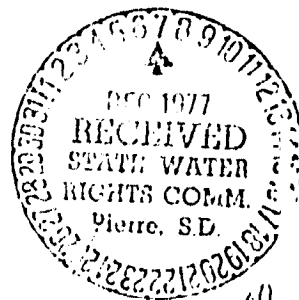


No. 1164-1Map No. 975-1 Water Division No. 1 BELLE FOURCHE RIVER District
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable)

1. Name of Applicant Everett MacKaben Develop. Co.
 Post-office address Box 8-D Sundance Star Route State Spearfish South Dakota
 If a corporation show date and place of incorporation _____
2. Method of accomplishing work (contract, employment of others, or by direct labor) contract & employment of others
3. Name of diversion work MacKaben Well #2
4. Amount of water claimed (cubic feet per second) 0.5 cfs
5. Source of water supply Well
6. Location of point of diversion Lot W-1 of E. MacKaben Development #2 a subdivision of the unplatted portion of the NE/4, SE/4, Sec. 31, T7N, R2E, B.H.M.
 County Lawrence
7. Annual period or periods during which water is to be used continuous
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Domestic Housing Project
9. For irrigation use. Total number of acres to be irrigated _____

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.

Attach sheet if more space is needed

10. Time required to complete construction of water supply system two years. Additional time required to complete application of water to the proposed beneficial use three years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Queen City Mail
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

Well 273 feet deep

B. Works proposed to transport water to place of use.

Pipeline

C. Works proposed to apply water to beneficial use.

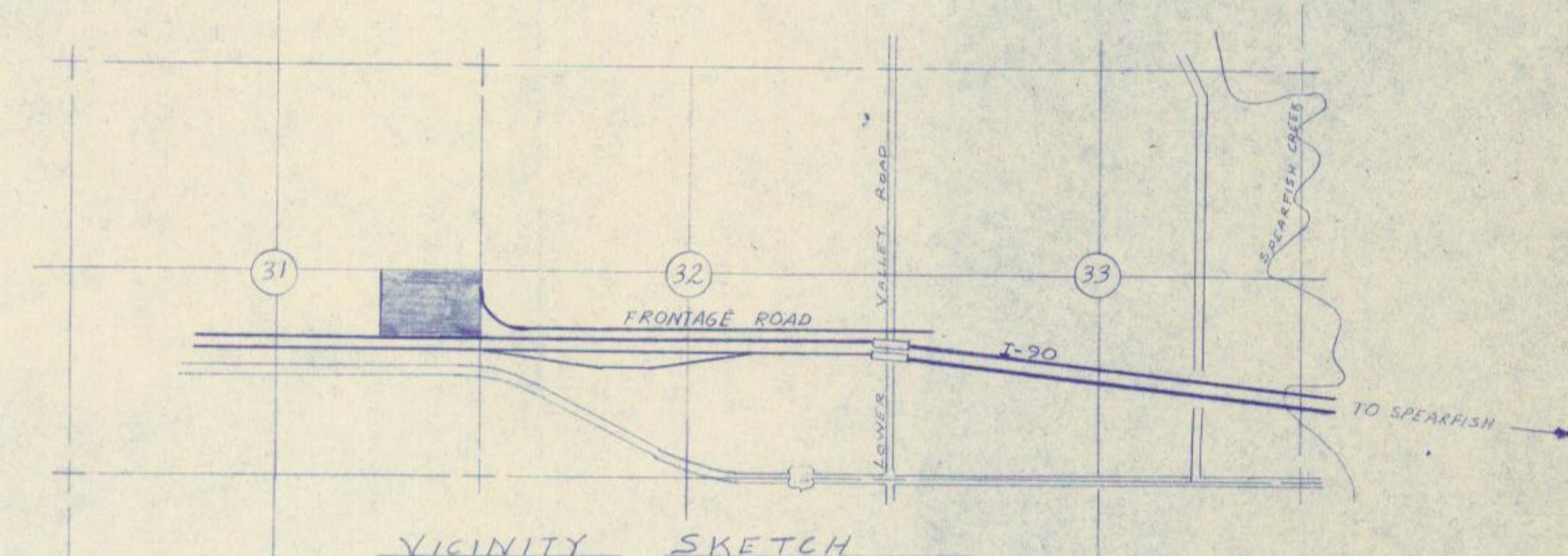
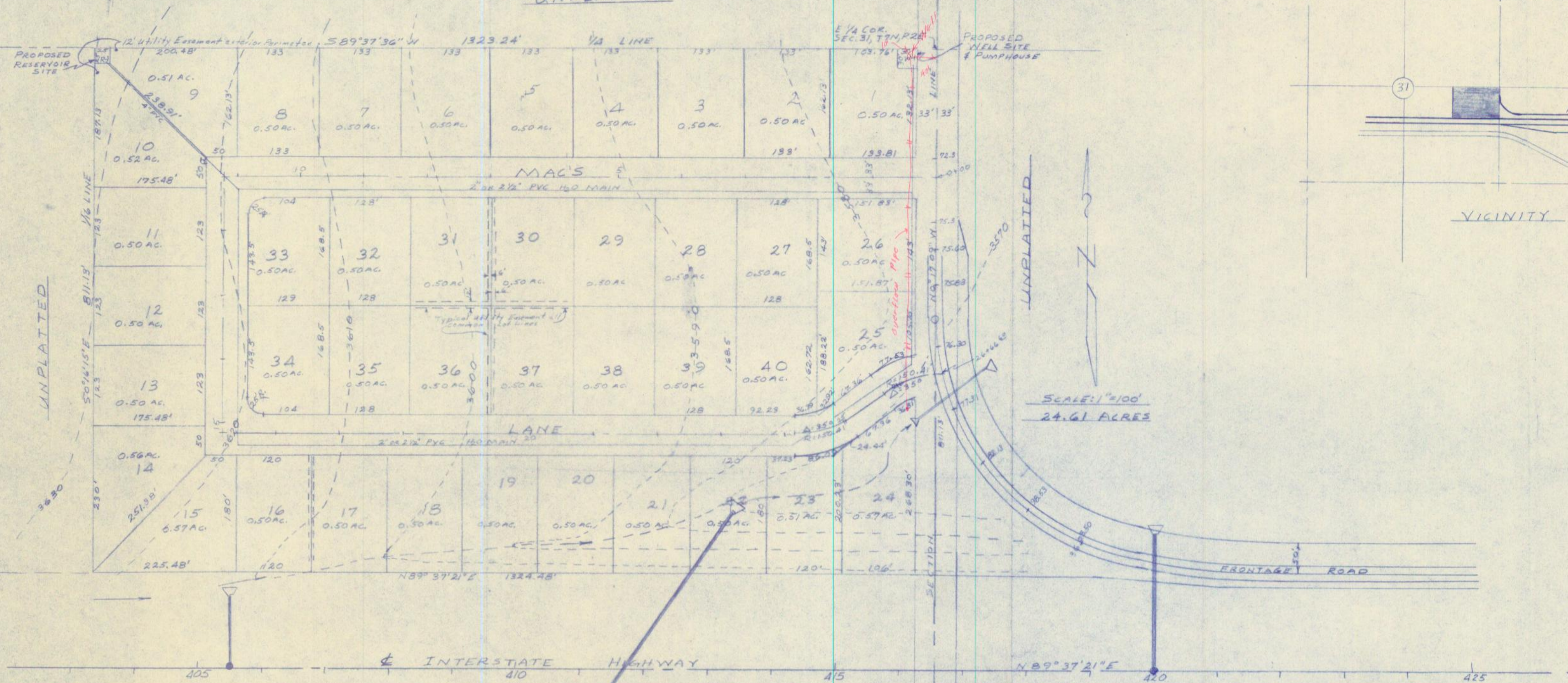
Housing ProjectEstimated Total Cost \$ 25000.00Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of LawrenceI, Everett MacKaben, the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary constructionSigned Everett MacKabenSubscribed and sworn to before me this 3rd day of December 1977

Notary Public (or other qualified officer)

UNPLATTED



PROPOSED E. MACKABEN #2 LAYOUT DEVELOPMENT

DEVELOPER: E. MACKABEN
SPEARFISH, S.D.

SURVEYOR: A. DITTMAN
SPEARFISH, S.D.

1/31/77

APPROVAL
18 February 1977
Stanton L. Sherry
CHAIRMAN
SECRETARY

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 1164-1

EVERETT MACKAREN DEVELOPMENT Co. Box 81 SUNDANCE STAR RY. SPEARFISH
(Applicant) (Post Office Address)

SOUTH DAKOTA 57783 With the following modifications:
(State)

The ~~irrigation~~ well approved under this Permit is located near domestic wells which may obtain water from the same aquifer. The ~~irrigation~~ well owner, under this Permit, shall control his ~~irrigation~~ withdrawals so there is not a reduction of needed water supplies in adequate domestic wells.

Date of first receipt of application DECEMBER 7 19 77
Date of return to applicant for correction, amendments or changes required --- 19 ---
Date of receipt of corrected application --- 19 ---
Approved JANUARY 25 19 78 Recorded in Book 19 Page 217

WATER RIGHT PERMIT NO. 1164-1

The Water Rights Commission hereby grants and issues this Water Right Permit No. 1164-1 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is DECEMBER 7 19 77
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before JANUARY 25 19 79
3. The whole of said work is to be completed on or before JANUARY 25 19 80
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is JANUARY 25 19 83
5. The water appropriated shall be used for the purpose of SUBURBAN HOUSING
6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.
7. The amount of the appropriation herein granted shall not exceed .50 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for ~~irrigation~~ USE FOR SUBURBAN HOUSING PURPOSES ~~and the amount of water needed for irrigation purposes shall be limited to not more than 1 acre feet per acre per year and be limited to not more than one-eighth (1/8) of one cubic foot of water per acre of land to which water is actually and beneficially applied for irrigation on or before~~ JANUARY 25 19 83; said water to be used during the following described annual period: CONTINUOUSLY

Witness my hand this 30TH day of JANUARY 19 78

WATER RIGHTS COMMISSION

By:

John H. H. H.
Chief Engineer, Executive Officer

Certificate of Construction Issued DECEMBER 6 19 78

Issued DECEMBER 6 19 78

12. Principal Features of the Proposed Water Supply System (continued.)

D. Well Information or Estimates

- (1) Drill Hole, Diameter 6 1/2 inches, Depth 273 feet
- (2) Casing, Type steel Diameter 4 1/2 00 Thickness 12.75 lbs.
(wood, concrete, steel, etc)
- (3) Perforated Screen.
Type None Diameter _____, Length _____
- (4) Gravel Pack. Thickness _____, Length of gravel pack _____

E. Dugout Information or Estimates.

- (1) Surface dimensions _____, Depth _____

F. Fill out for Either a Well or a Dugout.

- (1) Water Bearing Materials. (Please attach a copy to test well log if available.)

Character of Water bearing materials Minnekahta Limestone

Depth to top of water bearing material 250 feet

Depth to bottom of water bearing material 273 feet

Thickness of water bearing material 23 feet

Depth to water (ground surface to water level) flow 20 gpm

- (2) Distance to nearest existing household or livestock watering wells.

On same owner's property none rds. On property owned by others 160 rds.

G. Water Storage Dams.

If the proposed water use system contains one or more water storage dams, please show in the space below, the height, maximum water depth, surface area and storage capacity of each storage dam. The location of each water storage dam should be shown on the water right map.

Elliott Mark Baker
Signature of Applicant

(5-6-2)

952-1 Wm & Irene H Mc Leigau

Westerly Right Claimed - well drilled over 50 years ago - for irrigation, livestock & domestic use

PMS 1922

App'l. Dec. 27, 1911 Granted May 17, 1912

Water License June 23, 1912 40 - 50 acres

Diversion SE 4 NE

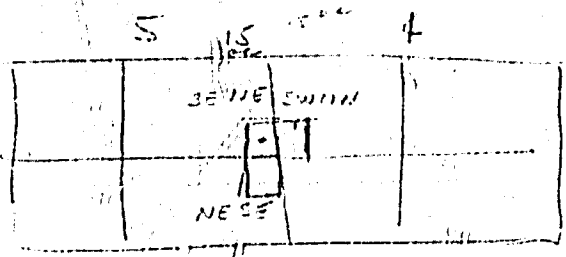
5-6-2 E

175' well SENE

500 GPM

1.11 capacity of diversion

699 for 70 50 ac



Edward Mac Kahan - 31-7-2

945-1

Priority 13-7-78 .05 (1-25-78)

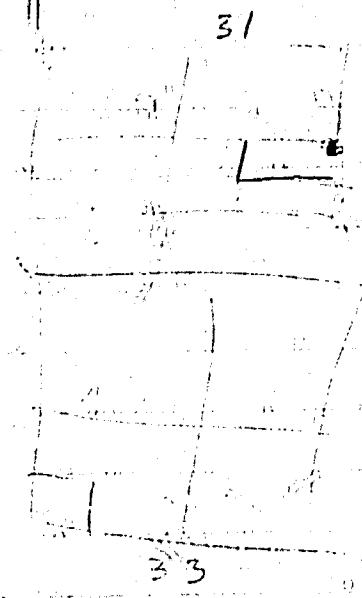
well # 2 - N SE 31-7-2

Water Lic 12-6-78-

Munroe Kahl Limestone

275 feet deep

25 GPM .06



SW SW

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 1164-1

(1) WHEREAS, On the 7th day of December A. D. 19 77

Everett MacKaben Development Co.

made Water Right Application No. 1164-1 for a permit to use .50 cubic feet per second of the waters of groundwater (one well)

County of Lawrence, State of South Dakota, for suburban housing

purposes; and

(2) WHEREAS, On the 25th day of JANUARY A. D. 19 78

Permit No. 1164-1, with a date of priority of December 7, 1977

was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 25th day of January A. D. 19 80 and for the application to beneficial use of said water on or before the 25th day of January A. D. 19 83

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert .06 cubic feet per second of water for beneficial use and.

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent,

water to be used for Suburban housing purposes

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to Everett MacKaben Development Co.

_____ of Spearfish SD
the holder S and owner S of said permit No. 1164-1 a water right, dating from December 7, 1977
_____ to use of .06 cubic feet per second of the waters
of groundwater (one well)
in the County of Lawrence and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinbelow mentioned, to be diverted at Lot W-1 of East MacKaben Development #2
a subdivision of the unplatted portion of the NE 1/4 SE 1/4, Section 31
(10 feet south and 40 feet West of E 1/4 corner Section 31-T7N-R2E)

and ~~XXXXXX~~ conducted through the distribution system of the Suburban
housing project

for the purpose of suburban housing

Subject to any limitations listed in Water Right Permit No. 1164-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 6th day of December A. D.

Nineteen Hundred and Seventy-Eight

WATER RIGHTS COMMISSION
WATER RESOURCES COMMISSION

By:

John Hatch

Chief Engineer, Executive Officer

JOHN HATCH

Form 15.

Permit No. 1164-1

Water Diversion No. 1 Belle Fourche Water District
River

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Everett MacKaben Development Co.

the holder S of
Permit No. 1164-1, issued upon Application No. 1164-1, bearing date of priority of December 7,
1977 authorizing the diversion of .06 cu. ft. per second of the waters of
groundwater (1 well) County of Lawrence, State of South Dakota at
Lot W-1 of East MacKaben Development #2 a subdivision of the
unplatted portion of the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 31 (16 south & 40 west of
E $\frac{1}{2}$ corner, Section 31-T7N-R2E for suburban housing

purposes, have complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory
condition for diverting and conveying to the place of intended use .06 cu. ft. per second of water.

Date December 6, 1978

By:

WATER RIGHTS COMMISSION

John Hatch
JOHN HATCH, Chief Engineer

No. 1164-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Lawrence) ss.

I, Allen M. Hermann hereby

certify that the annexed printed copy of Notice of Intent to Appropriate

Water was taken from the Queen City Well

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

Queen City Mail of Spearfish

County of Lawrence and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

Jan. 11 & 18 - 1978

Allen M. Hermann
(Signature)

Boon Heger
(Title)

Jan 18 - 1978
(Date Signed)



Everett MacKaben

NOTICE OF HEARING ON
APPLICATION TO
APPROPRIATE WATER
Pierre, South Dakota 57501
December 14, 1977

Notice is hereby given that
Everett MacKaben Develop.
Co., whose post office
address is Spearfish, South
Dakota, has made an appli-
cation in accordance with the
provisions of SDCL 46-1-1
thru 46-1-8; 46-2-9 thru
46-2-11, 46-2-13; 46-5-1 thru
46-5-8; 46-5-10 thru 46-5-22;
46-5-41, 46-6-3, 46-6-5, 46-6-8,
46-6-10, 46-6-14 and
Commission Rules ARSD
52:01:01 thru 52:01:01:13,
for a permit to appropriate
for beneficial use 0.5 cubic
feet of water per second of
time from ground water
through the MacKaben Well
#2, the point of diversion of
which is to be located in the
NE 1/4 of Section 31,
Twp. 7N, Range 2E. Said
water to be used for the
purpose of providing water
supplies for domestic hous-
ing.

This Application No. 1164-
1 will be considered by the
Water Rights Commission at
Pierre, South Dakota upon
the 25th day of January,
1978, at 10 A.M. The
Commission is authorized to
make a determination on this
application at the hearing.
All interested persons may
appear and be heard. Any
person who may be affected
by a Commission decision
who desires to present
evidence or cross-examine
witnesses according to
SDCL 1-26 may notify the
Commission in writing prior
to the hearing or orally at the
hearing.

WATER RIGHTS
COMMISSION
BETTY WESTLUND
Water Rights Specialist I
(2-2tc, 56 lines)

Publish first publication, on or before January 5, 1978

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

December 14, 1977

Notice is hereby given that Everett MacKaben Develop. Co. whose post office address is Spearfish, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-8; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, 46-6-3, 46-6-5, 46-6-6.1, 46-6-10, 46-6-14 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 0.5 cubic feet of water per second of time from ground water through the Mackaben Well #2, the point of diversion of which is to be located in the NE 1/4 SE 1/4

of Section 31, Twp. 7N Range 2E. Said water to be used for the purpose of providing ~~XXXXXX~~

water supplies for domestic housing.

This Application No. 1164-1 will be considered by the Water Rights Commission at Pierre, South Dakota upon the 25th day of January, 1978 at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

WATER RIGHTS COMMISSION

BETTY WESTLUND
Water Rights Specialist

cc: **Everett MacKaben Development Company, Box 8-D, Sundance Star Route, Spearfish, SD 57783**

1164-1 Eschell - Marion

9-11-78 Well - 275 ft. deep. Flow rate 10 gpm
at 154' flow rate 4000 gpm.
Tank capacity.

Submersible pump 2-H.P. Meyer
at 175 ft. Pump 25 gpm.

5.0 H.P. Bore - Meyer

Permit No.

1164-1Water Division 1 Belle Fourche River Water District

REPORT OF EXAMINATION OF WORKS AND/OR APPLICATION OF WATER TO BENEFICIAL USE

TO: Water Resources Commission, State Office Building No. 2, Pierre, South Dakota 57501

I have this day made a thorough examination of the water use system constructed by Everett MacKabenDev. Co. of Box 80 Sundance Star Rt. holderSpearfish, S.Dak. 57783of Permit No. 1164-1, bearing date of priority of December 7, 1978authorizing the diversion of 1.50 cu. ft. per second of the waters of Oneidafor Domestic Housing Project purposes, in Lawrence County.

I have to report on the condition of the same as follows:

The Water Use System consists of,

A. Works used to divert the water:

Meyers 2HP Submersible pump pumps 2.5 gpm
Meyers 5-HP. Booster pump for system

B. Works used to transport water to place of use,

Water system for Housing Development

C. Works used to apply water to beneficial use.

Houses

The system is in the following condition: Excellent

The point of diversion is located Lot W-1 of E. MacKaben Development #2, a subdivision of the unplatted portion of the NE 1/4 SE 1/4 Sec 31. (10' S. 1/4 H. W. of E 1/2 Cor Sec. 31 T 7 N R 2 E)

The works are capable of diverting and conveying to the place of use 6.06cu. ft. per second of water which is to be used for Suburban Housing purposes

Water has been put to beneficial use to the maximum extent as follows:

comprising a total of _____ acres of land.

Well data: depth 275 ft

Flows 10 gpm

Pumped to 25 gpm.

Pump set at 135 ft

Storage tank 4000 gallons

Date November 17, 1978

Leroy J. McManis
(Signature)

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 6587

PIERRE, December 5, 1978

RECEIVED OF Everett MacKahan Development Co., Sundance Star Route, Spearfish
the following amount in fees for services rendered as provided for by law: SD

Fee for Application for Permit to appropriate Water No. ~~XXXXXX~~ (examination, processing, recording and filing)		
Fee for inspecting Construction, and issuing Cert. of Construction No. 1164-1	50	00
Fee for inspecting Beneficial Use, and issuing Water License No. 1164-1		
Fee for issuing Location Certificate-Dry Draw No.		
Fee for filing		
Fee for certified copy of		
Fee for Print copy of map		
Fee for Certifying		
Fee for		
(any other work as provided by law)		
TOTAL	50	00

WATER RIGHTS COMMISSION

By *John Hatch*
Chief Engineer, Executive Officer
JOHN HATCH

LAW OFFICES OF
ROCKWELL & MCGUIGAN

FRANK A. ROCKWELL
AND M. M. MCGUIGAN

314 PARKWAY
CHULA VISTA, CALIFORNIA 92010
(714) 425-473

November 17, 1978

County Commissioner
Lawrence County
Deadwood, South Dakota 57732

Re: Zoning Variance or Special Use Request
in Spearfish, South Dakota

Gentlemen:

I am the son of Mr. and Mrs. William J. McGuigan, land holders of a parcel of farm and ranch land located about two miles west of the town of Spearfish. I believe my father and I are probably known to several members of the Commission. I am also record owner of a portion of this parcel of land, commonly known as the McGuigan farm, which has been in my family for the past seventy years. I am informed by my parents that there is a zoning variance or special use permit request on file for development of a parcel of industrial or commercial use land approximately one-quarter mile north and east of the McGuigan ranch and located at the site or approximate site of the old Spearfish racetrack.

Of course, I am aware of the growth and development in the Spearfish area. However, my parents are quite concerned about the development and use of this parcel, and I am myself also concerned because of my own ownership in land in the immediate area of the development in question.

My parents wish to express their opposition to this development in its entirety, because they feel it would be inconsistent with the current use to which they are putting our property, namely, that of farming and ranching. Therefore, they wish to register their opposition to this development proposal. There are other more specific concerns of which I share with them and which I feel should be brought to your attention with regard to this proposed development:

Enclosure "B"

1) My parents' property contains an Artesian well which is a relatively shallow one and which has been in being on our ranch for many years. The water from this well is required for the maintenance of a herd of beef cattle as well as for personal domestic use, some small garden irrigation, and other farm uses. The well is not now and never has been in use for extensive irrigation of the property. However, my parents are most concerned that water usage in the proposed development will be quite extensive because of its industrial and commercial nature. They are also informed that such water will be obtained through the drilling of additional wells. The increased pressure placed on all existing wells by developments in the Spearfish area is, I am sure, known to you. However, my brief examination of South Dakota law has indicated that in accordance with SDCL Section 46-6 et. seq., my parents and probably other current owners of the land have acquired an interest in the existing well which cannot be adversely affected by new well drilling absent certain hearing requirements and other findings at the State Board level. I am sure you are aware of this problem, and I have assured my parents you will undoubtedly condition the proposed development in a manner which will be in compliance with these requirements. I would greatly appreciate it if you could communicate with me as to what the water use plan for the proposed development is and how it is conditioned in a manner which will preclude adverse impact on the existing well usage and flows.

2) My parents and I are also concerned about fire and police protection issues surrounding a development of this nature. The close proximity of our land and of the farm buildings and operation to the proposed high density commercial and semi-commercial development would certainly justify some planning as to how fire and police protection requirements can be met for surrounding land owners, given the tremendous increase in the need for such matters connected with a development of this type.

I am sure that the two specific concerns which I have indicated above, while not all-inclusive, can be appreciated by you and that there would be no major difficulty in attaching appropriate conditions to the variance or use permit which would allow compliance with the development together with resolution of our concerns on the above two items.

Thank you for your courtesy and cooperation in consideration of these requests.

Sincerely yours,

ROCKWELL & McGUIGAN

William M. McGuigan

WMM:ctm

cc Mr. and Mrs. William J. McGuigan

cc Mr. Thomas E. Carr, Esq.

LAW OFFICES OF
ROCKWELL & MCGUIGAN

FRANK A. ROCKWELL
WM. M. MCGUIGAN

314 PARKWAY
CHULA VISTA, CALIFORNIA 92010
(714) 425-4731

December 8, 1978

Water Resources Department
Pierre, South Dakota 57501

Re: Potential Interference with Artesian
Ground Water, Permit No. 952-1



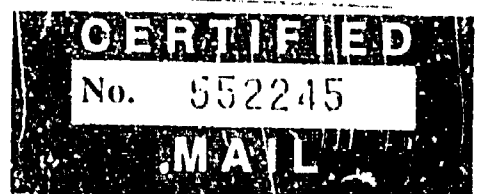
Gentlemen:

This letter is to constitute written notice, under South Dakota Codified Laws Section 46-6 et. seq., of potential interference of the above-entitled well and vested right in ground water.

I represent my parents, William J. and Irene H. McGuigan, who are long-time land holders in the Spearfish, South Dakota area. An Artesian well has been in existence on their property for over fifty years, or since 1922. In 1971, they applied for a vested right permit and certificate of construction, a copy of which certificate is attached hereto as attachment "A". The water from this well has been in used since its inception to supply the domestic needs of the McGuigan farm, to provide water for the farm animals and beef cattle which are raised on the farm, and for occasional irrigational use.

I am informed that development pressures in the Spearfish area have resulted in a considerable number of new construction permits and zoning variations. On November 16, 1978, Mr. Everett MacKaben of Spearfish, South Dakota requested a variance over a zoning change at a hearing before the Lawrence County Commissioners at Deadwood, South Dakota concerning the change in zoning on the Southwest quarter of the Southwest quarter, Section 33 T-7N R-2E. The purpose of the hearing was to alter the permissible use to commercial and industrial. I am informed that this request was granted. In addition, my clients and I are informed that it is planned to supply this development by means of a well or wells, and that somewhere in the vicinity of thirty commercial and industrial lots will be available for development in this region.

This proposed development is located in the immediate water



Water Resources Department
Page Two
December 8, 1978

shed and within approximately one-half mile of the above-entitled McGuigan well. We think it is highly probable that a development of this nature will seriously and adversely impact the flow from the existing McGuigan well. I have already requested that the use permit or variance be conditioned in a manner to preclude such interference as well as to satisfy other requests and needs of my clients, see enclosure (b). I am sure these problems are under consideration by the Commissioners, but I have not yet received any response from them indicating the manner in which they plan to prevent these difficulties.

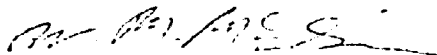
As a result, we would request the investigation and study mandated by the applicable South Dakota statutes being conducted by your office to insure that our interests in this existing well are not adversely affected by the planned developments.

I would request a copy of your findings and conclusions be forwarded to me here so that I may monitor the outcome of this matter. Please advise if any fee or additional notice requirements are needed in this matter.

Thank you for your courtesy and consideration.

Sincerely yours,

ROCKWELL & McGUIGAN



William M. McGuigan

WMM:ctm

Enclosures

cc Mr. and Mrs. William J. McGuigan
cc Thomas Carr, Esq.
cc County Commissioner

December 26, 1978

William M. McGuigan, Attorney
ROCKWELL & MCGUIGAN
314 Parkway
Chula Vista, CA 92010

Dear Mr. McGuigan:

This will acknowledge your letter concerning the possible interference with artesian ground water Permit No. 952-1, by Mr. Everett MacKaben, Spearfish, if he installs one or more wells.

Mr. MacKaben has obtained Water Right No. 1164-1 to supply a housing subdivision near Spearfish, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 31, T7N, R2E. The Water License is for .06 cubic feet per second (27 gallons per minute).

Since the quantity of water pumped is small, it is doubtful such pumping will have any affect upon the well authorized by Water Right No. 952-1. A point of clarification should be made on water right No. 952-1. The right to .70 cfs of artesian ground water is a right to use water from in the water bearing formation and not to the artesian head pressure as a means of delivery of water to the surface or to a pump.

If you believe Mr. MacKaben's well does affect in an adverse manner the water supply authorized by 952-1, please advise.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/gy

OVERSIZE

DOCUMENT IS

SUPPLEMENTARY

TO MICROFILM FILE

No. 1164-1

SOUTH DAKOTA
Department of
Water & Natural Resources

Division of Water Rights
605 773-3352

Joe Foy
523 East
Pierre, South Dakota 57501

February 12, 1986

Jerry Herder
Westview Subdivision
Westview Road
Spearfish, South Dakota 57783

Dear Mr. Herder:

Please find enclosed a copy of a Notice of Transfer of Water Permit form. This form must be signed by the owner before a notary and returned to this office with a filing fee of \$2.50.

Upon receipt of the enclosed form and the \$2.50 filing fee the permit will be transferred to the proper name. South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

Please advise if you have any questions.

Sincerely,

Maxine Stirling
Staff Assistant

ms/
Enc.

NOTE: The enclosed transfer notice is being sent to you by request from the Office of Drinking Water within our Department.

**South Dakota Department of
Water & Natural Resources**

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

September 2, 1986

Second Notice
Permit No. 1164-1

Jerry Herder
Westview Subdivision
Westview Road
Spearfish, South Dakota 57783

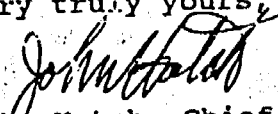
Dear Mr. Herder:

On February 12, 1986 notice was sent to you concerning the transfer of Water Permit No. 1164-1 in the name of Everett Mackaben Development Company which authorizes 0.06 cfs from groundwaer for suburban housing development. To date, we have not heard from you on this matter.

A transfer form was previously sent to you, enclosed please find an additional form. Please sign, have notarized and return the form to this office with the required filing fee of \$2.50. The permit can then be transferred to your name. If you are not the present owner of the land covered under this Permit, please notify this office. It is very important that ownership records be kept current. South Dakota Water Law 46-5-30.3 required Notice of any sale, grant, lease, conveyance or other transfer of a Water Permit or Water Right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact us.

Very truly yours,


John Hatch, Chief Engineer
Water Rights Division
Phone: (605) 773-3352

S509.WR

FROM 3011, Dec. 1963

● **SENDER:** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space
on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☒ Show to whom and date delivered
☐ Show to whom, date, and address of delivery ..
2. ☐ **RESTRICTED DELIVERY**
*(The restricted delivery fee is charged in addition to
the return receipt fee.)*

TOTAL \$

3. **ARTICLE ADDRESSED TO:**
*Jerry Herder
Northview Subdivision
Westview Rd, San Francisco 97783*

4. **TYPE OF SERVICE:** **ARTICLE NUMBER**
☒ REGISTERED ☐ INSURED
☐ CERTIFIED ☐ COD
☐ EXPRESS MAIL
P64 B9 624

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Jerry Herder

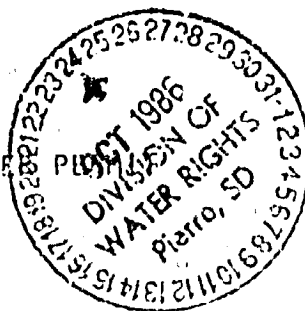
5. **DATE OF DELIVERY** **POSTMARK**

6. **ADDRESSEE'S ADDRESS (Only if required)**

7. **UNABLE TO DELIVER BECAUSE:** 7a. **EMPLOYEE'S INITIALS**

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

NO. 1164-1



NOTICE OF TRANSFER OF WATER PERMIT

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: _____

This is to notify you that the title to the lands described as follows:
for suburban housing development

formerly owned by Everett Mackaben Development Company
has been transferred to Jerry Herder, Westview Subdivision, Westview Rd, Spearfish SD
(please include complete mailing address)
together with any rights to the beneficial use of water thereon as evidenced by
Water Right Permit No. 1164-1 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit"
in its appropriate file at the Div. of Water Rights, Water Management Board as
evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees
as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of Pennings) ss.

I, EVERETT MACKABEN being first duly sworn on my oath depose and say:
That my relation to the above described undertaking is that of Owner, that I have read
the above foregoing statement, and I know of my own personal knowledge that the infor-
mation herein stated is true.

Everett Mackaben
(Signed)

Subscribed and sworn to before me this 18 Day of Sept, 1986.

William A. Burt
(Notary Public)

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410604

Pierre, _____ October 24, 1984

RECEIVED OF Westview Subdivision, Westview Road, Spearfish, SD 57787

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct work and to put water to beneficial use _____		
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. <u>1164-1</u>	2	50
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	50

By

Chief Engineer

JOHN HATCH

South Dakota Department of
Water & Natural Resources

Joe Foss Building Water Rights Division
Pierre, South Dakota 57501

Phone (605) 773-3352

November 21, 1986

Jerry Herder
Westview Subdivision
Westview Road
Spearfish, South Dakota 57783

Dear Sir:

Enclosed is receipt No. 410604 in the amount of \$ 2.50 which you
paid for transfer of Water Right No. 1164-1.

Our records now show you as the owner of this Water Right.

Sincerely,

Maxine Stirling
Secretary

ms/
Enc.

1164-1

WATER RIGHTS DIVISION
(605) 773-3352

April 30, 1987

Don Hansen
Westview Subdivision
34 Westview Drive #1
Spearfish, South Dakota 57783

Dear Mr. Hansen:

This letter is in reference to Water Right No. 1164-1 for Westview Subdivision. Enclosed is a copy of the Water License.

In October 1986, Water Right No. 1164-1 was transferred from Everett MacKaben Development Company to Westview Subdivision, c/o Jerry Herder. The receipt for fees paid and a transmittal letter sent to Jerry Herder was returned by the Post Office.

In a telephone conversation with Mr. Herder regarding this matter, Mr. Herder indicated he no longer managed the Subdivision. He further stated that all correspondence concerning Water Right No. 1164-1 be directed to you.

I am enclosing the last correspondence sent to Mr. Herder. I have added your name to the Water Right file as the contact person for the subdivision. If this is in error, please contact me.

Sincerely,

Genny McMath
Natural Resources Analyst

GH:ms
Enc.