

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 here at my office in Pierre, State of South Dakota this 12th day of January, 1918.

Homer M. Derr
State Engineer.

No. 138-1

Division No. 1

Belle Fourche Water District.

PERMIT

to appropriate water from Seven Springs
at head of Robinson's Gulch.
Lawrence County, South Dakota.

Name of applicant

CITY OF SPEARFISH

Name of diversion works

Spearfish Water Works

Date of first receipt at office of State Engineer November 12, 1917.

Returned to applicant for Correction
- - - - - 19

Corrected application received
- - - - - 19

Date of water right
November 12, 1917.

Recorded in Book 2 Page 8 321 &

One-fifth of work to be completed
July 12, 1920

Whole work to be completed
January 12, 1923

Final proof of use of water
January 12, 1923.

Approved January 12, 1918.

Homer M. Derr,
State Engineer.

No. 138

Water Division No. 1

Belle Fourche Water District

(Blanks to be filled by the State Engineer.)

Copy

APPLICATION FOR A PERMIT To appropriate water within the State of South Dakota

(NOTE—Draw a line through items not applicable.)

1. Name of applicant CITY OF SPEARFISHPostoffice address Spearfish, County Lawrence, State South DakotaI. If a corporation: A municipal corporation(a) Name of same City of Spearfish

(b) Date and place of incorporation

(c) Amount of capital stock

(d) Amount paid in

(e) Names and addresses of directors:

(NOTE—A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

(a) Method of accomplishing the work. (Whether by contract, employment of others, or by direct labor) contract(b) Cash on hand, \$ (c) Treasury stock, \$ (d) Bonds to be issued, \$ 50,000 (e) Other resources, \$ property in City2. Name of diversion works Spearfish Water Works3. Quantity of water claimed 5 cubic feet per second.4. Source of water supply Seven springs at head of Robinson Gulch in Secs. 6 & 7
Twp. 5 North, Rge. 2 East B.H.M. and Secs. 1 & 12,
Twp. 5 North, Rge. 1 East B.H.M.5. Location of point of diversion SE $\frac{1}{4}$ of Sec. 6; NW $\frac{1}{4}$ of Sec. 7; NE $\frac{1}{4}$ of Sec. 12; SE $\frac{1}{4}$
of Sec. 1 in center of draw. Plan is to drain springs into one central
point in SW $\frac{1}{4}$ of Sec. 6, T. 5 N., R. 2 East on bank.
(Right or left bank looking down stream.)6. Annual periods during which water is to be used Constantly

7. To be used for:

I. Irrigation or domestic use:

(a) Number of acres to be irrigated acres(b) Legal subdivisions to be irrigated

(NOTE—A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be appended as a part of this application. Same must also be shown on accompanying map.)

(c) Statement as to domestic use (giving location, etc.) Municipal purposes to supply city and inhabitants with water at all times and for all purposes.

II. Mining, power, manufacturing, transportation, or other purposes:

(a) Nature of use (b) Amount of power to be generated horse power.(c) Location of plant (d) Method of developing power (e) Point where water will be returned to stream

Map 1156-1

6-52

8. Estimated cost of works: Use present reservoir in City.
- (a) Head gates, \$ - - - - - (b) Pumping plant, \$ - - - - -
- (c) Fluming, \$ 50,000. (d) Canal earth, \$ - - - - - Rock, \$ - - - - -
- (e) Other structures, Reservoir at point of diversion, Total, \$ 50,000

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Reservoir and pipe line

II. Dimensions of works: Capacity of reservoir at springs 800,000 gallons
Galvanized iron pipe line, 8 inch size.

(a) Dam: Height - - - - - feet; length at bottom - - - - - feet; length at top - - - - - feet; thickness at bottom - - - - - feet; thickness at top - - - - - feet; slope of front (water) face - - - - -; slope of back face - - - - -; material used in construction - - - - -

(b) Reservoir; Capacity when filled 800,000 gallons. Surface area at high water mark - - - - - acres.

DEPTH AT OUTLET—FEET	SURFACE AREA AT EACH DEPTH AT OUTLET—ACRES	CAPACITY ACRE-Feet

(c) Head gate: Width - - - - - feet: height - - - - - feet;
Material - - - - -

(d) Canal. Total length - - - - - miles.

LOCATION BELOW HEADGATE	DEPTH	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At Mile	feet	feet	feet	feet
At Mile	feet	feet	feet	feet
At Mile	feet	feet	feet	feet
At Mile	feet	feet	feet	feet
At Mile	feet	feet	feet	feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work 5 years.
11. Time required for complete application of water to the proposed beneficial use 5 years.
12. Choice of newspaper for publication of notice of intention to appropriate
Black Hills Weekly Call, Lead, S. D. (a weekly newspaper)

STATE OF SOUTH DAKOTA,
County of Lawrence ss.

I E. H. Warren, being duly sworn on my oath depose and say: That my relation to the above described undertaking is that of
Mayor of the City of Spearfish
(Owner, manager, engineer.)

that I have read the above and foregoing statement, and examined the maps accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

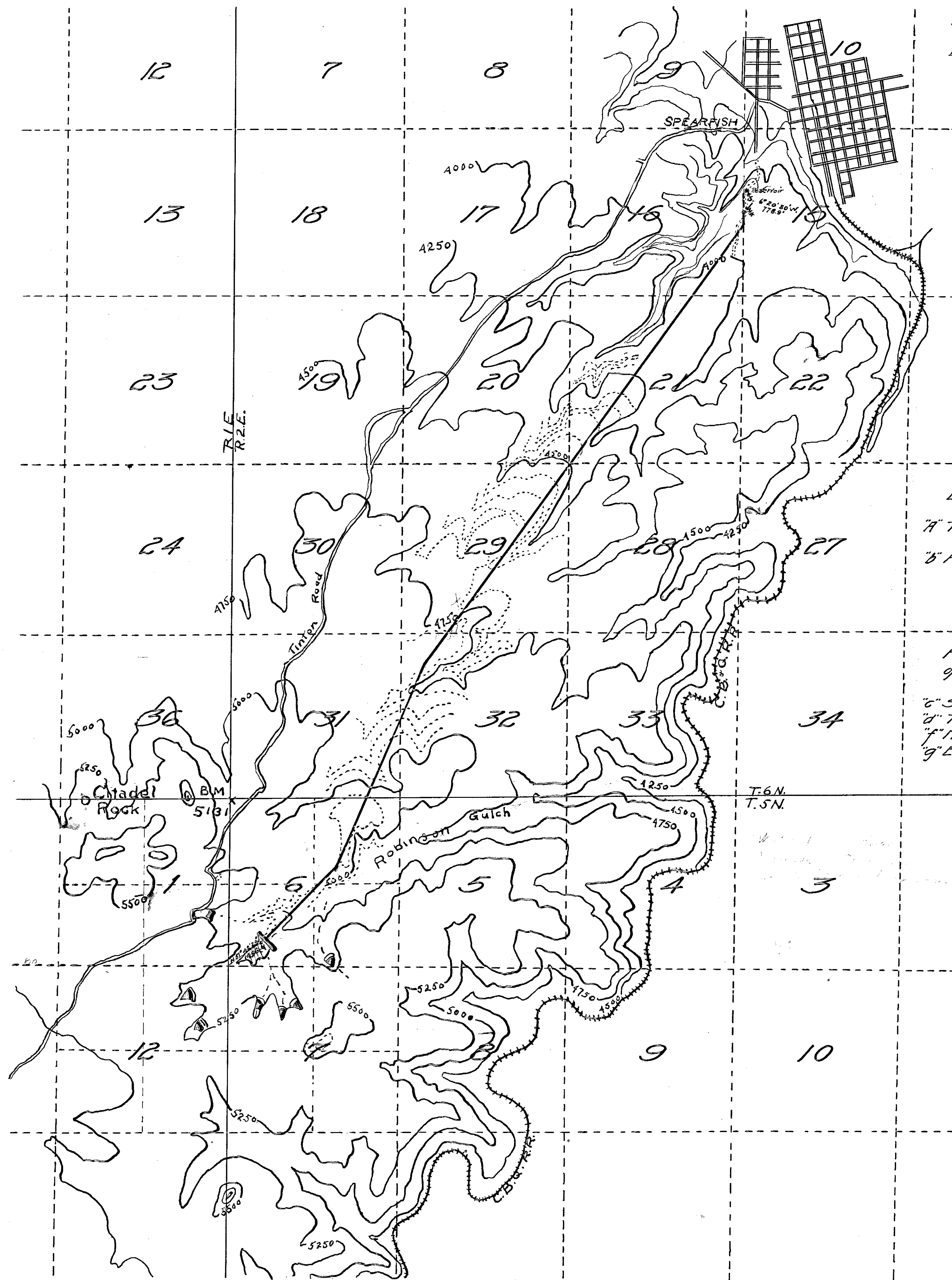
Signed E. H. Warren

Subscribed and sworn to before me this 7th day of November 1917.

(S E A L)

Blanche Colman.
Notary Public (or other qualified officer.)

MAP SHOWING PROPOSED PIPE LINE from SPRINGS IN ROBINSON GULCH to SPEARFISH WATER WORKS



TIES TO SECTION CORNERS AND TRAVERSE ALONG PIPE LINE FOR PROPOSED SUPPLY FOR SPEARFISH WATER WORKS.

"a" Title: Spearfish Water Works.

	COURSE	DIST.
"b" From S.W. Cor. Sec. 6, T.51N, R.2E to Headgate for Pipe Line	N. 51° 48' 24" E	1436.60
To angle in pipe line	N. 44° 26' E	3206.70
" " " " "	N. 23° 14' E	6867.60
" " " " "	N. 35° 15' E	16321.70
" " " " "	N. 0° 0' 0"	967.30
" " Inlet to Spearfish Reservoir	N. 43° 30' E	125.00
From Inlet to Spearfish Reservoir to 1/4 Cor. 11 of Sec. 19, T. 61N, R. 2E. B.M.	S. 6° 20' 30" W	778.20

"c" Springs at head of Robinson Gulch is the source.
 "d" Total length of ditch - 28,089.9 ft. or 5.32 Miles.
 "e" No lands irrigated, use for Municipal purposes.
 "f" Elevation of Headgate - 5050.0 ft.
 "g" Elevation of Spearfish Reservoir - 3850.0 ft.

STATE OF SOUTH DAKOTA } 55
 COUNTY OF LAWRENCE:

I, A.L. Coolidge, being duly sworn, upon oath say that I am the engineer of the City of Spearfish, who made this map showing location and course of Spearfish Water Works Project; that the point of diversion, as shown by courses and distances on said map, and the ties at location of the reservoir shown thereon, were made from actual survey from definite points actually measured by affiant; that the other courses and distances shown thereon were taken from United States government topographical map; that I have read the accompanying statement and know of my own knowledge that the statements therein made are true.

A.L. Coolidge
 Engineer.

Subscribed and sworn to before me this
 22nd day of December, 1917.
Blanchus Coleman
 Notary Public.

Approved Jan. 12, 1918,
Harmon M. Derry
 State Engineer.

NR # 138-1

Map # 156-1

Remarks by State Engineer:

STATE OF SOUTH DAKOTA
County of Hughes

Pier, e. South Dakota, January 12, 1918.

This is to certify that the foregoing application was received at this office at 9 o'clock
a.m. upon the 12th day of November 1917 and that after examination it
was found to comply with the provisions of the Irrigation Code of
South Dakota. Notice of intention to appropriate was published, proof of
publication was duly filed and a hearing was held in this office on
January 12, 1918.

Harry M. Derr

State Engineer.

Number of permit 128-1

Date of first receipt of application November 12, 1917.

Date of return to applicant for correction - - - - - 19

Date of receipt of corrected application - - - - - 19

Date from which applicant may claim right November 12, 1917.

Approved January 12, 1918. Recorded in Book 2 Pages 320 & 321

This is to certify that I have examined the foregoing application for a permit to appropriate water of
the state of South Dakota, and I hereby grant the same as stated herein, subject however, to the follow-
ing limitations and conditions.

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before
July 12, 1923.

2nd. The whole of said work is to be completed on or before January 12, 1923.

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is
January 12, 1923.

4th. The water appropriated shall be used for the purpose of supplying the inhabitants
of the City of Spearfish with water at any and all times.

5th. 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.

6th. The amount of the appropriation herein granted shall not exceed 0.5 cubic feet
of water per second of time; neither shall it exceed the capacity of the above described system of diversion
works, nor the least amount of water that experience may hereafter indicate as necessary for the produc-
tion of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not
more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to
which water is actually and beneficially applied for irrigation on or before 19; said water to be used during the following described annual periods.

Continuously.

Witness my hand this 12th day of January 1918.

Harry M. Derr

State Engineer.

CERT OF COMP. ISSUED 8-17-72
WATER LICENSE ISSUED 8-17-72

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA }
 County of Lawrence } ss
J. A. Stanley being duly
 sworn, deposes and says the annexed printed copy of Notice
 Intention to Appropriate Water was taken from the
Black Hills Herald, Call a newspaper which
 during the whole time of publication of said notice herein-
 after stated, has been and is printed and published in the
City of Lead County of
Lawrence and State of South Dakota,
 That the said notice was published in said newspaper on the
 following dates:
November 15th - Nov. 22nd - Nov 29th
December 6th - Dec. 13th - Dec. 20 - 1917
 in each and every issue of the full number thereof, the first
 publication being made on the 15th day of November
1917 and the last publication on the 20th day of
December 1917, upon which days or times
 of publication aforesaid the newspaper was regularly pub-
 lished, and that during the whole time of said publication
 he was the printer and publisher of
 the said newspaper.

Subscribed and sworn to before me this 9th day of January A. D. 1918

W. L. Beebe
 Notary Public Lawrence County, S. D.

(First Publication, Nov. 15, 1917.)
 Form 8—Notice of Intention to Appropriate Water No. 138—1
 APPROPRIATION OF WATER
 Office of the state engineer,
 Pierre, S. D., Nov. 13, 1917.

Notice is hereby given that city of Spearfish whose postoffice address is Spearfish, Lawrence county, S. D., has made an application in accordance with the provisions of the irrigation laws of South Dakota for a permit to appropriate for beneficial use 0.5 cubic feet of water per second of time from seven springs at head of Robinson Gulch thru the Spearfish water works the point of diversion of which is to be located in S. W. 1-4 of section 6 township 5 north, range 2 East, said water to be used for municipal purposes.

This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the 12th day of January, 1918 at 9 a. m., at which time all persons who believe that the prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare, and also parties making the application, and to be benefited, are notified to be present either by sworn affidavit or in person for the purpose of presenting any relative testimony.

HOMER M. DERR,
 State Engineer.
 Last Published Dec. 20.

(First Publication 1917)

APPROPRIATION OF WATER.

Office of the State Engineer,

Pierre, S. D., Nov. 13, 1917

Notice is hereby given that City of Spearfish
 whose postoffice address is Spearfish, Lawrence County,
 S. D., has made an application in accordance with the provisions of the
 irrigation laws of South Dakota for a permit to appropriate for beneficial
 use 0.5 cubic feet of water per second of time from seven springs
at head of Robinson Catch through the Spearfish Water Works
 the point of diversion of which is to be located near the
~~XXXXXX~~ XXXXXX in the SW 1 of section
6 township 5 North range 2 East, said water
 to be used for ~~the purposes of~~ Municipal purposes
~~XXXXXX~~

This application will be taken up by the state engineer at his office
 at Pierre for consideration and appropriate action upon the 15th
 day of January, 1918 at 9 a. m., at which time all persons
 who believe that the prior rights would be injuriously affected, or that
 the allowance of the permit would be detrimental to the public welfare,
 and also parties making the application, and to be benefited, are notified
 to be present either by sworn affidavit or in person for the purpose of
 presenting any relative testimony.

State Engineer.

See page 220, 221

WATER LICENSE NO. 138-1.

(1) WHEREAS, On the 12th day of November A. D. 19 17
the City of Spearfish

made Water Right Application No. 138-1 for a permit to use .5 cubic feet per second of the waters of Seven springs at the head of Robinson Gulch

County of Lawrence State of South Dakota, for municipal

purposes; and

(2) WHEREAS, On the 12th day of January A. D. 19 23

Permit No. 138-1, with a date of priority of November 13, 1917

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 12th day of January A. D. 19 23 and for the application to beneficial use of said water on or before the 12th day of January A. D. 19 25

and whereas on the 20th day of July, 1972, affidavits were received verifying the completion of works and beneficial use of water prior to the above date and beneficial use has continued since such date, with the data contained in the affidavit verified at the site,

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 .5 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 is used for municipal purposes by the City of Spearfish

(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 the City of Spearfish

~~xxx~~
the holder _____ and owner _____ of said permit No. 138-1 a water right, dating from November 12, 1917
to use of .5 cubic feet per second of the waters of Seven Springs at the head of Robinson Gulch
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 a point 820' South and 360' West of the NE Corner, Section 33, T6N, R2E, which is a common diversion point for Permits No. 141-1 and No. 148-1

and ~~xxxxxxx~~ conducted through the City water distribution system

for the purpose of municipal use

Subject to any limitations listed in Water Right Permit No. 138-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 17th day of August A. D.
Nineteen Hundred and Seventy-two

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer J.W. GRINES

Form 15.

Permit No. 138-1

Water Diversion No. 1 BELLE FOURCHE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That the City of Spearfish

the holder of
Permit No. 138-1, issued upon Application No. 136-1, hearing date of priority of November 12,
1917 authorizing the diversion of .5 cu. ft. per second of the waters of seven
springs at Head of Robinson Gulch County of Lawrence, State of South Dakota at a point 820' South and 360' West of the NE Corner, Section 33, T6N, R2E, which
is a common diversion point for Permits No. 141-1 and No. 148-1
, for municipal

purposes, has 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 ^{verified as} ~~found to be~~ satisfactory
condition for diverting and conveying to the place of intended use 1.5 cu. ft. per second of water.
XXXXXX

Date August 17, 1972

WATER RESOURCES COMMISSION

By:

B.W. GRIMES, Executive Officer

No. 138-1

NOTE: This Form is supplemental to Form 2, and is to be used when an affidavit pertaining to construction and water use, already completed, is needed.

**AFFIDAVIT OF CONSTRUCTION OF WATER USE
SYSTEM AND APPLICATION OF WATER TO BENEFICIAL USE**

Name of Applicant (Same as Form 2) CITY OF SPEARFISHPost Office Address _____, State S. DAK

If a Corporation show date and place of incorporation _____

13. Notice of Appropriation (If available)

Date of Posting NOV 12, 1917 Date of Recording JANUARY 12, 1918

Recording Data _____

14. Date of start of construction of water supply system 191715. Date that water was first applied to beneficial use 1917

16. Name of owner of original water supply system _____

17. Amount of water originally applied to beneficial use .5 c. f. s.

18. Present Use of Water

Amount of water now being used .5 c. f. s.Date that this amount of water was first used 1917

19. Chronological History of Water Use

ORIGINALLY A PIPELINE FROM SPRINGS TO CITY.
WATER IS NOW PICKED UP AT DIVERSION FROM
SPEARFISH CREEK AS SHOWN ON PERMIT NO 148-1

Attach to this Form 2B, any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

STATE OF SOUTH DAKOTA)

County of LAWRENCE) ss.

I, R. EARL SCHULTE, the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed

R. Earl SchulteSubscribed and sworn to before me this 20th day of JULY, 1917

Don. Harrington
(Notary Public - or other qualified Officer)

I, the undersigned, do hereby certify that I know about the water use system described above that I have read the foregoing and that the matters therein stated are true.

Permit No. 138-1
 Water 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 THE CITY OF SPEARFISH holder _____
 of Permit No. 138-1, bearing date of priority of NOVEMBER 12, 1917,
 authorizing the diversion of .5 cu. ft. per second of the waters of SPRINGS
 for MUNICIPAL 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:

WATER FROM THE 7 SPRINGS
 LOCATED AT THE HEAD OF
 ROBINSON GULCH ~~AND~~ IS
 ALLOWED TO FLOW TO SPEARFISH
 CREEK, AND IS TRANSMITTED
 TO THE CITY THROUGH THE
 PIPELINE CONSTRUCTED

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

UNDER PERMIT NO 148-1.
 LAND CONTAINING THE SPRINGS
 IS OWNED BY THE FOREST SERVICE.
 SPEARFISH HAS PERMIT FROM THEM.

C. Works used to apply water to beneficial use

The system is in the following condition: GOOD PERMIT 12
 The point of diversion is located SAME AS FOR 148-1

The works are capable of diverting and conveying to the place of use .5
 cu. ft. per second of water which is to be used for MUNICIPAL USE

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

comprising a total of _____ acres of land.

Date MAY 10, 1972
[Signature]
 (Signature)
 WATER RIGHT SPECIALIST
 WATER RESOURCES COMMISSION



DEPARTMENT OF WATER & NATURAL RESOURCES
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

138-1

May 6, 1991

TO: Spearfish Creek Water Right Owners
(See Attached List With Priority Dates)

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

SUBJECT: Diversions from Spearfish Creek

If drought conditions continue in the Black Hills area during 1991, we expect another irrigation season with very low flows in Spearfish Creek. As I understand it, during the 1990 irrigation season, there were short periods of time when there were no flows in Spearfish Creek at different locations.

I believe that a short reach of the creek channel below Cook Ditch's diversion received the most attention from the news media. Although state law does not require instream flows for fish and wildlife and aesthetic purposes, state law does give preference to water for domestic use which includes livestock watering.

We would like to work with you to maintain minimum flows in the creek for domestic use during 1991. Maintenance of minimum flows should reduce news media attention to Spearfish Creek.

If you have any questions, please contact Del Brosz or Rassool Ahadi, Division of Water Rights, 523 E. Capitol, Pierre, SD 57501. Phone: (605) 773-3352

cc: Representative Harvey Krautschun

SPEARFISH CREEK WATER RIGHTS

PERMIT NO.	NAME	PRIORITY DATE	RATE (CFS)
*43-1	Homestake Mining Co	01/04/1909	100.00
138-1	City of Spearfish	11/12/1917	0.50
141-1	City of Spearfish	03/01/1919	2.10
148-1	City of Spearfish	01/27/1930	1.50
150-1	City of Spearfish	01/27/1930	1.00
+1041-1	US Bur Sport & Fish	02/19/1937	6.66
X1385-1	Homestake Mining Co	10/01/1876	1.67
1386-1	Walton-Schuler Ditch	03/20/1887	8.50
1387-1	Tonn-Evans Ditch	05/01/1876	14.40
1388-1	Bowman Ditch	06/11/1877	8.0
1389-1	Cook Ditch	06/10/1877	21.60
1392-1	Mann Ditch	03/21/1878	1.45
1394-1	Kemper Ditch	07/31/1881	33.00
1399-1	Cook-Burns Ditch	06/15/1881	33.0
1400-1	Owens-Gay Ditch	03/01/1877	1.74
1403-1	Ramsdell Ditch	10/01/1876	2.00
1416-1	Richard Cundy	04/01/1920	0.20

* - Power Generation, non-consumptive

+ - Fish Hatcher in City of Spearfish

X - For municipal use, City of Spearfish



CITY OF SPEARFISH

722 MAIN STREET, SPEARFISH, SOUTH DAKOTA 57783

November 19, 1991



John Hatch
Division of Water Rights
Dept. of Environment & Natural Resources
Foss Building
Pierre, SD 57501

Re: Water Right #'s 141-1 (1.1cfs); 149-1 (.44cfs); 138-1
(.5 cfs); 148-1 (1.5 cfs); 150-1 (1.0 cfs)

Dear Mr. Hatch:

Approximately a month ago I visited with you about a proposal dealing with the above referenced water rights.

It is our understanding that the above public water system must be filtered by a treatment technique by June 29, 1993. It has been estimated by engineers in our Water Facilities Plan Update that we could spend upwards to \$2.4 million for a Water Treatment Plant.

As per our discussion, I indicated a desire to continue the diversion as operating today and instead of accepting this water into our Municipal System let it flow back into Spearfish Creek near the Homestake Hydro Plant No. 1. In addition to this, we would like to withdraw approximately 2/3 of this water back out of the creek to irrigate some 84 acres of City Parks.

If we would abandon these water right's present diversion, the water disappears into the ground and never reaches the City. We feel the additional flow provided at the Hydro No. 1 would benefit in-stream flows as well as bolster existing agricultural rights down stream. We would only be withdrawing as the parks need water.

Possibly a solution would be to allow the City to discharge the full above referenced amount into Spearfish Creek near Homestake Hydro #1, allow the City approximately six new points of diversion to allow us to irrigate our parks and cemetery, and to reserve a future use permit for the City in the event we should ever experience a failure of the Madison Aquifer.



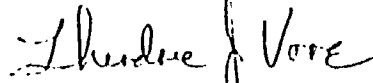
PUBLIC WORKS, 612 8271 • PLANNING & ZONING, 612 8377 • LIBRARY, 612-4615
WASTE WATER TREATMENT PLANT, 612 5761 • FINANCE OFFICE, 612 7775 • POLICE DEPT., 612 2755

John Hatch
November 8, 1991
Page 2

The \$2.4 million plant is not out of the question, however, we are quite concerned about the potential threat to our water system paralleling a major scenic highway, and its proximity to existing cyanide treated gold extraction operations.

Please give this some sincere thought and advise us as to your thoughts and recommendations.

Respectfully Requested,

A handwritten signature in dark ink, appearing to read "Theodore J. Vore". The signature is fluid and cursive, with the first name "Theodore" being more prominent and the last name "Vore" following it.

Theodore J. Vore
Public Works Administrator
CITY OF SPEARFISH

TJV/bsk



138-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

December 18, 1991

Theodore J Vore, Public Works Administrator
City of Spearfish
722 Main Street
Spearfish SD 57783

Dear Mr. Vore:

I am writing in response to your letter dated November 19, 1991, regarding the City's surface water rights. The city may apply for additional diversion points and to change the use from municipal to irrigation without loss of priority, if other water rights are not adversely affected.

One of the following options may assist the city in retaining the portion of the surface water rights not being used for irrigation:

- 1) The city may retain a permitted water source by maintaining diversion works for either fire protection or standby purposes, or both. Water diversion works would need to be kept in working condition for immediate use upon demand; however, no water may be diverted until a demand arises. Therefore, this may not be a viable alternative, since the city wants to continue using the diversion works to discharge the water near Hydro Plant No. 1.
- 2) The city may apply to change the water use to a primary and secondary water use. The primary use would be municipal and the secondary use could be a recreational instream flow. This application should stress that the instream flow use is secondary and is subject to the primary municipal use. This prioritizing of uses may prevent disputes in the future, if the secondary water use was reduced or stopped to allow the primary use to occur. Water could continue to be discharged near Hydro Plant No. 1 with the instream flow area located immediately downstream. Works to divert water for municipal purposes would need to be maintained in a standby condition.
- 3) Another option is for the city to lease the unused water to a second party. This type of application would need to be reviewed on a case by case basis to determine if approval could be recommended.

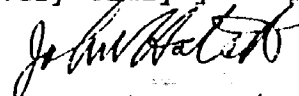
December 18, 1991
Theodore J Vore
Page 2 of 2

I do not believe obtaining a future use permit is an option. There is no provision in statute allowing an existing water use to be placed into future use. Unappropriated water must be available for a future use permit to be approved and a new priority date is assigned.

The surface water rights will be subject to cancellation due to either forfeiture or abandonment, or both, unless the city takes action to retain the water rights. All, or any part of the water rights, would be subject to forfeiture after three years of nonuse, unless legal excuse exists for not using the water.

We will be glad to discuss the above options or any other ideas the city may have.

Very truly yours,



John Hatch, Chief Engineer
Water Rights Division
605 773-3352

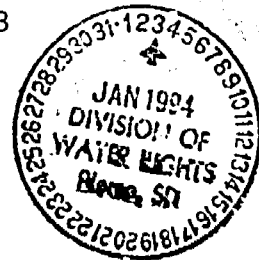
138-1



CITY OF SPEARFISH

722 MAIN STREET, SPEARFISH, SOUTH DAKOTA 57783

December 29, 1993



John Hatch
Division of Water Rights
Dept. of Env. & Natural Resources
Foss Building
Pierre, SD 57501

Re: Water Right #'s; 141-1 (1.1 cfs); 149-1 (0.44 cfs); 138-1 (0.5 cfs);
148-1 (1.5 cfs); 150-1 (1.0 cfs)

Dear Mr. Hatch:

As a follow-up and an attempt to finalize the City's desires as indicated in my letter to you dated November 19, 1991, we offer the following explanation of anticipated operation.

The City has constructed a 10" pipe line allowing the flows from the above referenced water rights to enter Spearfish Creek just downstream from Hydro #1.

Prior to any of this water entering Spearfish Creek near the Hydro #1, a portion is diverted to irrigate the front nine holes of the Spearfish Canyon Country Club (approximately 40 acres), the City Cemetery (approximately 30 acres), the City Campground (approximately 11 acres), and the main City Park (approximately 14 acres).

Waters discharged into Spearfish Creek below Hydro #1 are then withdrawn to irrigate Brady Park (approximately 2 acres), Salem Park (approximately .1 acre), Lookout Park (approximately 1 acre), Jorgensen Park (approximately 11 acres), and Evans Park (approximately 3 acres).

All of these parks have been previously irrigated by the referenced Water Rights, however, the Spearfish Creek is now requested to be used as a means of conveyance to the diversion points for Brady, Salem, Lookout, Jorgensen, and Evans Parks. This request is made to the State Water Rights Division in lieu of the City constructing a non-potable irrigation line between the above identified parks.

Also the City is delivering approximately 2.6 cfs through the pipeline, which if it were not for the pipeline that water would be lost to sinks. Can the City negotiate with other parties in the sale of this excess water?



PUBLIC WORKS, 642-8271 • PLANNING & ZONING, 642-8277 • LIBRARY, 642-4645
WASTE WATER TREATMENT PLANT, 642-5764 • FINANCE OFFICE, 642-7775 • POLICE DEPT., 642-2755

PAY 010 2010

John Hatch
December 29, 1993
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Please advise us as to any changes or further requests the City of Spearfish should make to secure our above referenced Water Rights.

Sincerely,

A handwritten signature in cursive script that reads "Theodore J. Vore". The signature is written in dark ink and is positioned above the printed name.

Theodore J. Vore
Public Works Administrator
CITY OF SPEARFISH

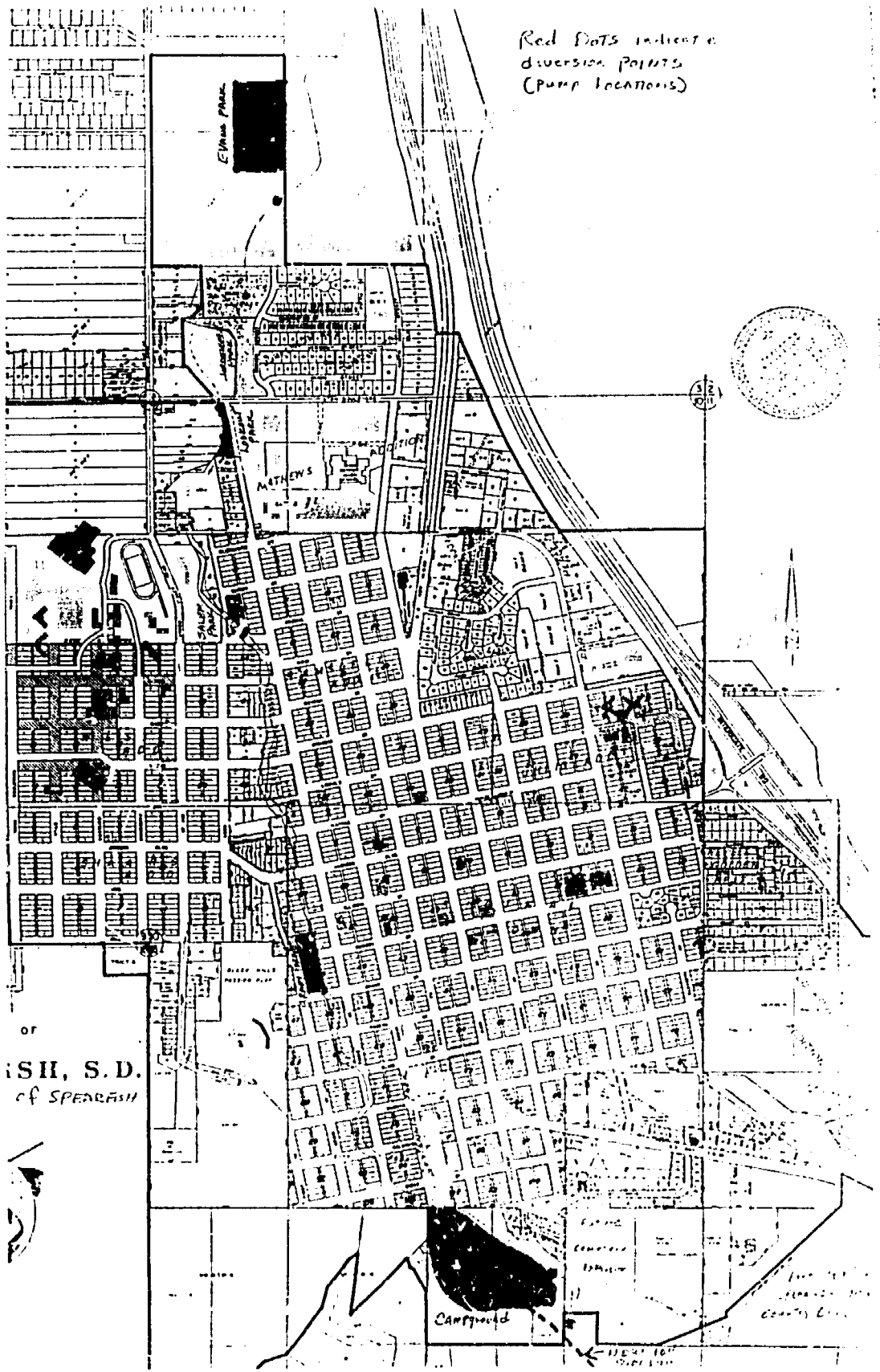
TJV/bsk

RESULTS AND DISCUSSION

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סמל וסיומנים

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DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERCE SOUTH DAKOTA 57501-3181

January 31, 1994

Theodore J. Vore
Public Works Administrator
City of Spearfish
722 Main Street
Spearfish, SD 57783

Dear Mr. Vore:

I am writing in response to your letter of December 29, 1993. Of the Water Right Numbers that you listed, only Nos. 138-1, 141-1, and 148-1 are valid water rights. Water Right No. 149-1 was canceled by the Water Management Board on May 6, 1992 and Water Right No. 150-1 was canceled on September 1, 1993. The three valid water rights authorize the diversion of 3.1 cubic feet of water per second (cfs).

If the city is planning to use the water only for irrigation, a permit application must be filed to change the water use from municipal use to irrigation. According to your letter, the city is irrigating 113 acres. If the city wishes to continue to move water past the sink holes that is not being used for irrigation, it should be identified as a secondary use for instream flow on the application.

If the city is diverting more than the 3.1 cfs authorized by the three water rights, the additional diversion rate must be identified as a new diversion rate on the application. I assume this additional diversion would also be a secondary use for instream flow.

If the application for change of use to irrigation and instream flow is approved and the city would want to increase the number of acres irrigated by using some of the water that had been designated as secondary use for instream flow, an application would need to be filed to make this change.

An application would need to be filed requesting approval to sell or lease the secondary use water. As stated in my letter of December 18, 1991, this type of application would need to be

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Theodore J Vore
January 31, 1994
Page 2

reviewed on a case by case basis to determine if approval could be recommended.

Enclosed are application forms for the change of use to irrigation and instream flow. If you have any additional questions, please contact us.

Very truly yours,


John Hatch, Chief Engineer
Division of Water Rights
(805) 773-3352

enclosures