

Considered: _____

Vested Right Claim
WATER PERMIT NO. 1387-1

MAP No. same

Name of Applicant Tonn - Evans Ditch c/o Gary Hunt

Post Office Address Liberty Lane, Box #6, Spearfish SD 57783

Amount of Water Claimed 14.4 cfs Total Acres 548.7

Source of Water Supply Spearfish Creek

Water to be used for irrigation County Lawrence

About 1 miles N of Spearfish.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY _____ Date Received December 22, 1986 Fee \$15.00 Remarks _____

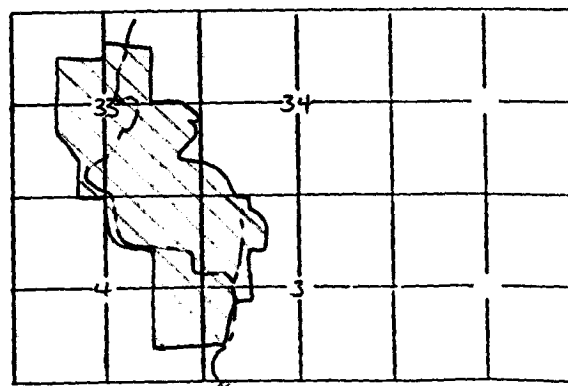
Corrected Application Received _____ Period of Annual Use May 1 - Oct 31

WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point Spearfish Creek: NW $\frac{1}{4}$ NW $\frac{1}{4}$
section 10-T6N-R2E

Land to be Irrigated NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ section 3; E $\frac{1}{2}$ SE $\frac{1}{4}$,
all in T6N-R2E;
NE $\frac{1}{4}$ section 4; $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ section 33;
W $\frac{1}{2}$ SW $\frac{1}{4}$ section 34; all in T7N-R2E



Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map aerial photo PREPARED BY Rasool Ahadi Reviewed and the Number
assigned on June 22, 1987 By Ron Durrell

No. 1387-1 Hydrologic Unit 10120203
 Map No. same Basin Belle Fourche R
 Newspaper Queen City Mail, Box 7, Spearfish (Wood)
Belle Fourche Daily Post, 1004 5th Ave

Application For Permit To Appropriate Water Within The State Of South Dakota

Type of Application: Check one or more of the following:

New ☐ Vested Right ☒ Future Use ☐☐ Application to amend Permit No. _____ with old priority date retained☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)☐ Add Acreage ☐ Increase diversion rate ☐ Other _____ See Permit No. _____☐ Application to: ☐ Use ☐ Transfer water reserved by Future Use Permit No. _____1. Name of Applicant Tonn-Evans Ditch/Gary Hunt Phone No. 642-7122Post Office Address Liberty Lane, Box #6, Spearfish, South Dakota State 57783
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s) 14.4 Total acres irrigated 548.73. Source of Water supply Spearfish Creek4. Location of point of diversion Approximately 650 ft. E, 50 ft. S of NW Corner of Section 10,
T6N-R2ECounty Lawrence5. Counties where water will be used Lawrence6. Annual period during which water is to be used May 1 thru October 31

7. 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.
SEE ATTACHED SHEET	

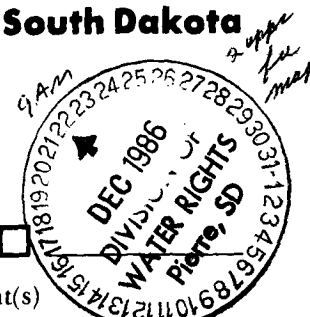
Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

This application is to file a vested right claim pursuant to SDCL 46-5-49

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA)
County of Lawrence)^{ss}I, Gary R Hunt the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed Gary R HuntSubscribed and sworn to before me this 19 day of Dec 1986William R. [Signature]
Notary Public (or other qualified officer)

NOT TO SCALE

NOT TO SCALE



Ditch
Land boundary
Rasool Ahadi
WNR Engineer



V.R. Appl No. 1387-1

WATER PERMIT

The Water Management Board hereby approves Water Permit Application No. _____

(Applicant)

(Post Office Address)

(State)

(Zip Code)

With the following qualifications.

Date of first receipt of application _____, 19____.

Date of return to applicant for correction, amendments or changes required _____, 19____.

Date of receipt of corrected application _____, 19____. Approved _____, 19____.

The Water Management Board hereby approves this Water Permit No. _____ authorizing the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Water Permit approval, subject, however, to the following limitations and conditions:

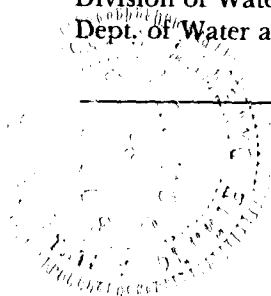
1. The date from which applicant may claim right is _____, 19____.
2. One-fifth of the work is to be completed on or before _____, 19____.
3. The whole of said work is to be completed on or before _____, 19____.
4. The time limit for proof of beneficial use of water is _____, 19____.
5. The water appropriated shall be used for the purpose of _____.
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 unlawfully impaired by this appropriation.
7. The amount of the appropriation herein granted shall not exceed _____ 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 beneficial uses served. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and 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 period: _____.

WATER MANAGEMENT BOARD

By: _____
Chief Engineer

Division of Water Rights
Dept. of Water and Natural Resources

_____, 19____



TONN-EVANS DITCH

Section 3, T6N-R2E

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 Acres
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 Acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 10.0 Acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 2.5 Acres

Subtotal 92.5 Acres

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 29.7 Acres
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 5.0 Acres

Subtotal 34.7 Acres

Section 4, T6N-R2E

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 Acres
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 5.2 Acres

Subtotal 45.2 Acres

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 Acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 Acres
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 3.4 Acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 39.4 Acres

Subtotal 122.8 Acres

Section 33, T7N-R2E

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 Acres
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 31.4 Acres
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 27.0 Acres
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 37.3 Acres

Subtotal 135.7 Acres

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 Acres
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 14.0 Acres

Subtotal 54.0 Acres

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 33.8 Acres
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 17.3 Acres

Subtotal 51.1 Acres

Section 34, T7N-R2E

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 11.4 Acres
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.3 Acres

Subtotal 12.7 Acres

TOTAL ACRES FOR TONN-EVANS DITCH 548.7 ACRES

VESTED WATER RIGHT

The Water Management Board hereby validates Vested Water Right No. 1387-1

Tonn - Evans Ditch Liberty Lane, Box 6, Spearfish
(applicant) (post office address)

SD 57783
(state) (zip code)

Date of receipt of Application December 22, 1986.

Validated December 2, 1987.

The Water Management Board hereby validates the construction of the water use system and the placing of water to beneficial use as stated in the Application and as qualified in the Vested Water Right, subject, however, to the following limitations and conditions:

1. The date from which the applicant may claim right is May 1, 1876.
2. The whole of said work has been completed and water has been applied to beneficial use as described on Form 2B of this application.
3. The water appropriated is used for the purpose of irrigation.
4. The prior rights 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 unlawfully impaired by this appropriation.
5. The amount of the appropriation hereby validated shall not exceed _____

14.4 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 beneficial uses served. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and 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 has been actually and beneficially applied for irrigation. The water is to be used during the following described annual period May 1 - Oct 31.

Vested Water Right No. 1387-1 was validated subject to the qualifications in Attachment A.

WATER MANAGEMENT BOARD

By: John H. Hatt
(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

APR 29 1988

, 19__.

ATTACHMENT A
VESTED WATER RIGHT NO. 1387-1

1. That Vested Water Right No. 1387-1 is subject to domestic use rights. Diversion of water under Water Right No. 1387-1 is contingent upon supplies being available first to domestic users.
2. That a flow measuring device be installed at or near the point of diversion for Tonn-Evans Ditch within one year of validation of Vested Water Right No. 1387-1. The measuring device shall be permanently installed. The design shall be approved prior to construction, by the Chief Engineer.

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1387-1 FOR IRRIGATION

(1) Tonn-Evans Ditch, c/o Gary Hunt
of Liberty Lane, Box 6, Spearfish, South Dakota 57783
made Application No. 1387-1, December 22, 1986
for validation of a vested right claim to appropriate 14.4
cubic feet of water per second from Spearfish Creek,
Lawrence County, South Dakota for irrigation purposes.
Vested Water Right No. 1387-1 was validated December 2, 1987
with a priority date of May 1, 1876. Construction of the
described water supply system and application of water to
beneficial use has been completed and complies with applicable
provisions of South Dakota State Law.

(2) The applicant is entitled to divert 14.4 cubic
feet of water per second for beneficial use. The location of the
diversion point(s) is: approximately 650 feet East and 50 feet South
of the NW Corner of Section 10, T6N, R2E.

The location of the irrigated acreage is:

Section 3, T6N-R2E	Section 33, T7N-R2E
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 Acres	NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 Acres
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 Acres	SW $\frac{1}{4}$ SE $\frac{1}{4}$ 31.4 Acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 10.0 Acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$ 27.0 Acres
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 2.5 Acres	NE $\frac{1}{4}$ SE $\frac{1}{4}$ 37.3 Acres ✓
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 29.7 Acres	SW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 Acres
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 5.0 Acres	NW $\frac{1}{4}$ NE $\frac{1}{4}$ 14.0 Acres
Section 4, T6N-R2E	NE $\frac{1}{4}$ SW $\frac{1}{4}$ 33.8 Acres
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 Acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$ 17.3 Acres
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 5.2 Acres	Section 34, T7N-R2E
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 Acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$ 11.4 Acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 Acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.3 Acres
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 3.4 Acres	TOTAL 548.7 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 39.4 Acres	

(3) Pursuant to Section 46-5-30.1 Tonn-Evans Ditch, c/o Gary Hunt
of Liberty Lane, Box 6, Spearfish, South Dakota 57783
the holder(s) and/or owner(s) of Vested Water Right No. 1387-1
is issued a license to appropriate 14.4 cubic feet of
water per second from Spearfish Creek with a
priority date of May 1, 1876 from the location specified in
(2) of this license. The water is to be used for the purpose of
irrigation. This license is subject to any limitations,
conditions or qualifications listed in Vested Water Right No.
1387-1 and subject to South Dakota State Law.

John Hatch

JOHN HATCH, Chief Engineer
Water Rights Division
Department of Water and Natural
Resources

APR 29 1988

Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

**Affidavit Of Construction Of Water Use System
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) Tonn-Evans Ditch/Gary Hunt
 Post Office Address Liberty Lane, Box #6, Spearfish, South Dakota 57783
(Street, RR or Box) (State) (Zip Code)
A. Notice of Appropriation N/A Date of Posting N/A
 Date of recording N/A Recording date Court Case Cook vs Evans
Where Book Page
B. Date of start of construction of water supply system May 1876C. Date that water was first applied to beneficial use May 1876D. Name of owner of original water supply system N/AE. Amount of water originally applied to beneficial use 576.5 miners inchesF. Present Use of Water - Amount of water now being used 576.5 miners inches - irrigationDate that this water was first used May 1876

G. Chronological History of Water Use

The allotted water has been used every year since May 1876. There has been no period during this time that the ditch has not been used annually.

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, Gary R Hunt the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed Gary R HuntSubscribed and sworn to before me Dec. 19, 1986
[Signature]
 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.

(Print name) 19_________
(Print name) 19____

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410661

Pierre, December 23, 1936, 19

#6

RECEIVED OF Tonn-Evans Ditch/Gary Hunt, Liberty Lane, Spearfish, SD 57783

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

Fee for Application for Permit No. <u>1387-1</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	00	VB
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. _____			
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	15	00

By John Hatch
Chief Engineer JOHN HATCH ms

Parshall Flume:

$$H_a = 3 \text{ ft.}$$

Flume Capacity

$$W = 3 \text{ ft.}$$

$$Q = 67 \text{ CFS}$$

$$Q = 1.5222 W^{0.026} H_a$$

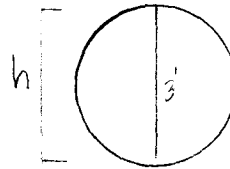
Gate Capacity

$$Q = 67 \text{ CFS}$$

$$Q = 61 \text{ CFS}$$

Headgate:

Assuming 3 ft.



$$Q = C_d A \sqrt{2gh}$$

$$A = 7.0686 \text{ ft}^2$$

$$C_d = .62, \text{ Table 3.4, Orifice Coefficients for Water}$$

$$Q = 60.9 \text{ CFS}$$

Civil Eng. Review Manual, 3rd Edition

December 14, 1961

Mr. John Ward, President
Tonn and Evans Ditch
RFD 1
Spearfish, S. Dak.

Re: Tonn and Evans Ditch

Dear Mr. Ward:

The State Water Resources Commission has been making a study of water use pertaining to the surface flows of Redwater River and its tributaries in South Dakota.

When water rights are involved in Court action, as was the Tonn and Evans Ditch water right, the final ruling of the Court interprets, determines and establishes your water right to the extent specified by the Court.

In the Cook v. Evans Court case, the Tonn and Evans water right and a number of other water rights along Spearfish Creek were adjudicated. In this action the Court specified the priority date of each water right involved and also specified the amount of water that each water right was entitled to use.

The Court specified that the Tonn and Evans water right was first in priority of those water rights adjudicated, with a priority date of May, 1876, and was entitled to use not exceeding 576 1/2 miner's inches of water through the Tonn and Evans Ditch.

The Court further specified that an additional 45.8 acres of land on the "Biedrich Ranch" was to receive not to exceed 46 miner's inches under the Tonn and Evans water right priority but delivery was to be through the Cook Ditch.

A letter dated January 16, 1961 was sent to you enclosing a map showing fields reported to be irrigated and the acreages of these fields. With your help these

Mr. John Ward

December 14, 1961

fields and acreages have been revised. Enclosed, for your information, is a copy of the revised map and the revised list of owners and acreages.

This letter is sent to you to keep you informed of the work of the Water Resources Commission as it might pertain to your water right. If you have additional information or corrections, we would appreciate being so informed.

Sincerely,

J. W. GRIMES
Executive Officer and
Chief Engineer

Encls: Map and List

CC: Raymond Running
Spearfish, S. Dak.

DIVERSION DITCH SERVICE

NAME OF THE DITCH: *Town of ...*

ADDRESS: *...*

DIVERSION POINT: $\frac{1}{4}$ $\frac{1}{4}$ SEC. T N-R E; SOURCE:

MAXIMUM DIVERSION RATE: *A.C.F.S. 376 + 40 ...*

ACREAGE SERVED: *625* ACRES

LANDOWNER'S NAME	LOCATION OF LAND BEING IRRIG. BY THIS DITCH	ACREAGE	COMMENTS
<i>...</i>		<i>376</i>	<i>...</i>
<i>...</i>		<i>246</i>	<i>...</i>

WATER RIGHTS DIVISION

(605) 773-3352

June 18, 1982

Elmer Shields
Plant Engineer
Homestake Mine
Box 875
Lead, South Dakota 57754

Dear Mr. Shields:

Enclosed find a map of lands that we spoke about on June 17, 1982. I have colored the lands according to the ditch they are listed under as follows:

Red - land listed under Tonn and Evans Ditch
Green - land listed under Ramsde Ditch
Blue - land listed under Walton Ditch
Yellow - land listed under Owens-Gay Ditch

As I explained we would like to know if these lands are currently owned by Homestake and also if the acreage listed is correct. Please include any corrections in your reply. If you have any questions please contact me.

Thank you

Kevin C. Larson
Water Resources Engineer

KCL:ms
Enc.

WATER RIGHTS DIVISION
(605) 773-3352

November 12, 1986

Gary Hunt
Liberty Lane, Box 6
Spearfish, South Dakota 57783

RE: Return of your check:

Dear Gary,

Per our telephone conversation of last week, enclosed you will find the check for the amount of \$15.00 you sent us with the ditch information form.

The check should be sent to the Division whenever you apply for your vested right license.

Based on the information you sent, I will complete required forms to license your vested right and send them to you at a later date.

If you have any questions, please contact me.

Sincerely,

RA

Rassool Ahadi
Natural Resources Engineer

RA:ms
Enc.



Department of Water & Natural Resources

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

July 1, 1987

Tonn-Evans Ditch
c/o Gary Hunt
Liberty Lane, Box 6
Spearfish SD 57783

Dear Mr. Hunt:

This letter is to inform you that the vested right claim for Tonn-Evans Ditch has been reviewed. A report on the investigation of the vested right claim is being prepared. When the report is finalized your application will be complete pursuant to SDCL 46-2A-2. A recommendation will then be prepared and notice of hearing will be given stating the time and place the Water Management Board will consider the vested right claim. Tentatively, the hearing is to be scheduled for December 2 and 3, 1987 in the Black Hills area.

Please contact us if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Ron Duvall". The signature is written in dark ink and is positioned below the word "Sincerely,".

RON DUVAL
Water Resources Engineer
605 773-3352

Report on the Tonn-Evans Ditch (Spearfish Creek)
Vested Water Right Application No. 1387-1
September 14, 1987

Background

Pursuant to SDCL 46-5-49 and ARSD 74:02:01:20, Tonn-Evans Ditch has filed an application to validate a vested right claim. The application claims 14.4 cfs of Spearfish Creek water to irrigate 548.7 acres of land located in Sections 3, 4, T6N-R2E, and Sections 33, 34, T7N-R2E in Lawrence County. The diversion point is located in the NW1/4 NW1/4 Section 10, T6N-R2E.

Document Search

In the Cook vs Evans Court Case, dated January 30, 1918, the Tonn-Evans Water Right and a number of other water rights along Spearfish Creek were adjudicated. In this action, the court specified that the Tonn-Evans Water Right was first in priority of those adjudicated, with a priority date of May 1876, and was entitled to the use of 576.5 miner's inches of water. The court also specified that 40 miner's inches equal one cubic foot per second(cfs).

Discussion

The Water Resources Commission investigated the irrigation from Tonn-Evans Ditch in the early 1960's. At that time, 499.1 acres were mapped as being irrigated from the ditch. This acreage was changed to 549.1 acres after receiving comments and legal descriptions for land from the ditch company members concerning areas which should have been included on the map.

Recent investigations by Water Rights Division engineers have found that 548.7 acres of land are being irrigated from the Tonn-Evans Ditch. The acreage covered by this vested right includes houses, buildings, and roadways. The Division of Water Rights did not attempt to separate the houses, buildings, and roadways out of the acreage served by the ditch because of the impracticality of determining the amount of water actually being used for lawn and garden watering within the developed areas. The Parshall Flume installed in the ditch has a capacity of 65 cfs. The headgate is capable of diverting more water than the amount claimed.

To determine the amount of water needed to irrigate 548.7 acres, two different methods were used:

- 1) State Law, SDCL 46-5-6 allows 1.0 cfs for each 70 acres of irrigation. If 1.0 cfs is necessary to irrigate 70 acres, 7.83 cfs of water will be used to irrigate 548.7 acres.

- Considering the efficiency of flood irrigation in the area, which according to SCS for this area is 50%, the total diversion rate required will be 15.6 cfs.
- 2) Using the SCS, S.D. Irrigation Guide, the peak consumption occurs in July. The crops in the area use 28.8% of their annual water consumption during the Month of July. Assuming the crops need 3 feet of water every irrigation season, a total of 1729.5 acre-feet of water is needed for the season, from which 474 acre-feet or 7.72 cfs will be used in the Month of July. Considering a 50% loss due to the system, the total diversion rate required will be 15.4 cfs.

Conclusions and Recommendations

- 1) The ditch and the gate are capable of carrying and diverting more water than the amount claimed.
- 2) Based upon the 1.0 cfs per 70 acres criteria plus a 50% loss calculation, the peak quantity of water necessary to irrigate the land under the Tonn-Evans Ditch would be 15.6 cfs. Comparing this to the SCS, South Dakota Irrigation Guide calculations, this quantity of water appears to be reasonable. However, since the applicant is limited to a diversion rate of 14.4 cfs as determined by the Cook vs Evans Court Case, the vested water claim should be validated for the diversion of 14.4 cfs.
- 3) It is recommended that Tonn-Evans Ditch Vested Water Right Claim be validated for a diversion rate of 14.4 cfs for irrigation of 548.7 acres as described in Application No. 1387-1 with a priority date of May 1, 1876.



Rassool Ahadi
Natural Resources Engineer

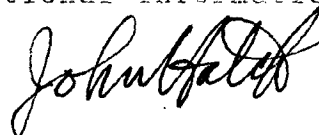
RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 1387-1, Tonn-Evans Ditch

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Validation of Vested Water Right Application No. 1387-1, Tonn-Evans Ditch, c/o Gary Hunt, Liberty Lane, Box 6, Spearfish, South Dakota.

The Chief Engineer is recommending VALIDATION of Application No. 1387-1 for 14.4 cfs because 1) water has been appropriated as described for irrigation use with a priority date of May 1, 1876, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest with the following qualifications.

1. That Vested Water Right No. 1387-1 is subject to domestic use rights. Diversion of water under Water Right No. 1387-1 is contingent upon supplies being available first to domestic users.
2. That a flow measuring device be installed at or near the point of diversion for Tonn-Evans Ditch within one year of validation of Vested Water Right No. 1387-1. The measuring device shall be permanently installed. The design shall be approved prior to construction, by the chief engineer.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
October 7, 1987



Department of Water & Natural Resources

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

October 29, 1987

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT THE
NEWSPAPERS RIGHT AWAY.

Tonn-Evans Ditch
c/o Gary Hunt
Liberty Lane, Box 6
Spearfish SD 57783

Dear Mr. Hunt:

Your Application No. 1387-1 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publishers of the QUEEN CITY MAIL printed at Spearfish and the BELLE FOURCE DAILY POST printed at Belle Fourche SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

Be sure to contact the above newspapers to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the papers can eliminate delays. The publishers have been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered by the Water Management Board.

Sincerely,

A handwritten signature in cursive script that reads "Ron Duvall".

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures



Department of Water & Natural Resources

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

October 29, 1987

QUEEN CITY MAIL
PO Box 7
Spearfish SD 57783

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 1387-1. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before November 4, 1987.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Tonn-Evans Ditch, c/o Gary Hunt, Liberty Lane, Box 6, Spearfish SD.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Validate A Vested Right Application which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper



Department of Water & Natural Resources

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

October 29, 1987

BELLE FOURCHE DAILY POST
1004 5th Ave
Belle Fourche SD 57717

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 1387-1. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before November 4, 1987.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Tonn-Evans Ditch, c/o Gary Hunt, Liberty Lane, Box 6, Spearfish SD.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered by the Water Management Board until proof of publication has been received.

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Validate A Vested Right Application which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name

Newspaper

No. 1387-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Lawrence) ss.

I, Jimmie R. Stephenson hereby

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

Water was taken from the Queen City Mail

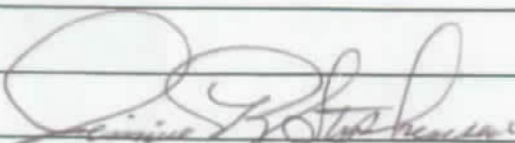
A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

City of Spearfish

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

November 3rd, 1987

November 10th, 1987


(Signature)

Publisher
(Title)

11-10-87
(Date Signed)



Cost of Printing: 109 x .2564 = 27.95

109 x .2051 = 22.36

total = 50.31

NOTICE OF HEARING

To Validate Vested
Right Application
No. 1387-1 to
Appropriate Water

Notice is hereby given that Tonn-Evans Ditch, c/o Gary Hunt whose mailing address is Liberty Lane, Box 6, Spearfish, South Dakota has filed an application to validate a vested right claim to appropriate 14.4 cubic feet of water per second (cfs) from Spearfish Creek to irrigate 548.7 acres via the Tonn-Evans Ditch with a claimed priority date of May 1876. The Spearfish Creek diversion point for the Tonn-Evans Ditch is located in the NW 1/4 NW 1/4 Section 10, T6N, R2E. The irrigated acreage is located in the NW 1/4, W 1/2 SW 1/4 Section 3; E 1/2 SE 1/4, NE 1/4 Section 4; all in T6N, R2E; SE 1/4, W 1/2 NE 1/4, E 1/2 SW 1/4 Section 33; W 1/2 SW 1/4 Section 34; all in T7N, R2E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water rights Division recommends VALIDATION of Vested Water right Application No. 1378-1 for 14.4 cfs because 1) water has been appropriated as described for irrigation with a priority date of May 1, 1876, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of this application will be considered by the Water Management Board at Howard Johnson's Roosevelt and Jefferson Rooms, 2211 LaCrosse, Rapid City SD, December 2, 1987 at 1:00 pm.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 20, 1987. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or

his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. [REDACTED] may be [REDACTED] and State Supreme Court as required by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg., Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer.

November 20, 1987.

Nov 2

No. 1387-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Butte) ss.

I, Marion Lucas hereby

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

Water was taken from the Belle Fourche Daily Post

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 Belle Fourche

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

November 3, 1987

November 10, 1987

Marion Lucas
(Signature)

Editor

(Title)

November 10, 1987

(Date Signed)

Cost of Printing: \$42.08



Public Notice

NOTICE OF HEARING
TO VALIDATE
Vested Right Application
No. 1387-1

to Appropriate Water

Notice is hereby given that Tonn-Evans Ditch, c/o Gary Hunt whose mailing address is Liberty Lane, Box 6, Spearfish, South Dakota has filed an application to validate a vested right claim to appropriate 14.4 cubic feet of water per second (cfs) from Spearfish Creek to irrigate 548.7 acres via the Tonn-Evans Ditch with a claimed priority date of May 1876. The Spearfish Creek diversion point for the Tonn-Evans Ditch is located in the NW 1/4 NW 1/4 Section 10, T6N, R2E. The irrigated acreage is located in the NW 1/4, W 1/2 SW 1/4 Section 3; E 1/2 SE 1/4, NE 1/4 Section 4; all in T6N, R2E; SE 1/4, W 1/2 NE 1/4, E1/2 SW 1/4 Section 33; W 1/2 SW 1/4 Section 34; all in T7N, R2E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 1387-1 for 14.4 cfs because 1) water has been appropriated as described for irrigation with a priority date of May 1, 1876, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of this application will be considered by the Water Management Board at Howard Johnson's, Roosevelt and Jefferson Rooms, 2211 LaCrosse, Rapid City, SD, December 2, 1987 at 1:00 p.m.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-

Instruction to Newspaper - Publish first publication of the following Notice on or before November 4, 1987 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Right Application No. 1387-1 to Appropriate Water

Notice is hereby given that Tonn-Evans Ditch, c/o Gary Hunt whose mailing address is Liberty Lane, Box 6, Spearfish, South Dakota has filed an application to validate a vested right claim to appropriate 14.4 cubic feet of water per second (cfs) from Spearfish Creek to irrigate 548.7 acres via the Tonn-Evans Ditch with a claimed priority date of May 1876. The Spearfish Creek diversion point for the Tonn-Evans Ditch is located in the NW 1/4 NW 1/4 Section 10, T6N, R2E. The irrigated acreage is located in the NW 1/4, W 1/2 SW 1/4 Section 3; E 1/2 SE 1/4, NE 1/4 Section 4; all in T6N, R2E: SE 1/4, W 1/2 NE 1/4, E 1/2 SW 1/4 Section 33; W 1/2 SW 1/4 Section 34; all in T7N, R2E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 1378-1 for 14.4 cfs because 1) water has been appropriated as described for irrigation with a priority date of May 1, 1876, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

Validation of this application will be considered by the Water Management Board at Howard Johnson's, Roosevelt and Jefferson Rooms, 2211 LaCrosse, Rapid City SD, December 2, 1987 at 1:00 pm.

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 20, 1987. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

This application is made pursuant to the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15 and 74:02:01:19 thru 74:02:01:22.

This hearing is an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Any person wishing a copy of the Chief Engineer's recommendation, further information on this application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss Bldg, Pierre SD (605 773-3352) for assistance prior to the hearing date. The time of the hearing will be automatically extended for at least twenty days upon written request of the applicant or person who has filed a petition to oppose or support the application. The request for extension must be filed with the Chief Engineer by November 20, 1987.

November 24, 1987
(date)

page 1

Parties of Record before Water Management Board regarding Vested Right
Application No. 1387-1, Tenn-Evans Ditch

For:

Gary Hunt
Tenn-Evans Ditch
Liberty Lane, Box 6
Spearfish SD 57783

Interested:

Richard Beringson, Secretary
SD Dept of Game, Fish & Parks
Anderson Bldg, 445 E Capitol
Pierre SD 57501

**South Dakota
Department of
Game, Fish and Parks**

Division of Wildlife
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501-3185
(605) 773-3381

November 16, 1987



Mr. John Hatch, Chief Engineer
Division of Water Rights
S.D. Department of Water & Natural Resources
Joe Foss Building
Pierre, SD 57501

Dear Mr. Hatch:

Pursuant to the notice provided by the Chief Engineer under SDCL 46-2A-4 the South Dakota Department of Game, Fish and Parks intends to be a party to water right claim 1387-1 on Spearfish Creek, Lawrence County.

GF&P is an interested and potentially affected party by virtue of statutory authority to manage fish and wildlife resources of the state (SDCL Chapter 41). The pending water right claim could affect the quantity of water available for natural resource management.

Thank you for the opportunity to comment on this pending water right application.

Sincerely,

Richard J. Beringson
Secretary

RJB/lld

cc: Tonn - Evans Ditch & Gary Hunt

**South Dakota
Department of
Game, Fish and Parks**

Division of Wildlife
Sigurd Anderson Building
445 East Capitol
Pierre, South Dakota 57501-3185
(605) 773-3381

November 20, 1987

Mr. John Hatch, Chief Engineer
Division of Water Rights
S.D. Department of Water & Natural Resources
Joe Foss Building
Pierre, SD 57501



Dear Mr. Hatch:

Pursuant to the filings made by the S.D. Department of Game, Fish and Parks to the attached list of applicants, some confusion exists regarding the intent of the filings. For your information when dealing with inquiries to the nature of the GF&P interest in the upcoming hearings the following information should be useful.

GF&P intends to participate in the upcoming water right validations by supporting the water rights staff recommendations that will bring each water right into legal compliance with existing laws, e.g. appropriate quantities of water for the land base, appropriately sized and gauged headgates for the right in question, abandonment of unused quantities of water, etc. GF&P filed with your office and each applicant so that we would officially be parties to the hearing process and be able to carry out the mandated duties of the Department under SDCL Chapter 41. We also are of the opinion that the Department would have been negligent in not participating in proceedings that relate to water resource allocation directly affecting waters that support fish and wildlife values.

I hope this information will aid you in describing the nature of the interest the Department of Game, Fish and Parks has in the upcoming proceedings. If you have any questions you can contact me at 773-5511.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ron Koth". The signature is stylized with a large, sweeping initial "R".

Ron Koth
Water Permits Coordinator

RK/ld



Department of Water & Natural Resources

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

APR 29 1988

Tonn-Evans Ditch
c/o Gary Hunt
Liberty Lane, Box 6
Spearfish, South Dakota 57783

Dear Mr. Hunt:

Enclosed are your Validated Vested Water Right and Water License No. 1387-1.
As long as you use the water beneficially, as stated in the Water License,
the State Water Laws provide that you have a continuing right to use the
water.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John Hatch".

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

JH:ms

enclosures

South Dakota Department of
Water & Natural Resources

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

November 2, 1990

TO: Leo Cassidy, Walton-Schuler Ditch
443 Hillsvieview Dr, Spearfish, SD 57783

Gary Hunt, Tonn-Evans Ditch
Liberty Lane Box 6, Spearfish, SD 57783

Mike McGuigan, Cook Ditch
RR 1, Spearfish, SD 57783

Donald Howe, Mann Ditch
239 Evans Lane, Spearfish, SD 57783

Robert Haag, Ramsdell Ditch
1421 5th Street, Spearfish, SD 57783

Josef Meier, Owens-Gay Ditch
412 Meier St, Spearfish SD 57783

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

SUBJECT: Diversions from Spearfish Creek

During the summer of 1990, water diversions from Spearfish Creek by irrigation ditches caused no flow conditions in a section of the Creek. The no flow conditions occurred just below the Cook ditch diversion structure over a three week period. This section of the Creek adjoins a pasture and is used as a source of water for livestock.

South Dakota Codified Laws define use of water for livestock as a domestic use. Domestic use of water takes precedence over appropriative rights. Although, there are a number of reasons that explain the no flow conditions in Spearfish Creek, we would like to assure that flows are available in the creek for future livestock watering.

Spearfish Creek flows were low during 1990, due mainly to below normal precipitation and runoff. To avert a repeat of the 1990 situation, I am requesting that you let us know when you plan water diversions one week before the diversion is to be made. This will give us time to review the situation before diversions occur.

page 2

October 31, 1990

Diversion from Spearfish Creek

If the flow in Spearfish Creek, during 1991, is such that all needs cannot be met, priority dates will need to be enforced unless priority users agree to lower diversion rates. We would be willing to meet with anyone before next spring to discuss this.

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

cc: Gene Johnson
Representative Harvey Krautschun



DEPARTMENT OF WATER & NATURAL RESOURCES

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

1387-1

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	1.10
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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 8, 1994

Jim Wainwright
Homestake Mining Company
P.O. Box 777
Lead, SD 57754

Dear Mr. Wainwright:

Per your request, enclosed is a copy of the original map submitted with the application for Vested Water Right No. 1387-1, Tonn-Evans. I have not had a chance to reinspect the acreage listed in Vested Water License No. 1387-1. Due to the new development, some of the area may have abandoned irrigation and may not have irrigation rights any more. This, of course, could be investigated by field inspection if necessary.

If you have any questions, please do not hesitate to contact me.

Sincerely,

M. Rassool Ahadi
Natural Resources Engineer
Water Rights Division
(605) 773-3352

enclosure

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Jim Wainwright - Homestake Mining Company

ADDRESS: _____ COUNTY: Lawrence

DATE: 3/26/92 TELEPHONE: _____

RE: Conversation regarding possible transfer of lands

COMMENTS:

Mr. Wainwright called to discuss Homestake's possible plans to transfer lands currently being irrigated from Cook and Tonn-Evans Ditch. He stated that it has become impractical to irrigate some of the lands that have been historically irrigated and since Homestake wants to ensure they maintain their rights, they are looking to transfer lands. He asked me if this was possible. I said it was but that in a fully appropriated basin such as Spearfish Creek that it could be complicated. I said that any transfer of lands could not impair existing rights.

Homestake is interviewing possible landowners who may want to irrigate their land with this water. I stated that finding lands along the respective ditch would be advantageous or at least be downstream of the existing ditch's headgates. I told him that opposition to a permit application to transfer is very possible from the Ditch's themselves or other parties concerned with water issues along Spearfish Creek. I said that it would be wise for them to sit down with the Ditch's and explain what Homestake wants to do. He agreed.

I sent him a copy of the necessary forms to apply for a water permit. He said he would keep us informed.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Handberg

Fuller, Tellinghuisen, Gordon & Eckrich, P.C.

A. P. Fuller • Roger A. Tellinghuisen • Brad P. Gordon • Jerome A. Eckrich

LEAD OFFICE
203 W. MAIN
LEAD, SOUTH DAKOTA 57754

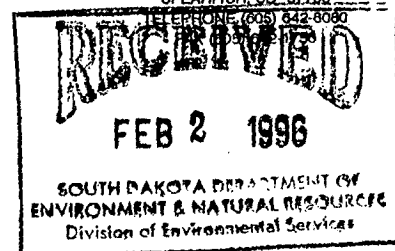
MAILING ADDRESS:
P.O. BOX 898
LEAD, SD 57754
TELEPHONE (605) 584-2440
FAX (605) 584-1979

PLEASE REPLY TO THE SPEARFISH OFFICE

January 31, 1996

SPEARFISH OFFICE
132 E. ILLINOIS
SPEARFISH, SOUTH DAKOTA 57783

MAILING ADDRESS:
P.O. BOX 1087
SPEARFISH, SD 57783



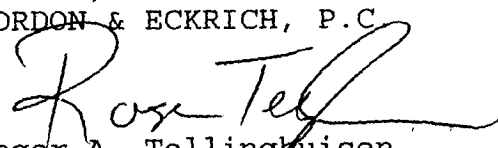
Rassool Ahadi
Department of Environment & Natural Resources
Joe Foss Building
523 E. Capital Ave.
Pierre, SD 57501-3182

Dear Rassool:

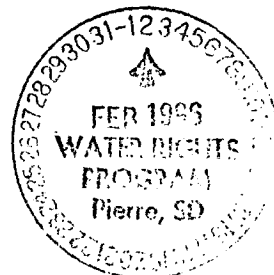
Can you tell me under whose name the Walton-Schuler and the Evans-Tonn water rights are listed? Specifically, I need to know whether or not these water rights have been issued in the names of the individual ditch companies. Also, I need to know whether any portion of those water rights is held by or in the name of Homestake Mining Company. Thank you.

Sincerely,

FULLER, TELLINGHUISEN,
GORDON & ECKRICH, P.C.


Roger A. Tellinghuisen

RAT/kkr
c: Jim Wainright





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 8, 1996

Roger Tellinghuisen
FULLER, TELLINGHUSEN, GORDON & FULLER, P.C.
P.O. Box 1087
Spearfish, SD 57783

Dear Mr. Tellinghuisen:

I am responding to your January 31, 1996 letter requesting information about the Walton-Schuler and the Tonn-Evans water rights. The water rights have been issued in the names of the respective ditch companies. Neither water right specifically lists Homestake Mining Company as a water rights holder.

Rassool Ahadi has changed jobs within the Department. He now works for the Waste Management Program. I have assumed many of his former duties and will be the contact person for surface water rights in the northern Black Hills.

If you have any additional questions, please contact me at phone (605) 773-3352.

Sincerely,

Mark D. Rath
Natural Resources Engineer III
Water Rights Program

Mr. Rath -

Enclosed is the map you requested. I have also enclosed copies of checks to the Ditch company. We were invited to the annual meetings each year. My husband attended last year. I'm not sure why we were invited if we weren't supposed to be using the ditch. I've also enclosed the property listing sheet when we purchased the home in 1990 as well as a survey of the property.

When we moved in, two neighbors advised Jack that we were to use the ditch to water. We have at least 2 neighbors in a similar situation.

I would appreciate any assistance or advise you can provide

Thank You
Mary Davis
642-3525

Jack G. or Mary J. Davis
220 Evans Ln. 642-3525
Spearfish, SD 57783

6721

November 21, 1992

78-124/914

Pay to the Order of Evans Town Ditch Company \$ 23.00
Twenty Three and 00/100 Dollars



Norwest Bank South Dakota, N.A.
131 West Hudson
P.O. Box 219
Spearfish, SD 57783

Memo _____

⑆091401249⑆ 0440069294⑆ 6721 ⑈0000002300⑈

Jack G. or Mary J. Davis
220 Evans Ln. 642-3525
Spearfish, SD 57783

7247

December 4, 1993

78-124/914

Pay to the Order of Evans Town Ditch Co \$ 23.00
Twenty Three and 00/100 Dollars



Norwest Bank South Dakota, N.A.
131 West Hudson
P.O. Box 219
Spearfish, SD 57783

Memo _____

⑆091401249⑆ 0440069294⑆ 7247 ⑈0000002300⑈

Jack G. or Mary J. Davis
220 Evans Ln. 642-3525
Spearfish, SD 57783

7764

November 29, 1994

78-124/914

Pay to the Order of Evans Town Ditch Co \$ 25.32
Twenty Five and 32/100 Dollars



Norwest Bank South Dakota, N.A.
131 West Hudson
P.O. Box 219
Spearfish, SD 57783

Memo _____

⑆091401249⑆ 0440069294⑆ 7764 ⑈0000002530⑈

Jack G. or Mary J. Davis
220 Evans Ln. 642-3525
Spearfish, SD 57783

78-44
914
0440069294

8661

December 3, 1996

Pay to the Order of Evans Town Ditch Co \$ 50.60
Fifty and 60/100 Dollars



Norwest Bank South Dakota, N.A.
131 West Hudson
P.O. Box 219
Spearfish, SD 57783

Memo _____

⑆091400046⑆ 0440069294⑆ 8661 ⑈0000005060⑈

Jack G. or Mary J. Davis
220 Evans Ln. 642-3525
Spearfish, SD 57783

78-44
914
0440069294

9091

Date December 12, 1997

Pay to the Order of Evans Town Ditch Company \$ 25.32
Twenty Five and 32/100 Dollars



Norwest Bank South Dakota, N.A.
131 West Hudson
P.O. Box 219
Spearfish, SD 57783

Memo _____

⑆091400046⑆ 0440069294⑆ 9091 ⑈0000002530⑈

Deborah Smith &
John Smith, New York
for deposit only

11/30/92
0914000046

20181735

Deborah Smith &
John Smith, New York
for deposit only

12/10/93
0914000046

10187214

Deborah Smith &
John Smith, New York
for deposit only

12/05/94
0914000046

20192512

Deborah Smith &
John Smith, New York
for deposit only

12/09/96
0914000046

460187307

Deborah Smith &
John Smith, New York
for deposit only

12/08/97
0910000019

0101655082

1980 Photo
Lawrence Co.

NOT TO SCALE



Address 220 Evans Lane Price \$63,500 Terms Cash, N.I.
 Type Ranch No. Bedrooms 2+1 Listed 4-18-90 Expires 10-18-90
 Owner Florence Papka Phone 642-7900
 Office LMR Phone 642-7722 Salesman Bob Greenfield Phone 642-3356

Special Showing Provisions/Directions

Call First-no answer-show-key box
on back door.

Special Features Pole barn 14'x32'.

Irrigation rights, apple, cherry,
plum and chokecherry trees; gun cab-
inet in basement. 2 extra storage
sheds, nice yard and garden spot.

* The back fence goes beyond the lot.

Personal Property included Stove, refrigerator,
dishwasher, 3 ceiling fans, stove
in basement, curtains, drapes, metal
& woodsheds.



Average Elec. _____ Gas _____

Schools Spearfish Assessments _____ Homeowners Assoc. _____ Zoning _____

TAXES <u>89yr.</u> <u>\$ 1359.25</u> Possession <u>Neg.</u> Lot Size <u>.42 ac.</u>	DIMENSIONS — Sq. Ft. <u>26' x 34' irreg.</u> Upstairs _____ <u>26' x 34' irreg.</u> Main Floor <u>988'</u> <u>26' x 34' irreg.</u> Basement <u>988'</u> Total Finished <u>1588'</u> Total Unfinished <u>388'</u>	GARAGE-Workbench <u>Single 19' x 24' stays</u> Double _____ Attached _____ Detached <u>X</u> Driveway <u>Gravel</u> <u>(Pole barn 14'x32')</u>	IMPROVEMENTS Street <u>Paved</u> Water <u>Wellshare (6)</u> Mo. Chg. <u>Well agreement</u> Sewer <u>LVSD</u> Mo. Chg. _____ Sidewalks <u>no</u> Curb <u>no</u>
---	---	--	--

BASEMENT Full _____ Partial <u>X</u> Poured _____ Block <u>X</u> Wood _____ Other _____ Crawl Space _____ Slab _____ Water Htr: Gas <u>X</u> Elec. _____ Water Softner: Owned <u>None</u> Rented _____ Range: Gas _____ Elec. <u>X</u> Dryer: Gas <u>X</u> Elec. _____	HEATING Gas Hot water <u>BB</u> Elec. _____ Air Cond. _____ Fireplace <u>Yes</u> Woodburner <u>Insert</u> Comments: _____	EXTERIOR Yr. Built <u>1950</u> Siding Age <u>1950</u> Type <u>Wood</u> Roof Age <u>Not known</u> Type <u>Asphalt</u> Window Type <u>Sash</u> Storm & screen _____	INTERIOR Plaster <u>Yes</u> Drywall _____ Floors <u>Carpet &</u> <u>Vinyl</u> Woodwork <u>Painted</u> Insulation <u>Blown-in</u>
---	--	--	--

	MAIN FLOOR	UPSTAIRS	LOWER	SPECIAL FEATURES
Living Room	12'6" x 19'	X	X	
Dining	8'6" x 12'	X	X	
Kitchen	9'6" x 12'6"	X	X	
Baths	Full		3/4	
Family Room	X	X	12'8" x 24'	
Bedroom	12' x 12'6"	X	12' x 14'	walk-in closet.
Bedroom	11' x 12'6"	X	X	
Bedroom	X	X	X	
utility	X	X	12' x 19'6"	
Laundry	X	X	X	

Legal N. 59.5 ft. of Lot 2 and the S 17 ft. of Lot 3, said lots 2+3 also
known and designated as Lots C+B of the Sub. of the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec.3, T6N,

R2E, B.H.M., Lawrence County, SD Abstract X Title Ins. X

Type Loan None % Payment _____ P.I. _____ T.I. _____

Listing Number LMR #116 Index Number VI 50/50

(This information is considered correct, but we accept no liability for error.)

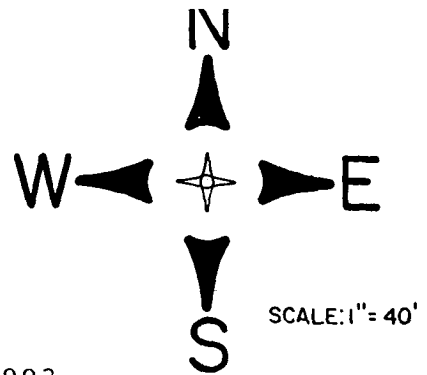
4/86 MLS FORM A



PLOT PLAN

The S. 17 ft. of Lot B, and Lot C (except the S. 89 ft.)
Subdivision of Lots 2,3 &4 of the Subdivision of the
SW1/4 Section 3, T.6 N., R.2 E., B.H.M.
Lawrence County, South Dakota

Filed Plat Book 1, Page 273



Jack G. and Mary J. Davis
220 Evans Lane
Spearfish, South Dakota 57783

April 24, 1993

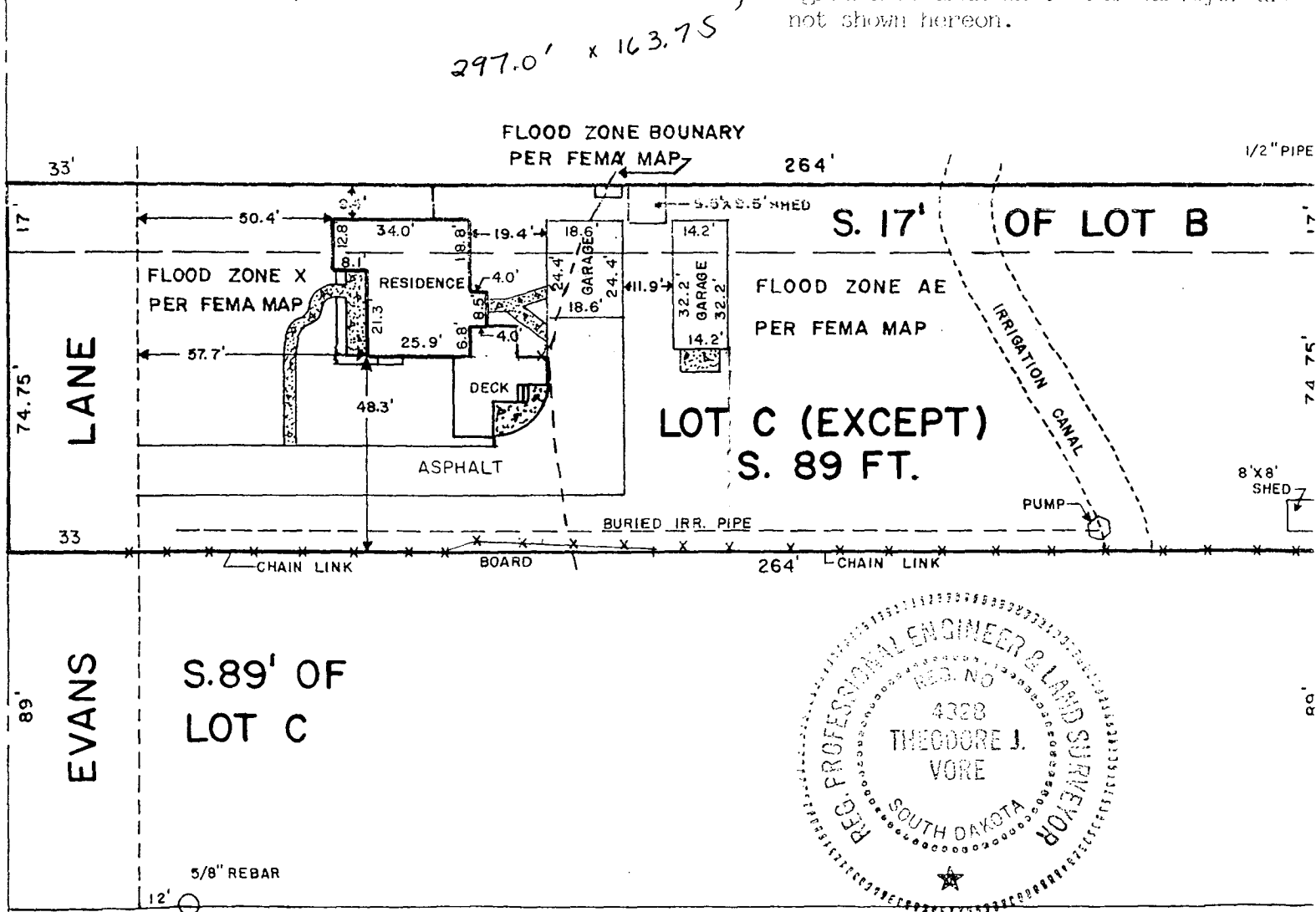
SURVEYOR'S CERTIFICATION:

I, Theodore J. Vore, Registered Land Surveyor,
do hereby certify that I have surveyed the above
said property and located the residence thereon.
All distances shown are either platted dimensions
or dimensions measured in the field.

Theodore J. Vore
Theodore J. Vore R.L.S. No. 4328

NOTE:

This is not a boundary survey showing
precise property lines. Dimensions
shown are only to the degree of
accuracy required to satisfy the needs
of a lending institution or title
company and must not be used to
establish the true boundaries.
Easements, restrictions, or private
agreements unknown to the Surveyor are
not shown hereon.







**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

March 9, 2000

Raymond Running
269 Evan Lane
Spearfish SD 57783

Frank Ward
RR 1, Box 145
Spearfish SD 57783

Dear Mr. Running and Mr. Ward:

As per my telephone conversation with Mr. Running, enclosed is a copy of South Dakota Water Rights Law. I draw your attention to Chapter 46-7 on storage, diversion and irrigation works. The statute I read to Raymond over the phone is SDCL 46-7-3 which deals with repair of works. I plan to consult with our staff attorney to get her opinion on whether the last sentence (highlighted) of this statute applies in the case of the ditch company replacing a portion of open channel ditch with a closed pipeline.

I have also discussed scheduling a meeting with Mark Rath of our Surface Water Section and yourselves prior to the Ditch Company's April 5th annual meeting. When Mr. Rath plans his next trip to the Black Hills area he will call you to schedule a meeting. You certainly can come to Pierre to meet but I thought that by meeting in Spearfish you could acquaint Mr. Rath and one of our new engineers with the irrigation system.

Please do not hesitate to call if you have any questions.

Sincerely,

Eric Gronlund
Water Rights Program
(605) 773-3352

enclosure

Memo

Date: 03/16/2000

To: For File

Cc:

From: Stacy J. Johnson *sjj*

RE: Complaint in Spearfish

At the request of Raymond Running, Mark Rath and I met with 6 members of the Tonn-Evans Ditch Company and a Lawrence County Commissioner at the Running house. The reason for the meeting was to discuss some of the options that Tonn-Evans Ditch Company have in replacing the first several hundred feet of the open channel irrigation ditch with a closed pipeline. The ditch company indicates this stretch of ditch causes maintenance problems for them. In the past, some of the adjacent homeowners along this segment of ditch, whose backyards abut the ditch, have put pumps along the ditch edge and pumped ditch water for lawn watering. For several years the ditch company has charged these homeowners a fee for delivering this domestic use water by means of the irrigation ditch. There were questions of whether these homeowners could require the ditch company to continue to maintain this open ditch or otherwise provide for the delivery of water to them. These homeowners are now concerned that the ditch company will bury this pipeline and they will no longer have access to water for lawn watering. Mr. Rath provided a copy of the water rights statutes and referenced the following statutes, SDCL 46-1-6, 46-7-1, 46-7-3, and 46-8-1 as possibly being applicable in this matter.

One of the issues is whether the ditch company has an easement to the right of way for the ditch. The ditch company has been unable to find written records of an easement for the ditch on file at the Lawrence County Court House. Mr. Rath explained there may be a prescriptive easement for the ditch right-of-way which would need to be determined by the courts. Mr. Running said that the Tonn-Evans Ditch Company does not want to bury the pipeline in the same place as the existing ditch but would want to straighten it out. Mr. Rath told them that if a prescriptive easement were granted, it would be specifically for the location of the existing ditch but not for a new location. Several options were discussed with the ditch company. One option was to have the Tonn-Evans Ditch Company and homeowners sit down and negotiate an agreement to allow a pipeline to be run and still provide access for domestic use of water. A second option is to get an

easement from the City to run the pipeline on city property next to the creek. Third option the Tonn-Evans Ditch Company could go to court with the intent of getting a prescriptive easement granted for the existing ditch and lay the new pipeline in the ditch right-of-way on the homeowners' property. Fourth option the Tonn-Evans Ditch Company would go to court with the intent of obtaining a new right-of-way for the pipeline through the condemnation process.

At the end of the meeting, the ditch members were talking about approaching the homeowners to negotiate a compromise. If this option does not work, the ditch company will look into the other options.

Tonn-Evans Ditch



Flume

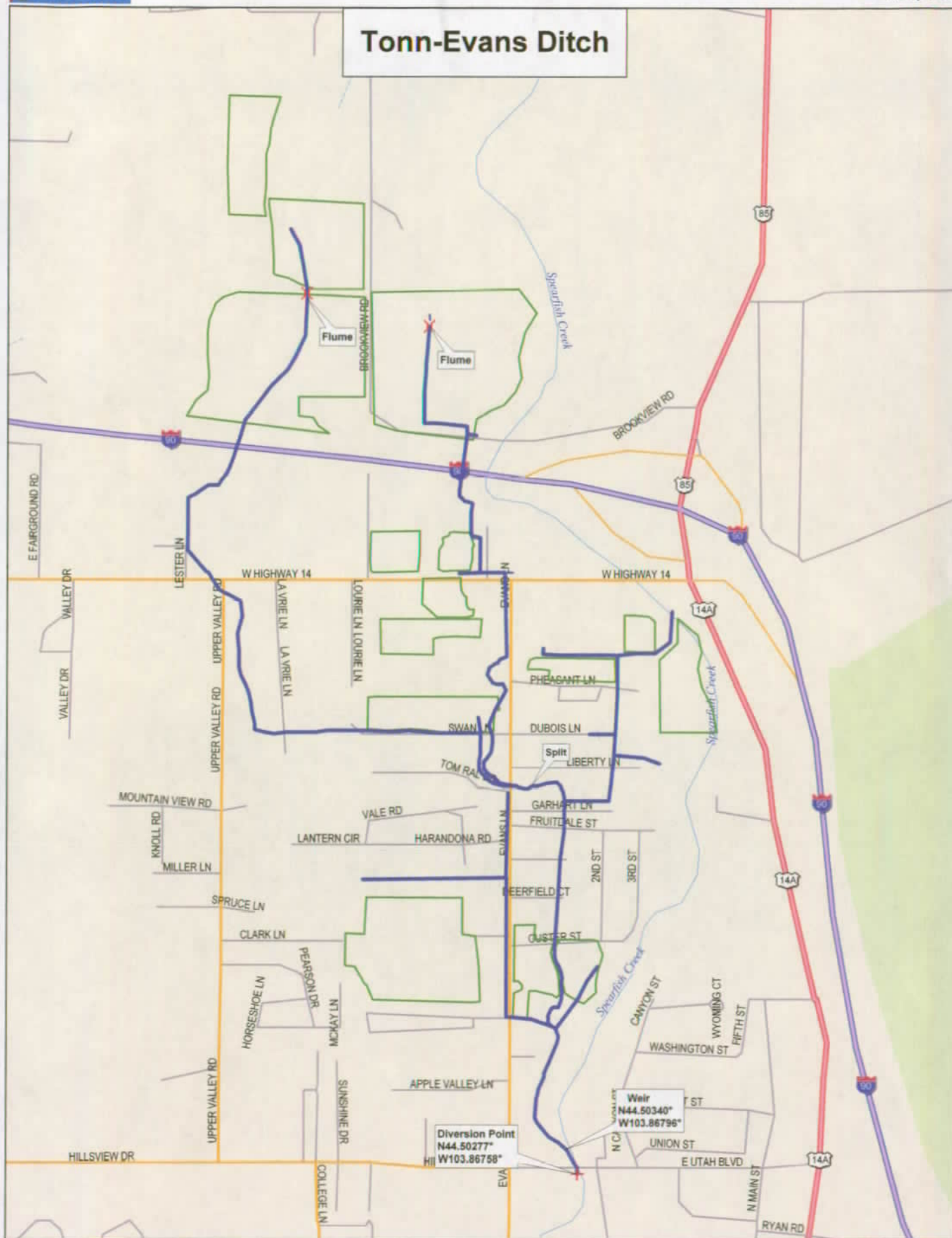
Flume

Split

Weir
N44.50340°
W103.86796°

Diversion Point
N44.50277°
W103.86758°

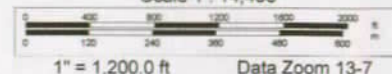
Don Stroup
SD DENR WR
9/24/05



Data use subject to license.
© 2004 DeLorme. XMap® 4.5.
www.delorme.com



Scale 1 : 14,400


$$1'' = 1,200.0 \text{ ft}$$

Data Zoom 13-7

Don Stroup
30 DENR WR

1387-1

RECEIVED
MAR 26 2007
WATER RIGHTS
PROGRAM

LAW OFFICES OF
BENNETT, MAIN & GUBBRUD
A PROFESSIONAL CORPORATION
618 STATE STREET
BELLE FOURCHE, SOUTH DAKOTA 57717-1489
TEL (605) 892-2011
FAX (605) 892-4084
EMAIL: bellelaw@bellelaw.com

MAX MAIN*
DWIGHT A. GUBBRUD*
WADE NYBERG*
*LICENSED IN SOUTH DAKOTA AND WYOMING

EST. 1908

RETIRED
DONN BENNETT

March 22, 2007

Chief Engineer
Water Rights Program, DENR
523 East Capitol
Pierre, SD 57501

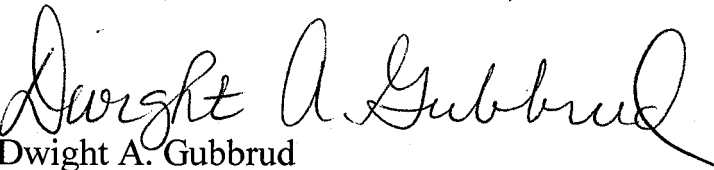
RE: Spearfish Evans-Tonn Ditch Company; Our File No. 3498.002003.

Dear Chief Engineer:

Enclosed is a Notice of Transfer of Ownership for water right/permit no. 1387-1. Also enclosed is a check from the Evans Tonn Ditch Company for \$2.50 to cover the filing fee as required by SDCL 46-2-13.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.


Dwight A. Gubbrud

DAG/ra
Encs.
cc: Client

MAR 26 2007

WATER RIGHTS
PROGRAM

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

Water Right/Permit No. 1387-1Date: 03-14-07

I/We request that Water Right/Permit No. 1387-1 formerly owned by:
EVANS & TONN DITCH COMPANY be transferred to:

New Owner Name: Spearfish Evans-Tonn Ditch Company, a South Dakota nonprofit corporation
Address: 239 Evans Lane
City, State, Zip Spearfish SD 57783 Telephone No. (605) 642-7401

Title to the following described land(s)/property has been transferred as described above:

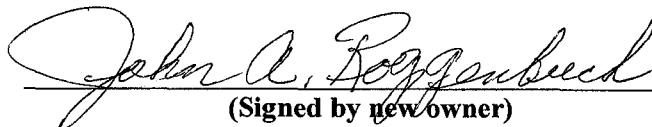
Not Applicable. Water right is not appurtenant to land.

☒ I understand that the validity of Water Right/Permit No. 1387-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is included to cover the filing fee as required by SDCL 46-2-13.

I, JOHN A. ROGGENBUCK President of _____, the new owner, certify that the above information is true and correct.


(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

1387-1

RECEIVED
MAR 26 2007
WATER RIGHTS
PROGRAM

LAW OFFICES OF
BENNETT, MAIN & GUBBRUD
A PROFESSIONAL CORPORATION
618 STATE STREET
BELLE FOURCHE, SOUTH DAKOTA 57717-1489
TEL (605) 892-2011
FAX (605) 892-4084
EMAIL: bellelaw@bellelaw.com

MAX MAIN*
DWIGHT A. GUBBRUD*
WADE NYBERG*
*LICENSED IN SOUTH DAKOTA AND WYOMING

EST. 1908

RETIRED
DONN BENNETT

March 22, 2007

Chief Engineer
Water Rights Program, DENR
523 East Capitol
Pierre, SD 57501

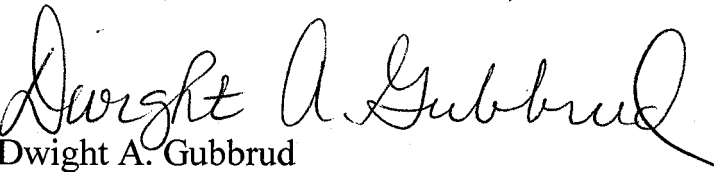
RE: Spearfish Evans-Tonn Ditch Company; Our File No. 3498.002003.

Dear Chief Engineer:

Enclosed is a Notice of Transfer of Ownership for water right/permit no. 1387-1. Also enclosed is a check from the Evans Tonn Ditch Company for \$2.50 to cover the filing fee as required by SDCL 46-2-13.

Sincerely,

BENNETT, MAIN & GUBBRUD, P.C.


Dwight A. Gubbrud

DAG/ra
Encs.
cc: Client

MAR 26 2007

WATER RIGHTS
PROGRAM

To: Chief Engineer
Water Rights Program, DENR
523 E. Capitol
Pierre, SD 57501-3181

Water Right/Permit No. 1387-1Date: 03-14-07

I/We request that Water Right/Permit No. 1387-1 formerly owned by:
EVANS & TONN DITCH COMPANY be transferred to:

New Owner Name: Spearfish Evans-Tonn Ditch Company, a South Dakota nonprofit corporation
Address: 239 Evans Lane
City, State, Zip Spearfish SD 57783 Telephone No. (605) 642-7401

Title to the following described land(s)/property has been transferred as described above:

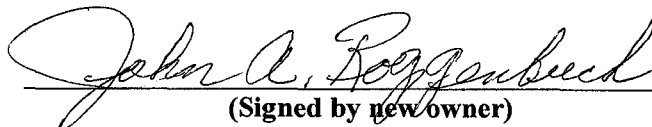
Not Applicable. Water right is not appurtenant to land.

☒ I understand that the validity of Water Right/Permit No. 1387-1 has not been determined by this transfer action. If I have any questions on validity, I understand that only the Water Management Board has the authority to determine if a water right/permit is valid (see note below.)

You are requested to file this "Notice of Transfer" in the appropriate file with the Water Rights Program, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is included to cover the filing fee as required by SDCL 46-2-13.

I, JOHN A. ROGGENBUCK President of _____, the new owner, certify that the above information is true and correct.


(Signed by new owner)

NOTE: Water permits may be cancelled for nonconstruction after the five year construction period has expired. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date 3/26, 20 07

RECEIVED OF EVANS TONN DITCH CO 239 EVANS LN SPEARFISH SD 57783

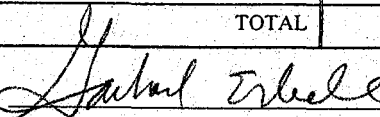
The following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ and to put water to beneficial use _____	to Appropriate Water, to construct	2	50
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. _____			
Fee for Filing Transfer Form _____	1387-1		
Fee for _____			
Fee for Issuing New Well Driller's License No. _____	for C.Y. _____		
Fee for Renewal of Well Driller's License No _____	for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____	for C.Y. _____	2	50
Fee for Renewal of Well Pump Installer's License No. _____	for C.Y. _____		
(Any Other Work Provided by Law)		TOTAL	
		2	50

No.

03009

By



Chief Engineer



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

PMB 2020
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182
www.state.sd.us/denr

March 26, 2007

1387-1

John A Roggenbuck
Spearfish Evans-Tonn Ditch Co
239 Evans Lane
Spearfish SD 57783

Dear Mr. Roggenbuck:

I am writing to acknowledge receipt of the ownership change and filing fee you submitted for transferring Vested Water Right No. 1387-1. The transfer has been completed. No. 1387-1, formerly held by Evans-Tonn Ditch Company is now listed in the name of **Spearfish Evans-Tonn Ditch Company, a South Dakota nonprofit corporation.**

Enclosed is your Receipt No. 03009 in the amount of \$2.50. You may keep this for your records.

If I can answer any questions for you, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352
email: genny.mcmath@state.sd.us

enclosure

c: Dwight A Gubbrud, Bennett, Main & Gubbrud

SPEARFISH CREEK IRRIGATION DITCHES - CONTACT INFORMATION

Updated 7/8/14

1392-1	<table><tr><td>MANN DITCH</td></tr><tr><td>Edgar Burr</td></tr><tr><td>209 Evans Ln</td></tr><tr><td>Spearfish, SD</td></tr><tr><td>605-642-7963</td></tr></table>	MANN DITCH	Edgar Burr	209 Evans Ln	Spearfish, SD	605-642-7963	<table><tr><td>COOK DITCH</td></tr><tr><td>Mike McGuigan</td></tr><tr><td>2350 Dairy Ln</td></tr><tr><td>Spearfish, SD</td></tr><tr><td>605-641-2052</td></tr></table>	COOK DITCH	Mike McGuigan	2350 Dairy Ln	Spearfish, SD	605-641-2052	1389-1	
MANN DITCH														
Edgar Burr														
209 Evans Ln														
Spearfish, SD														
605-642-7963														
COOK DITCH														
Mike McGuigan														
2350 Dairy Ln														
Spearfish, SD														
605-641-2052														
1403-1	<table><tr><td>RAMSDELL DITCH</td></tr><tr><td>Mike Kyte</td></tr><tr><td>1121 N. Main St.</td></tr><tr><td>Spearfish, SD</td></tr><tr><td>605-642-4932</td></tr></table>	RAMSDELL DITCH	Mike Kyte	1121 N. Main St.	Spearfish, SD	605-642-4932	<table><tr><td>SPRING BRANCH DITCH</td></tr><tr><td>Ross Delzer</td></tr><tr><td>19481 US Hwy 85</td></tr><tr><td>Belle Fourche, SD</td></tr><tr><td>605-642-3778</td></tr></table>	SPRING BRANCH DITCH	Ross Delzer	19481 US Hwy 85	Belle Fourche, SD	605-642-3778	1424-1	
RAMSDELL DITCH														
Mike Kyte														
1121 N. Main St.														
Spearfish, SD														
605-642-4932														
SPRING BRANCH DITCH														
Ross Delzer														
19481 US Hwy 85														
Belle Fourche, SD														
605-642-3778														
1400-1	<table><tr><td>OWENS-GAY DITCH</td></tr><tr><td>Tom Callaway</td></tr><tr><td>City of Spearfish</td></tr><tr><td>Spearfish, SD</td></tr><tr><td>605-642-1333</td></tr></table>	OWENS-GAY DITCH	Tom Callaway	City of Spearfish	Spearfish, SD	605-642-1333	<table><tr><td>KEMPER-COOK-BURNS DITCHES</td></tr><tr><td>Eric Jennings</td></tr><tr><td>19488 Creekside Loop</td></tr><tr><td>Spearfish, SD</td></tr><tr><td>605-642-3411</td></tr></table>	KEMPER-COOK-BURNS DITCHES	Eric Jennings	19488 Creekside Loop	Spearfish, SD	605-642-3411	1399-1 1394-1	
OWENS-GAY DITCH														
Tom Callaway														
City of Spearfish														
Spearfish, SD														
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KEMPER-COOK-BURNS DITCHES														
Eric Jennings														
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Spearfish, SD														
605-642-3411														
1386-1	<table><tr><td>WALTON-SCHULER DITCH</td></tr><tr><td>David Rossi</td></tr><tr><td>Home 605-584-4904</td></tr><tr><td>Work 307-682-8530</td></tr><tr><td>Back up - Woody Hayes 605-645-2007</td></tr></table>	WALTON-SCHULER DITCH	David Rossi	Home 605-584-4904	Work 307-682-8530	Back up - Woody Hayes 605-645-2007	<table><tr><td>HIGGENS GULCH DITCH WEST</td></tr><tr><td>Layton Lensegrav</td></tr><tr><td>10902 SD Hwy 34</td></tr><tr><td>Belle Fourche, SD</td></tr><tr><td>605-641-1124 or 605-723-3095</td></tr></table>	HIGGENS GULCH DITCH WEST	Layton Lensegrav	10902 SD Hwy 34	Belle Fourche, SD	605-641-1124 or 605-723-3095	1412-1	
WALTON-SCHULER DITCH														
David Rossi														
Home 605-584-4904														
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HIGGENS GULCH DITCH WEST														
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10902 SD Hwy 34														
Belle Fourche, SD														
605-641-1124 or 605-723-3095														
1387-1**	<table><tr><td>TONN-EVANS DITCH</td></tr><tr><td>Jared Capp - President</td></tr><tr><td>609 Nellie Lane</td></tr><tr><td>Spearfish, SD</td></tr><tr><td>605-639-9041</td></tr></table>	TONN-EVANS DITCH	Jared Capp - President	609 Nellie Lane	Spearfish, SD	605-639-9041	<table><tr><td>HIGGENS GULCH DITCH EAST</td></tr><tr><td>Cundy Trust</td></tr><tr><td>c/o Jim Jennings-Co Trustee</td></tr><tr><td>19483 Old Belle Rd</td></tr><tr><td>Spearfish, SD</td></tr><tr><td>605-642-2146</td></tr></table>	HIGGENS GULCH DITCH EAST	Cundy Trust	c/o Jim Jennings-Co Trustee	19483 Old Belle Rd	Spearfish, SD	605-642-2146	1413-1
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**1387-1 is actually listed in the name of Spearfish Tonn-Evans Ditch



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

September 8, 2017

Jared Capp-President
Tonn-Evans Ditch
609 Nellie Lane
Spearfish, SD 57783

Tonn-Evans Ditch, Vested Water Right No. 1387-1

Dear Mr. Capp:

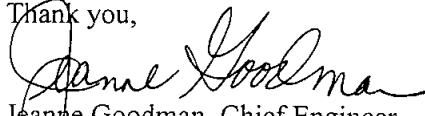
The hydroelectric facility that diverts Spearfish Creek flow near Maurice for power generation is undergoing construction activity. Specifically the city will be replacing the existing redwood penstock located above the hydro plant in the area between the forebay pond and the standpipe structure. This will result in a staged bypass into the natural creek channel at the Maurice dam. There will be a short period when all diversion into the hydro plant's tunnel will cease and the creek will flow freely below Maurice resulting in reduced flows in the creek downstream from the hydro generating plant near the city park.

A bypass at the Maurice dam of 20 cubic feet of water per second into the natural creek channel will begin approximately September 14, 2017. Total bypass into the natural creek channel will occur later in the month with a contractor scheduled completion date of October 3, 2017. While this will likely result in a temporary reduced flow, the city's goal is to keep water flowing through Spearfish and downstream areas without interruption.

While the irrigation season is winding down there are likely Spearfish Creek irrigation ditches still operating from the creek. Please notify others on your ditch of the potential temporary reduction of flow in Spearfish Creek through September to early October. We all know Spearfish Creek is a valuable resource to the area for irrigation, domestic use, aesthetics, and the fishery. As this construction project progresses DENR asks that everyone be mindful to maintain minimum flows in Spearfish Creek from Spearfish to the Redwater River to protect the resource.

If you have any questions please contact either Eric Gronlund of my staff at (605) 773-3352 or Cheryl Johnson, Spearfish Public Works Director at (605) 642-1333.

Thank you,


Jeanne Goodman, Chief Engineer
Water Rights Program