch on his own place to carry his water?
And how do I go about getting him to fix
the ditches. There has been no ditch meeting for
2 years or so one can air their complaints, and
I assure you there are many who are on their
lowest ~~at~~ upper end of the ditch who have
complain about. Since my husband's death
he had quite a struggle to keep my peace

grain. It is a small farm, but a beautiful one.
If I could get water to it. He used to leave
alfalfa here and it did well, but he tried to
let my fields go back to pasture. Even so,
I'd like water for my pasture, since I have
to pay for it.

If I could get something done on the
ditch so we could get water, I could plow
up and reseed my fields Daefalpaaya.
I have 26.48 acres in all, but it is
of choice land, being close to town.

Any advice or help you could give
me would be much appreciated.

I do not mean to give the impression that
I am warring with my neighbors. I try very
hard to get along with them; but the times
I have protested about these things they
say nothing can be done. Lawrence Davis
told me something could be done and to
write to you.

Sincerely

Mrs. Geraldine Leebang