

Considered: _____

Vested Right
WATER PERMIT NO. 1389-1

17

MAP No. same

Name of Applicant Cook Ditch Company c/o Michael Mc Guigan

Post Office Address RR#1, Box 146A, Spearfish SD 57783

Amount of Water Claimed 21.6 cfs Total Acres 780.4

Source of Water Supply Spearfish Creek

Water to be used for irrigation County Lawrence

About 1 1/2 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 Dec. 30, 1986 Fee 15⁰⁰ Remarks _____

Corrected Application Received _____ Period of Annual Use _____

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

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

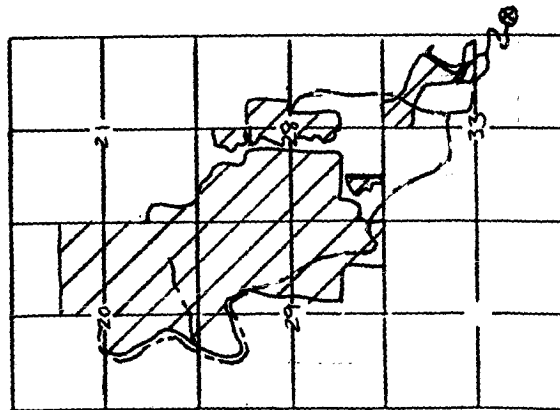
Diversion Point Spearfish Creek: NW 1/4 SW 1/4

section 34 - T7N - R2E

Land to be Irrigated 780.4 acres → see

application for detailed description

sections 20, 21, 28, 29 and 33 - T7N - R2E



Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map aerial photo PREPARED BY Rassool Ahadi Reviewed and the Number

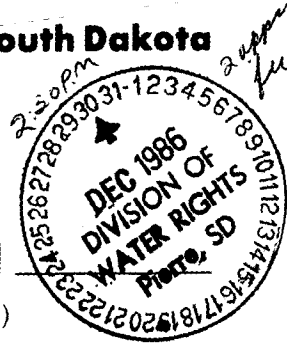
assigned on June 8, 1987

By Ron Duval

No. 1389-1 Hydrologic Unit 10120203
 Map No. same Basin Belle Fourche R
 Newspaper Queen City Mail, Box 7, Spearfish (Wed)
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 Cook Ditch Company/Michael McGuigan Phone No. 642-2275Post Office Address RR#1, Box 146A Spearfish, South Dakota State 57783
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s) 21.6 Total acres irrigated 780.43. Source of Water supply Spearfish Creek4. Location of point of diversion Approximately 157.0 ft N, 20 ft. E of SE Corner of Section 33,
T7N-R2ECounty Lawrence5. Counties where water will be used Lawrence6. Annual period during which water is to be used April 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, Cook Ditch Company/Michael McGuigan 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 Michael McGuigan Cook Ditch Company/Subscribed and sworn to before me this 26 day of December 19 86NOTH LOEWEL, Notary Public
My Commission Expires November 21, 1990

Notary Public (or other qualified officer)

NOT TO SCALE

0-5
7-2

7-2

7-2

20

0-5

20 21
29 28

29

28

N-5

7-2

N-6

7-2

29 28
32 33

28 27
33 34

Rassool Ahadi
NRE

V.R. Appl. No. 1389-1

VESTED WATER RIGHT

The Water Management Board hereby validates Vested Water Right No. 1389-1

Cook Ditch Company
(applicant)

RR #1, Box 146A, Spearfish
(post office address)

SD
(state)

57783
(zip code)

Date of receipt of Application December 30, 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 (1.2 cfs) May 1, 1876.
(20.4 cfs) June 10, 1877.
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 _____

21.6 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 Apr 1 - Oct 31.

Vested Water Right No. 1389-1 was validated subject to the qualifications listed in Attachment 1.

WATER MANAGEMENT BOARD

By: John H. Helt

(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

APR 29 1988

, 1988.

ATTACHMENT 1
VESTED WATER RIGHT NO. 1389-1

1. That Vested Water Right No. 1389-1 is subject to domestic use rights. Diversion of water under Water Right No. 1389-1 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 Cook Ditch Company within one year of validation of Vested Water Right No. 1389-1. 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. 1389-1 FOR IRRIGATION

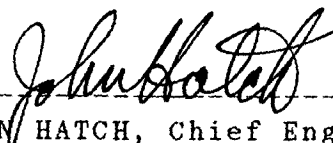
(1) Cook Ditch Company
of RR 1 Box 146A, Spearfish, South Dakota 57783
made Application No. 1389-1, December 30, 1986
for validation of a vested right claim to appropriate 21.6
cubic feet of water per second from Spearfish Creek,
Lawrence County, South Dakota for irrigation purposes.
Vested Water Right No. 1389-1 was validated December 2, 1987
(1.2 cfs) May 1, 1876
with a priority date of (20.4 cfs) June 10, 1877. 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 21.6 cubic
feet of water per second for beneficial use. The location of the
diversion point(s) is: approximately 1570 feet North and 20 feet east of the
SE Corner of Section 33, T7N, R 2E.

The location of the irrigated acreage is: _____

SEE ATTACHMENT A

(3) Pursuant to Section 46-5-30.1 Cook Ditch Company
of RR 1, Box 146A, Spearfish, South Dakota 57783
the holder(s) and/or owners(s) of Vested Water Right No. 1389-1
is issued a license to appropriate 21.6 cubic feet of
water per second from Spearfish Creek with a
priority date of (1.24 cfs) May 1, 1876
(20.4 cfs) June 10, 1877 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.
1389-1 and subject to South Dakota State Law.



JOHN HATCH, Chief EngineerJOHN HATCH
Water Rights Division
Department of Water and Natural
Resources
APR 29 1988

COOK DITCHATTACHMENT A
Vested Water Right No. 1389-1

Section 20, T7N-R2E

NW $\frac{1}{4}$ SE $\frac{1}{4}$	36.0 Acres	
NE $\frac{1}{4}$ SE $\frac{1}{4}$	34.0 Acres	
SW $\frac{1}{4}$ SE $\frac{1}{4}$	39.0 Acres	
SE $\frac{1}{4}$ SE $\frac{1}{4}$	24.0 Acres	Subtotal 133.0 Acres
SE $\frac{1}{4}$ SW $\frac{1}{4}$	10.3 Acres	
NE $\frac{1}{4}$ SW $\frac{1}{4}$	26.7 Acres	Subtotal 37.0 Acres
SE $\frac{1}{4}$ NE $\frac{1}{4}$	39.0 Acres	
SW $\frac{1}{4}$ NE $\frac{1}{4}$	39.0 Acres	Subtotal 78.0 Acres

Section 21, T7N-R2E

SW $\frac{1}{4}$ SW $\frac{1}{4}$	17.0 Acres	Subtotal 17.0 Acres
-----------------------------------	------------	---------------------

Section 28, T7N-R2E

SW $\frac{1}{4}$ NE $\frac{1}{4}$	22.0 Acres	Subtotal 22.0 Acres
NW $\frac{1}{4}$ SE $\frac{1}{4}$	10.2 Acres	Subtotal 10.2 Acres
NE $\frac{1}{4}$ SW $\frac{1}{4}$	22.0 Acres	
NW $\frac{1}{4}$ SW $\frac{1}{4}$	33.0 Acres	
SW $\frac{1}{4}$ SW $\frac{1}{4}$	15.0 Acres	Subtotal 70.0 Acres
SW $\frac{1}{4}$ NW $\frac{1}{4}$	38.0 Acres	
NW $\frac{1}{4}$ NW $\frac{1}{4}$	38.0 Acres	
SE $\frac{1}{4}$ NW $\frac{1}{4}$	29.0 Acres	
NE $\frac{1}{4}$ NW $\frac{1}{4}$	18.0 Acres	Subtotal 123.0 Acres

Section 29, T7N-R2E

SE $\frac{1}{4}$ SE $\frac{1}{4}$	38.0 Acres	
NE $\frac{1}{4}$ SE $\frac{1}{4}$	38.0 Acres	
NW $\frac{1}{4}$ SE $\frac{1}{4}$	18.0 Acres	Subtotal 94.0 Acres
NE $\frac{1}{4}$ NE $\frac{1}{4}$	38.0 Acres	
SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0 Acres	
SW $\frac{1}{4}$ NE $\frac{1}{4}$	21.0 Acres	
NW $\frac{1}{4}$ NE $\frac{1}{4}$	28.0 Acres	Subtotal 127.0 Acres
NE $\frac{1}{4}$ NW $\frac{1}{4}$	23.0 Acres	Subtotal 23.0 Acres

Section 33, T7N-R2E

SE $\frac{1}{4}$ NE $\frac{1}{4}$	14.2 Acres	
NE $\frac{1}{4}$ NE $\frac{1}{4}$	12.0 Acres	
NW $\frac{1}{4}$ NE $\frac{1}{4}$	20.0 Acres	Subtotal 46.2 Acres

TOTAL ACREAGE FOR COOK DITCH 780.4 ACRES

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) Cook Ditch/Michael McGuigan

Post Office Address RR 1, Box 146 A, 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 1877C. Date that water was first applied to beneficial use June 10, 1877, May 1876D. Name of owner of original water supply system N/AE. Amount of water originally applied to beneficial use 816.35 miners inches plus 46 miners inchesF. Present Use of Water - Amount of water now being used Irrigation same as aboveDate that this water was first used June 10, 1877 May 1876

G. Chronological History of Water Use

June 10, 1877 is the priority date for 816.35 miners inches and May 1876 is the priority date for 46 miners inches all carried in cook ditch which has been in continuous use since built in 1877.

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, Cook Ditch/Michael McGuigan the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed Michael McGuigan Cook Ditch/
December 26, 1986

Subscribed and sworn to before me _____

[Signature]
 Notary Public or other qualified officer My Commission Expires November 21, 1991

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

410631

South Dakota Department of Water and Natural Resources

Pierre, December 30, 196

RECEIVED OF Cook Ditch Company/Michael McGuigan, RR 1, Box 146A, Spearfish, SD 57783

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

Fee for Application for Permit No. <u>1389-1</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	00	VR
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)

December 14, 1961

Mr. James R. Eddy, Secretary
Cock Ditch
RFD 1
Spearfish, S. Dak.

Re: Cock Ditch

Dear Mr. Eddy:

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 Cock Ditch water right, the final ruling of the Court interprets, determines and establishes your water to the extent specified by the Court.

In the Cock v. Evans Court Case, ^{Dec. 4, 1922} the Cock 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 rate of diversion of water that each water right was entitled to use.

The Court specified that the Cock Ditch was seventh in priority of these water rights adjudicated with a priority date of June 10, 1877 and was entitled to use not exceeding 816.35 miner's inches of water.

In addition, the Court specified that not to exceed 46 miner's inches was to be delivered through the Cock Ditch to 45.8 acres on the "Diedrich Ranch" under the Tom and Evans water right priority when water was needed for this acreage on the "Diedrich Ranch".

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 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.

Mr. James N. Eddy

December 18, 1961

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

Encs: Map and List

CC of Letter and List to:

Mr. Marshall Eddy
RFD 1
Spearfish, S. Dak.

Mrs. Floyd Riley
RFD 1
Spearfish, S. Dak.

Mr. Allen Evans
644 8th
Spearfish, S. Dak.

Mr. Lee McGuigan
RFD 1
Spearfish, S. Dak.

Mr. John W. Eddy
RFD 1
Spearfish, S. Dak.

Mr. John H. Dingsen
Hereford, S. Dak.

Mr. J. McLaughlin
Spearfish, S. Dak.

Mr. John Ward
RFD 1
Spearfish, S. Dak.

Mayer George Dider
City of Belle Fourche
Belle Fourche
South Dakota

DIVERSION DITCH SERVICE

267.18

NAME OF THE DITCH: *Cook Ditch Co.*

ADDRESS:

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

MAXIMUM DIVERSION RATE: C.F.S.

ACREAGE SERVED: ACRES

LANDOWNER'S NAME	LOCATION OF LAND BEING IRRIG. BY THIS DITCH	ACREAGE	COMMENTS
<i>Even Breeding</i>	<i>Lot A</i>	⁴⁵ <i>30</i>	<i>Agricultural land</i> <u>E</u>
<i>John Ward</i>	<i>" B.C.H. 10 acres of E</i>	<i>51.5</i>	<i>" "</i>
<i>Many Owners (Development)</i>	<i>D + E</i>	<i>61</i> <u>C</u>	<i>Rural residential land</i> <u>C</u>
<i>City of Belle Fourche</i>	<i>H + N</i>	<i>49</i>	<i>Transferred to City use</i> <u>C</u>
<i>Palmer Pearson</i>	<i>L + K</i>	<i>20.4</i>	<i>Agricultural land</i>
<i>Jim Eddy</i>	<i>I + J</i>	<i>186.7</i>	<i>" "</i>
<i>Leo McQuigan</i>	<i>H</i>	<i>12</i>	<i>" "</i>
<i>Billy Evans</i>	<i>R</i>	<i>98</i>	<i>" "</i>
<i>Christensen + Stensaas</i>	<i>A + I</i>	<i>82</i>	<i>" "</i>
<i>Dittman + Allen</i>	<i>U</i>	<i>5</i> <u>C</u>	<i>Development</i>
<i>John Nyberg</i>	<i>V + W</i>	<i>147.8</i>	<i>Agricultural land</i>
<i>Dick Cundy</i>	<i>G + K</i>	^{15.4} <i>64</i>	<i>" "</i>
		<u>807.4</u>	
		<u>748.6</u>	<i>It appears that the map may be incorrect. I think we are about 80 acres short.</i>

Spearfish S.D.
13-29-61

Mr. S.W. Water Resources Comm.

Pierre S.D.

Dear Sir I am writing you in regard to the
distribution of water from the creek ditch in
Spearfish Valley S.D. you had a man here last
summer & mapped the valley. and sent us a map
of each mans irrigateable land. The man that was
here told us that each man should have an equal
share of the water per acre, according to the acres
he had under the ditch. which I thought was
a very fair way to do it.
for example a ~~man~~^{man} with 100 acres to irrigate
should have twice as much water as a man with 50 acres.
There also was an engineer from your office
here at Spearfish last fall & called a meeting
& that was the way he described it.
I would like to have a letter from your
office confirming this fact so I can explain
it at our next ditch meeting
am I right or wrong?

Yours Truly,

John W. Eddy
Spearfish S.D.
RR #1



DALE B. WYMAN
LAWYER
408 SOUTH ST.
PIERRE, S. D.
TELEPHONE 42

February 6, 1961

State Water Resources Commission
State Office Building
Pierre, South Dakota
Attention J.W. Grimes

Dear Mr. Grimes:

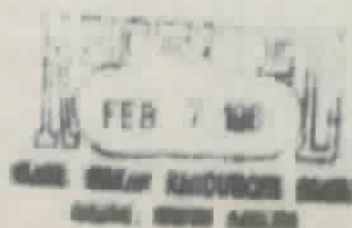
Your letter of January 16th addressed to Mr. James R. Eddy, Secretary Cook Ditch, R.F.D. #1, Spearfish, South Dakota, has been handed to me by Mr. JOHN H. DINGMAN of Hereford, South Dakota, who is listed as owner irrigator in attached exhibit. Mr. Dingman advises me that he owns more than the nine (9) acres which has been allocated as his total acreage under the ditch. The name of E. Herber appears immediately below Mr. Dingman's name, showing 15.4 acres, with a total acreage of 24.4. The 15.4 acres belongs to Mr. Dingman and Mr. Herber's name should be eliminated.

This is in protest to the proposed list and acreage. No map was included with this letter.

Very truly yours,

Dale B. Wyman

DB/m



CITY OF BELLE FOURCHE

Belle Fourche, South Dakota

January 3, 1962

Mr. J. W. Grimes
South Dakota State Water Resources Commission
State Office Building
Pierre, South Dakota

Re: Request to transfer irrigation rights
from real estate to municipal use.

Gentlemen:

The City of Belle Fourche, a political subdivision of the State of South Dakota, hereby requests permission to transfer the water right which the City of Belle Fourche now owns and which is appurtenant to certain real estate owned by the City of Belle Fourche, South Dakota, and situated in Lawrence County, South Dakota, said real estate described and shown on a plat which is enclosed herewith and made a part hereof, from said real estate to municipal use.

The City of Belle Fourche, South Dakota, now has a water right for municipal use covering approximately 4 1/2 second feet ~~per minute~~ which has a priority on the Spearfish Creek and drainage area of said water right apparently dating back to ~~1906~~ 1907.

The City of Belle Fourche also has an additional water right covering 8 second feet per minute which was granted to the City of Belle Fourche, South Dakota, by the State Water Resources Commission within the last two or three years and which has a very low priority. (Dec 10, 1958)

The City of Belle Fourche also owns certain real estate in the Spearfish Valley which has a water right for 40 acres and which is irrigated under the Cook Ditch, said Cook Ditch having a priority #7 under a court decision.

See Spearfish Creek

Because of the growth of the City of Belle Fourche and because of the fact that Belle Fourche will be required to furnish water for certain missile base in the area of Belle Fourche, South Dakota, said municipality will need additional water for municipal use.

1 SFH - 1.1151 12-11-58

Remarks by State Water Resources Commission:

(Water Resources File 27-1)



By Court Decree "Cook Ditch" has an adjudicated water right to 816.35 miner's inches of the surface flows of Spearfish Creek, such water right having a priority date of June 10, 1877. In this application the City of Belle Fourche seeks to change the nature of use, the place of use and the point of diversion of 49 miner's inches or 1.22 cubic feet per second of the "Cook Ditch" water right as follows:

Nature of Use - From irrigation uses to general municipal uses;

Place of Use - From 49 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, the N $\frac{1}{2}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 28, T7N, R2E, BHM to the area within the limits of the city of Belle Fourche;

Point of Diversion - from the surface flows entering the headgate of the "Cook Ditch" located near the east boundary of the SE $\frac{1}{4}$ of Section 33, T7N, R2E, BHM to the underground water in the sands and gravels underlying Spearfish Creek in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, the N $\frac{1}{2}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, T7N, R2E, BHM.

This application is approved to the extent that the equivalent of the water which would have otherwise been available to said 49 acres under the "Cook Ditch" can be diverted as proposed in the application. Such approval does not permit withdrawals of water, which would result in less water being available to other water rights to a degree greater than existed when the said 49 acres was under the "Cook Ditch" water right, as is stated in Section 61.0128, Chapter 430, Session Laws of 1955.

This permit cancels irrigation water rights for the 49 acres located in portions of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 28, T7N, R2E under the "Cook Ditch" water right (27-1).

11
Arthur D. Robinson
Edmond, Oklahoma

April 4, 1961

Mr. John W. Eddy
P. R. #1
Spearfish, South Dakota

Dear Mr. Eddy:

Reference is made to your letter of March 29, 1961 about distribution of water from the Cook Ditch.

The Cook Ditch water right is that water right as specified by the Circuit Court in a decision dated December 4, 1922.

In effect what the Court said was that the Cook Ditch was seventh in order of priority of the water rights involved in that court case, and because the irrigated area under the Cook Ditch was 816.35 acres the Cook Ditch was entitled to divert, when that amount of water was available, a maximum amount of 816.35 inches of water.

The Court also said "It is not intended by this decision to find or establish the relative respective interests of the owners as between themselves in the respective water rights or ditches herein involved," and "The maximum amount of water allowed the various ditches hereinafter referred to, are all to be taken at the headgate and in each instance to include the seepage."

In addition, the Court said that the Diedrich ranch could withdraw 46 inches of water as measured at the headgate from the Cook Ditch, but with a priority of the Tonn and Evans water right which was first in order of priority.

In the operation of an irrigation ditch for the benefit of different irrigators, certain conditions arise which necessitate

AND ON RECORDS WHICH MEET THE REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR RECORDS FOR LONG-TERM PRESERVATION
SECTION 35 ROLL NO. 1
DATE MICROFILMED 5-4-82
By [Signature]

John Eddy

2

April 4, 1961

agreements between the irrigators as to how to best carry on the irrigation. For example, two or more irrigators could agree to pool their allotment of water and rotate the use of this pooled water to obtain a larger and more effective irrigating head. Likewise when water is not available in the amount decreed, or in an amount sufficient for beneficial use of each irrigator at the same time, some agreement allowing rotation of the use of the water is desirable. The Court said, in effect, such agreements, properly made, are permissible.

Otherwise, disregarding the Diedrich ranch commitment and agreements as discussed above, it is my opinion that each irrigator is entitled to that amount of water going through the headgate proportional to that amount of land he owns of the Court specified 816.35 acres to the 816.35 acre total. In other words if a person owns 81.635 acres of the 816.35 acres of land described by the Court, he is entitled to use on his land, one-tenth of the amount of water entering the Cook Ditch headgate, less the amount of seepage and other natural loss occurring to that one-tenth portion in moving from the headgate to his land.

This is not the Court's opinion, the Court said it was not saying how the water should be divided between the irrigators from one ditch. The next question is, how much seepage is there and who determines or measures this seepage? Well the seepage varies with the amount of water, time, precipitation and many other factors and the likelihood is that no one will determine it. It all points out that some equitable agreement or understanding is necessary between the irrigators.

I could write considerably more in answering your letter but that might make it even more complicated. The intent of this letter is to indicate to you that agreement between the irrigators on your ditch as to water use is preferable to any other action and also to show a basis for such agreement. The Water Resources Commission would be glad to help you in any way in arriving at such an understanding.

Sincerely,

JWG:DD:ls

J. W. CRIMES
Chief Engineer

Water Rights Division
605 773-3352

June 28, 1982

James Eddy
Cook Ditch
RFD 1
Spearfish SD 57783

Dear Mr. Eddy:

Our office is currently updating our records of water rights on Spearfish Creek and the Redwater River. Enclosed is a map that was compiled in 1961-62 showing lands irrigated from the Cook Ditch. We would appreciate your review of this map, noting any corrections or additions and then returning it to me. If you have any questions please contact me.

Thank you.

KEVIN C LARSON
Water Resources Engineer

KCL:ks

enclosure

*Reply received
July 20, 1982*

Every thing looks
fine as far as I know
Jim Eddy



**LOSS REPORT
TO
GRINNELL MUTUAL REINSURANCE COMPANY
Grinnell, Iowa**

Reinsurance Number _____ Date of Loss _____, 19 _____

Policy Number _____ Peril Involved _____
(FIRE, LIGHTNING, WINDSTORM, VEHICLE, THEFT, ETC.)

LOCATION OF INSURED PROPERTY

Insured _____ $\frac{1}{4}$ Sec. _____ T _____ R _____ Twp. _____

Address _____ Street _____ City _____

City _____ County _____ State _____

Describe how loss occurred _____

BUILDING OR ITEM	AMOUNT OF INSURANCE	ESTIMATED LOSS	LIST IN DETAIL THE DAMAGE TO EACH BUILDING OR ITEM

This claim has been referred to _____, Adjuster

Reinsured Association or Company _____

Dated _____, 19 _____ Secretary _____



Department of Water & Natural Resources

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

WATER RIGHTS DIVISION
(605) 773-3352

December 24, 1986

Mike McGuigan
RR#1, Box 146A
Spearfish, South Dakota 57783

RE: Cook Ditch

Dear Mike:

Enclosed you will find the application forms to license your vested right claim. Please review the applications and the acreages for accuracy and return them with a \$15.00 filing fee in the enclosed envelope, not later than December 31, 1986.

If you have any questions, please contact me.

Sincerely,

Rassool Ahadi
Natural Resources Engineer

RA:ms
Enc.

Cook Ditch

Slide gate 4' x 2.1'

$$Q = C'd(b - 2bH_1)\sqrt{g} H_1^{3/2}$$

$$Q_{\text{gate}} = 35.5 \text{ CFS}$$

$$\text{Assumed Area} \approx 19 \text{ ft}^2$$

(11.6' x 1.6' per 1/4" thick)

$$Q_{\text{ditch}} = V \cdot A = 2.4 \times 19 = 45.6 \text{ CFS}$$

$$H_1 = 2.1'$$

$$b = 4'$$

$$\eta = .1$$

$$C'd = .587$$

$$g = 32.2 \text{ ft/s}^2$$

$$V = 2.4 \text{ FPS}$$

measured

$$Q_{\text{gate}} = 35.5 \text{ CFS}$$

$$Q_{\text{ditch}} = 45.6 \text{ CFS}$$

$$Q_{\text{vested}} = 21.5 \text{ CFS}$$

$$Q_{\text{lost pipe}} = 18.2 \text{ CFS}$$



Department of Water & Natural Resources

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

June 9, 1987

Cook Ditch Company
c/o Michael McGuigan
RR 1, Box 146A
Spearfish SD 57783

Dear Mr. McGuigan:

This letter is to inform you that the vested right claim for Cook Ditch Company has been reviewed. We are preparing a report of our investigation. When the report is completed your application will be complete pursuant to SDCL 46-2A-2. A recommendation will 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 & 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".

RON DUVALL
Natural Resources Engineer

RD:ks



Department of Water & Natural Resources

Joe Foss Building

523 East Capitol

Pierre, South Dakota 57501-3181

July 1, 1987

Cook Ditch Company
c/o Michael McGuigan
RR 1, Box 146A
Spearfish SD 57783

Dear Mr. McGuigan:

This letter is to inform you that the vested right claim for Cook Ditch Company 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".

RON DUVALL
Water Resources Engineer
605 773-3352

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 1389-1, Cook Ditch Company

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. 1389-1, Cook Ditch Company, c/o Michael McGuigan, NRL, Box 146A, Spearfish, South Dakota.

The Chief Engineer is recommending VALIDATION of Application No. 1389-1 for 21.6 cfs because 1) water has been appropriated as described for irrigation use with priority dates of June 10, 1877 for 20.4 cfs, and May 1, 1878 for 1.2 cfs ("Diedrich Ranch"), 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. 1389-1 is subject to domestic use rights. Diversion of water under Water Right No. 1389-1 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 Cook Ditch Company within one year of validation of Vested Water Right No. 1389-1. 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 13, 1987

Report on the Cook Ditch (Spearfish Creek)

Vested Right Application No. 1389-1

September 8, 1987

Background

Pursuant to SDCL 46-5-49 and ARSD 74:02:01:20, Cook Ditch has filed an application to validate a vested right claim. The application claims 21.6 cfs of Spearfish Creek waters to irrigate 780.4 acres of land located in the Sections 20, 21, 28, 29, and 33, T7N-R2E, in Lawrence County. The diversion point is located in the NE1/4 SE1/4 Section 33, T7N-R2E.

Document Search

In the Cook vs Evans Court Case, dated January 30, 1918, the Cook Ditch Water Right and a number of other water rights along Spearfish Creek were adjudicated. In this action, the court specified that the Cook Ditch was seventh in priority of those water rights adjudicated with a priority date of June 10, 1877 and was entitled to use not more than 816.35 miner's inches of water. In addition, the court specified that no more than 46 miner's inches were to be delivered through the Cook Ditch to irrigate 45.8 acres on the "Diedrich Ranch" under the Tonn and Evans Water Right priority date of May 1876 when water was needed for the "Diedrich Ranch" acreage. The court also specified that 40 miner's inches equal 1.0 cfs.

Discussion

The Water Resources Commission investigated the irrigation from Cook Ditch in the early 1960's. At that time, 720 acres were mapped as being irrigated from the ditch. This acreage was changed to 816 acres after receiving comments and legal descriptions for land from ditch company members concerning areas which should have been included on the map.

Recent investigations by Water Rights Division engineers have found that 780.4 acres of land are being irrigated from the Cook Ditch. This includes the 45.8 "Diedrich Ranch" acres. The headgate is capable of diverting more water than the amount claimed and the ditch has a capacity of approximately 45 cfs.

To determine the amount of water necessary to irrigate 780.4 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, 11.15 cfs of water will be used to irrigate 780.4 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 22.3 cfs.

- 2) Using SCS, S.D. Irrigation Guide, the peak consumption occurs in July. The crops in the area use 28.8% of their annual water consumption in the Month of July. Assuming the crops need 3 feet of water every irrigation season, a total of 2341 acre-feet of water is necessary for the season, from which 674 acre-feet or 10.98 cfs will be used in the Month of July. Considering a 50% loss due to the system, the total diversion rate required will be 21.9 cfs.

Conclusions and Recommendations

- 1) The headgate and the ditch are capable of diverting and carrying 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 Cook Ditch would be 22.3 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 21.6 cfs by the Cook vs Evans decision, the claim should be validated for the diversion of 21.6 cfs of water.
- 3) It is recommended that the Cook Ditch Vested Water Right Claim be validated for a diversion rate of 21.6 cfs for the irrigation of 780.4 acres of land as described in Application No. 1389-1 with a priority date of June 10, 1877 for 20.4 cfs and May 1, 1876 for 1.2 cfs (Diedrich Ranch).



Rassool Ahadi
Natural Resources Engineer

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. 1389-1 to Appropriate Water

Notice is hereby given that Cook Ditch Company, c/o Michael McGuigan whose mailing address is RR 1, Box 146A, Spearfish, South Dakota has filed an application to validate a vested right claim to appropriate 21.6 cubic feet of water per second (cfs) from Spearfish Creek for irrigation of 780.4 acres via the Cook Ditch with claimed priority dates of June 10, 1877 for irrigation of 734.6 acres and May, 1876 for irrigation of 45.8 acres (Diedrich Ranch). The Spearfish Creek diversion point for the Cook Ditch is located in the NW 1/4 SW 1/4 Section 34, T7N, R2E. The irrigated acreage is located in the SE 1/4, E 1/2 SW 1/4, S 1/2 NE 1/4 Section 20; SW 1/4 SW 1/4 Section 21; SW 1/4 NE 1/4, NW 1/4 SE 1/4, N 1/2 SW 1/4, SW 1/4 SW 1/4, NW 1/4 Section 28; E 1/2 SE 1/4, NW 1/4 SE 1/4, NE 1/4, NE 1/4 NW 1/4 Section 29; E 1/2 NE 1/4, NW 1/4 NE 1/4 Section 33; 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. 1389-1 for 21.6 cfs because 1) water has been appropriated as described for irrigation with priority dates of June 10, 1877 for 20.4 cfs and May 1, 1876 for 1.2 cfs (Diedrich Ranch), 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.



Department of Water & Natural Resources

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

October 29, 1987

QUEEN CITY MAIL
Box 7
Spearfish SD 57783

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 1389-1. 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 Cook Ditch Company, c/o Michael McGuigan, RR 1, Box 146A, 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. 1389-1. 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 Cook Ditch Company, c/o Michael McGuigan, RR 1, Box 146A, 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

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

Cook Ditch Company
c/o Michael McGuigan
RR 1, Box 146A
Spearfish SD 57783

Dear Mr. McGuigan:

Your Application No. 1389-1 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

No. 1389-1

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: 114 x .2564 = 29.23

114 x .2051 = 23.38

total = 52.61

NOTICE OF HEARING

To Validate Vested
Right Application
No. 1389-1 to
Appropriate Water

Notice is hereby given that Cook
ditch Company, c/o Michael
McGuigan whose mailing address is
RR 1, Box 146A, Spearfish, South
Dakota has filed an application to
validate a vested right claim to ap-
propriate 21.6 cubic feet of water per
second (cfs) from Spearfish Creek for
irrigation of 780.4 acres via the Cook
Ditch with claimed priority dates of
June 10, 1877 for irrigation of 734.6
acres and May, 1876 for irrigation of
45.8 acres (Diedrich Ranch). The
Spearfish Creek diversion point for
the Cook Ditch is located in the NW
1/4 SW 1/4 Section 34, T7N, R2E.
The irrigated acreage is located in the
SE 1/4, E 1/2 SW 1/4, S 1/2 NE 1/4
Section 20; SW 1/4 SW 1/4 Section
21; SW 1/4 NE 1/4, NW 1/4 SE 1/4, N
1/2 SW 1/4, SW 1/4 SW 1/4, NW 1/4
Section 28; E 1/2 SE 1/4, NW 1/4 SE
1/4, NE 1/4, NE 1/4 NW 1/4 Section
29; E 1/2 NE 1/4, NW 1/4 NE 1/4
Section 33; 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. 1389-1 for 21.6 cfs because 1)
water has been appropriated as de-
scribed for irrigation with priority
dates of June 10, 1877 for 20.4 cfs and
May 1, 1876 for 1.2 cfs (Diedrich
Ranch), 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 in-
terest.

Validation of this application will
be considered by the Water Manage-
ment Board at Howard Johnson's
Roosevelt and Jefferson Rooms, 2213
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 conclu-
sion 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.

Nov 20 1987

No. 1389-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Butte) ss.

I, Marion Lucca 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 Lucca

(Signature)

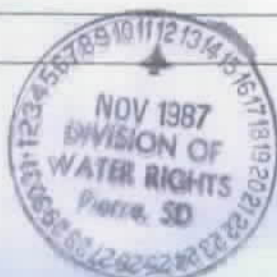
Editor

(Title)

November 10, 1987

(Date Signed)

Cost of Printing: \$ 44.77



NOTICE OF HEARING
TO VALIDATE
Vested Right Application
No. 1389-1

to Appropriate Water

Notice is hereby given that Cook Ditch Company, c/o Michael McGuigan whose mailing address is RR1, Box 146A, Spearfish, South Dakota has filed an application to validate a vested right claim to appropriate 21.6 cubic feet of water per second (cfs) from Spearfish Creek for irrigation of 780.4 acres via the Cook Ditch with claimed priority dates of June 10, 1877 for irrigation of 734.6 acres and May, 1876 for irrigation of 45.8 acres (Diedrich Ranch). The Spearfish Creek diversion point for the Cook Ditch is located in the NW 1/4 SW 1/4 Section 34, T7N, R2E. The irrigated acreage is located in the SE 1/4, E 1/2SW 1/4, S1/2 NE1/4 Section 20; SW1/4 SW1/4 Section 21; SW 1/4 NE 1/4, NW 1/4 SE 1/4, N 1/2 SW 1/4, SW1/4 SW 1/4, NW 1/4 Section 28; E1/2 SE 1/4, NW 1/4 SE 1/4, NE 1/4, NE 1/4 NW 1/4 Section 29; E 1/2 NE 1/4, NW 1/4 NE 1/4 Section 33; 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. 1389-1 for 21.6 cfs because 1) water has been appropriated as described for irrigation with priority dates of June 10, 1877 for 20.4 cfs and May 1, 1876 for 1.2 cfs (Diedrich Ranch), 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-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, 46-2-31, 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., (605 773-3352) SL or to the hearing for assistance prior to the hearing date. The time of the hearing will be automatically extended 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.

**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 1389-1 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,

A handwritten signature in cursive script that reads 'Richard J. Beringson'. The signature is fluid and stylized, with the first letters of the first and last names being capitalized and prominent.

Richard J. Beringson
Secretary

RJB/ld

cc: Cook Ditch Company & Michael McGuigan

November 24, 1987
(date)

page 1

Parties of Record before Water Management Board regarding Vested Right
Application No. 1389-1, Cook Ditch Company

For:

Michael McGuigan
Cook Ditch Company
RR1, Box 146A
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 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 CF&P interest in the upcoming hearings the following information should be useful.

CF&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. CF&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 cursive script, appearing to read "Ron Koth".

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

Cook Ditch Company
c/o Michael McGuigan
RR 1, Box 146 A
Spearfish, South Dakota 57783

Dear Mr. McGuigan:

Enclosed are your Validated Vested Water Right and Water License No. 1389-1.
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 that reads "John Hatch".

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

JH:ms

enclosures

 **Department of
Water & Natural Resources**

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

January 9, 1989

Cook Ditch
c/o Michael McGuigan
RR 1
Spearfish SD 57783

RE: Installation of a Permanent Measuring Device for
Vested Right No. 1389-1

Dear Mr. McGuigan:

As a reminder, the Water Management Board, at the December 2 and 3, 1987 meeting, validated your vested right claim on Cook Ditch. The Board's motion required installation of a permanent measuring device on the ditch at or near the point of diversion within one year of validation of your vested right claim. To comply with the Board's order, the measuring device must be installed prior to the 1989 irrigation season. Please note that the plans and specifications for the measuring device must be approved by the chief engineer prior to installation.

If you have any questions, please contact me.

Sincerely,

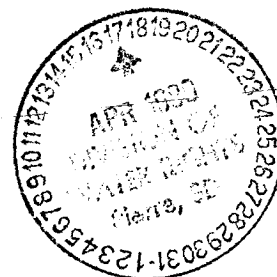


RASSOOL AHADI
Natural Resources Engineer
(605) 773-3352



1389-1

COOK DITCH COMPANY



April 10, 1989

John Hatch, Chief Engineer
Div. of Water Rights
Dept. of Water & Natural Resources
Joe Foss Bldg.
523 E. Capitol
Pierre, SD 57501-3181

Dear John:

Cook Ditch is sending you the plan for the flow metering device (designed by Tom Verhelst, ASC Engineer) that is required for our water right. Your rapid response and approval would be appreciated.

If you have any further questions please contact:

Michael McGuigan, President
Cook Ditch Co.
R R 1, Box 146A, Spearfish, SD 57783
(605) 642-2275 or (605) 642-8058

or

Tom Verhelst, ASC Engineer
HCR 30 Box 34,
Belle Fourche, SD 57717
(605) 892-4315

Sincerely,

A handwritten signature in cursive script that reads "Michael McGuigan".

Michael McGuigan, Pres.
Cook Ditch Co.

MM:mm
Enc.

 **Department of
Water & Natural Resources**

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

April 24, 1989

Michael McGuigan, President
Cook Ditch Co.
RR 1, Box 146A
Spearfish SD 57783

RE: Approval of Plans and Specifications for a Measuring Device
Vested Water Right No. 1389-1.

Dear Mr. McGuigan:

We have reviewed the plans and specifications for your measuring device designed by the Soil Conservation Service. The measuring device will be used to measure flow in Cook Ditch. According to the proposed plan, a Parshall Flume with a throat width of 3 feet will be used. The plans and specifications are approved as submitted. Please note that the installation of your measuring device must be supervised or approved by a qualified engineer.

If you have any questions, please contact Rassool Ahadi
(605-773-3352).

Very truly yours,



JAMES WINTERTON, P.E.
Natural Resources Engineer
For John Hatch, Chief Engineer
Water Rights Division



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 Hillsvie 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

April 3, 1991

Cook Ditch Company
c/o Michael McGuigan
RR 1, Box 146A
Spearfish, SD 57783

RE: Vested Water Right No. 1389-1

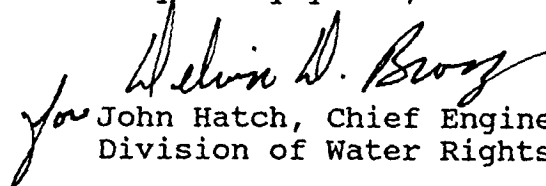
Dear Mr. McGuigan:

Since drought conditions still persist in the Black Hills area, we are expecting another irrigation season with very low flows in Spearfish Creek. During the 1990 irrigation season, there was a short period of time when there were no flows in Spearfish Creek below the Cook Ditch's diversion dam. I am requesting that you notify me of any remedial steps you have taken to assure a constant flow in the Spearfish Creek below your diversion dam.

If by-pass flows are not adequate, I will have to issue a shutoff order to Cook Ditch Company until a permanent and adequate bypass structure is installed at the diversion dam.

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.

Very truly yours,

for 
John Hatch, Chief Engineer
Division of Water Rights



DEPARTMENT OF WATER & NATURAL RESOURCES

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

1389-1

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

~~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 Henderson



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

May 14, 2000

Mrs. Evon Breeding
3910 Brookview Rd
Spearfish, SD 57783

Dear Mrs. Breeding:

I am writing in regards to my May 10, 2001 site investigation and your concern about access through the Jorgenson property to the Tonn & Evans Ditch headgate. You also expressed the concern that the Jorgenson development may use most of the water from Cook Ditch limiting the amount of water available to irrigate your property.

I discussed these matters with the Chief Engineer and we have concluded that so far the Jorgenson development is not violating state water laws. Also, as I indicated on the day of my investigation of the area, you should check your property's legal documents regarding the Tonn & Evans Ditch headgate easement. At this time we do not intend to further pursue this matter.

If you should have any other concerns or future difficulties regarding irrigation from the Tonn & Evans Ditch, please contact me or Mark Rath at 605 773-3352.

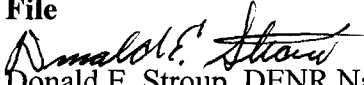
Sincerely,

Donald E. Stroup
Natural Resources Project Engineer
DENR, Water Rights Program

May 14, 2000

MEMO

To: File

From:  Donald E. Stroup, DENR Natural Resources Project Engineer

Subject: VR #1389-1 Cook Ditch

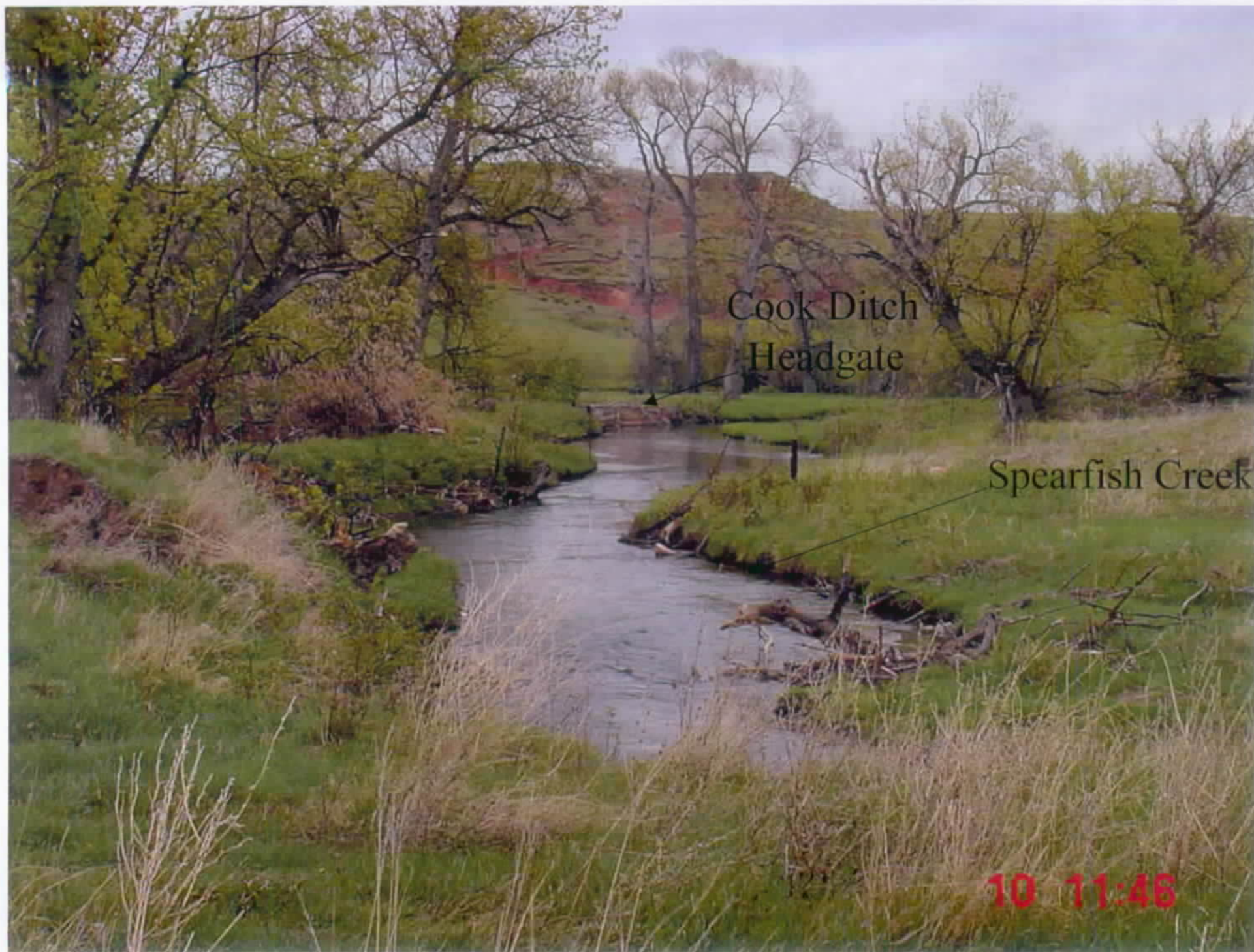
On May 10, 2001, in response to a concern of Mrs. Breeding, I examined an area irrigated from Cook Ditch, Spearfish, SD.

This area is the same as examined by Mark Rath and I last summer in response to a concern of Mike McGuigan regarding several ponds constructed off of Spearfish Creek by Mr. Jorgenson. Mrs. Breeding's concern pertains to this same Jorgenson development near Spearfish Creek.

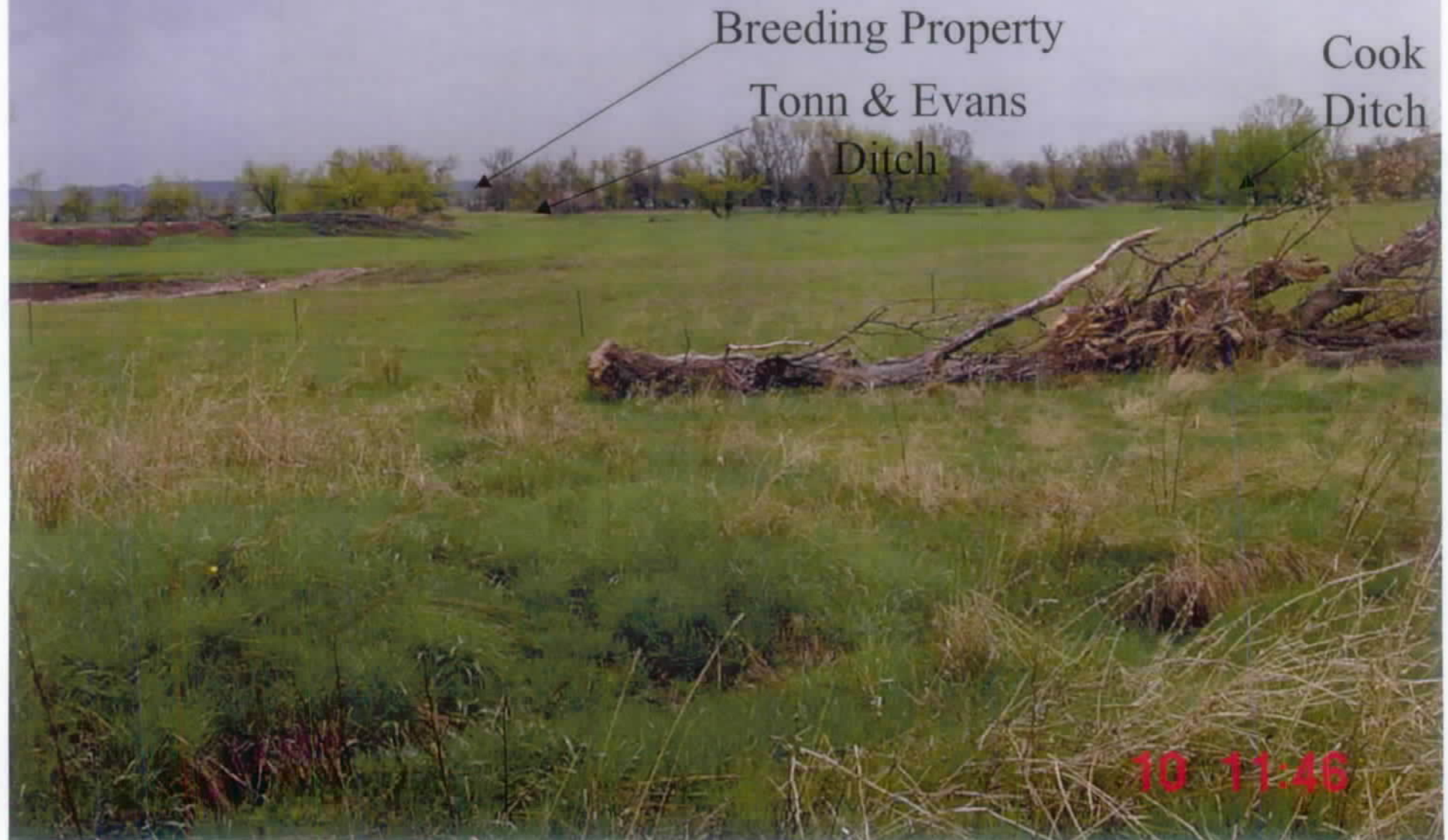
Mrs. Breeding irrigates from the Tonn & Evans Ditch which is a lateral of Cook Ditch. The headgate for Tonn & Evans Ditch is on property owned by Mr. Jorgenson. Mr. Jorgenson is presently cultivating this property and hindering the traditional route used by Mrs. Breeding to access the Tonn & Evans Ditch headgate. Mrs. Breeding is also concerned that the Jorgenson development will use most of the water from Cook Ditch and feels that Mr. Jorgenson is not being a good neighbor and may be trying to force her out of her irrigation right. I explained to Mrs. Breeding that state law protects her irrigation right and that Mr. Jorgenson can not influence this right.

My examination showed that Mr. Jorgenson is cultivating tree plots on his property and it appears that he intends to irrigate these plots from Cook Ditch. Mrs. Breeding also showed me two other routes through Jorgenson property that she can use to access the Tonn & Evans headgate.

After examining the area, I informed Mrs. Breeding that presently the Jorgenson development is not violating state water law and that she should check her property legal documents pertaining to the access easement to the Tonn & Evans Ditch headgate. I also advised Mrs. Breeding to contact Mark Rath or myself if she has any other concerns or difficulty regarding her irrigation rights and the Jorgenson development.



View North through Jorgenson
property toward Breeding property.



10 11:46

View South through Jorgenson
property toward Cook Ditch

Tonn & Evans
Ditch

Tonn & Evans
Headgate

Cultivated Plot

Traditional Route
used by Breeding

10 12:01





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 2, 2000

Mike McGuigan
2350 Dairy Lane
Spearfish, SD 57783

Dear Mr. McGuigan:

I am writing in response to your concern about the pond constructed next to Spearfish Creek located just upstream of the Cook Ditch Company headgate located in the SW ¼ of Section 34 T7N-R2E. I have discussed this matter with the Chief Engineer and our staff attorney and we have concluded that this construction does not violate state water law. At this time we do not intend to pursue this matter further.

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

Sincerely,

Mark D. Rath
Natural Resources Engineer
Water Rights Program

Water Rights Program - DENR

Conversation or File Documentation

Name of Person: Mike McGuigan **File No.** #

Address: 2350 Dairy Lane, Spearfish, SD **County:** SD

Date: 5/1/00 **Telephone:** 642-2275, cell 641-2052

RE: Ponds on Spearfish Creek

Comments:

I returned call to Mike McGuigan. Mr. McGuigan said that Joe Jorgenson is building a development near Spearfish Creek and has built two ponds just off the creek. Mr. Jorgenson has cut a canal from the creek to the ponds and will be filling them with creek water. Mr. McGuigan is concerned that this project which is located just upstream of the Cook Ditch headgate will cause them problems. The ponds are located in the W1/2 of Sec 34 T7N-R2E near the I-90 in Spearfish. I told Mr. McGuigan I would need to look into this and get back to him.

5/17/00

don Stroup and I met with Mr. McGuigan and Mr. Frank Ward and looked at the ponds. Pond #1 was constructed next to Spearfish Creek. It receives direct flow into the pond from the creek. Pond #2 is located about 50 yards from the creek. It appears to have been constructed into the alluvium and intercepts the ground water. Mr. McGuigan and Mr. Ward are concerned that during low flows in the creek, the pond next to the creek will impact the ditch company's ability to use their headgate.



Mark D Rath
Natural Resources Engineer

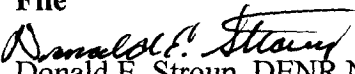




August 30, 2000

MEMO

To: File

From:  Donald E. Stroup, DENR Natural Resources Project Engineer

Subject: VR #1389-1 Cook Ditch

On August 29, 2001, in response to the second concern of Mrs. Breeding pertaining to access to a Cook Ditch lateral headgate and the Jorgenson development, I made an examination of the area.

My examination showed no change in the situation from what I observed during my May 2001 visit with Mrs. Breeding. Again, I informed Mrs. Breeding that the Jorgenson development is not violating state water law and that she should check her property legal documents pertaining to the access easement to the Tonn & Evans Ditch headgate. I also advised Mrs. Breeding that concerns with water usage from the ditch should be referred to ditch management personnel.

After my visit with Mrs. Breeding, I encountered Mr. Spike Jorgenson owner of the property where the headgate is located. Mr. Jorgenson told me that he left an 18 foot easement on the traditional route that Mrs. Breeding used to access the headgate and that the two other routes are still available for her access. He also showed me his plans for landscaping and irrigation ditch routing on his property. None of Mr. Jorgenson's plans are in violation of state water laws.

Attached: May 14, 2001 Memo

May 14, 2000

MEMO

To: File

From: Donald E. Stroup, DENR Natural Resources Project Engineer

Subject: VR #1389-1 Cook Ditch

On May 10, 2001, in response to a concern of Mrs. Breeding, I examined an area irrigated from Cook Ditch, Spearfish, SD.

This area is the same as examined by Mark Rath and I last summer in response to a concern of Mike McGuigan regarding several ponds constructed off of Spearfish Creek by Mr. Jorgenson. Mrs. Breeding's concern pertains to this same Jorgenson development near Spearfish Creek.

Mrs. Breeding irrigates from the Tonn & Evans Ditch which is a lateral of Cook Ditch. The headgate for Tonn & Evans Ditch is on property owned by Mr. Jorgenson. Mr. Jorgenson is presently cultivating this property and hindering the traditional route used by Mrs. Breeding to access the Tonn & Evans Ditch headgate. Mrs. Breeding is also concerned that the Jorgenson development will use most of the water from Cook Ditch and feels that Mr. Jorgenson is not being a good neighbor and may be trying to force her out of her irrigation right. I explained to Mrs. Breeding that state law protects her irrigation right and that Mr. Jorgenson can not influence this right.

My examination showed that Mr. Jorgenson is cultivating tree plots on his property and it appears that he intends to irrigate these plots from Cook Ditch. Mrs. Breeding also showed me two other routes through Jorgenson property that she can use to access the Tonn & Evans headgate.

After examining the area, I informed Mrs. Breeding that presently the Jorgenson development is not violating state water law and that she should check her property legal documents pertaining to the access easement to the Tonn & Evans Ditch headgate. I also advised Mrs. Breeding to contact Mark Rath or myself if she has any other concerns or difficulty regarding her irrigation rights and the Jorgenson development.

VAL

HIGGINS GULCH IRRIGATION

	154
	91
	98
	78
	33.5
	182
	78.5
	36
	24.4
	5

Total 780.4

20-7-2

21-7-2

COOK DITCH CO

29-7-2

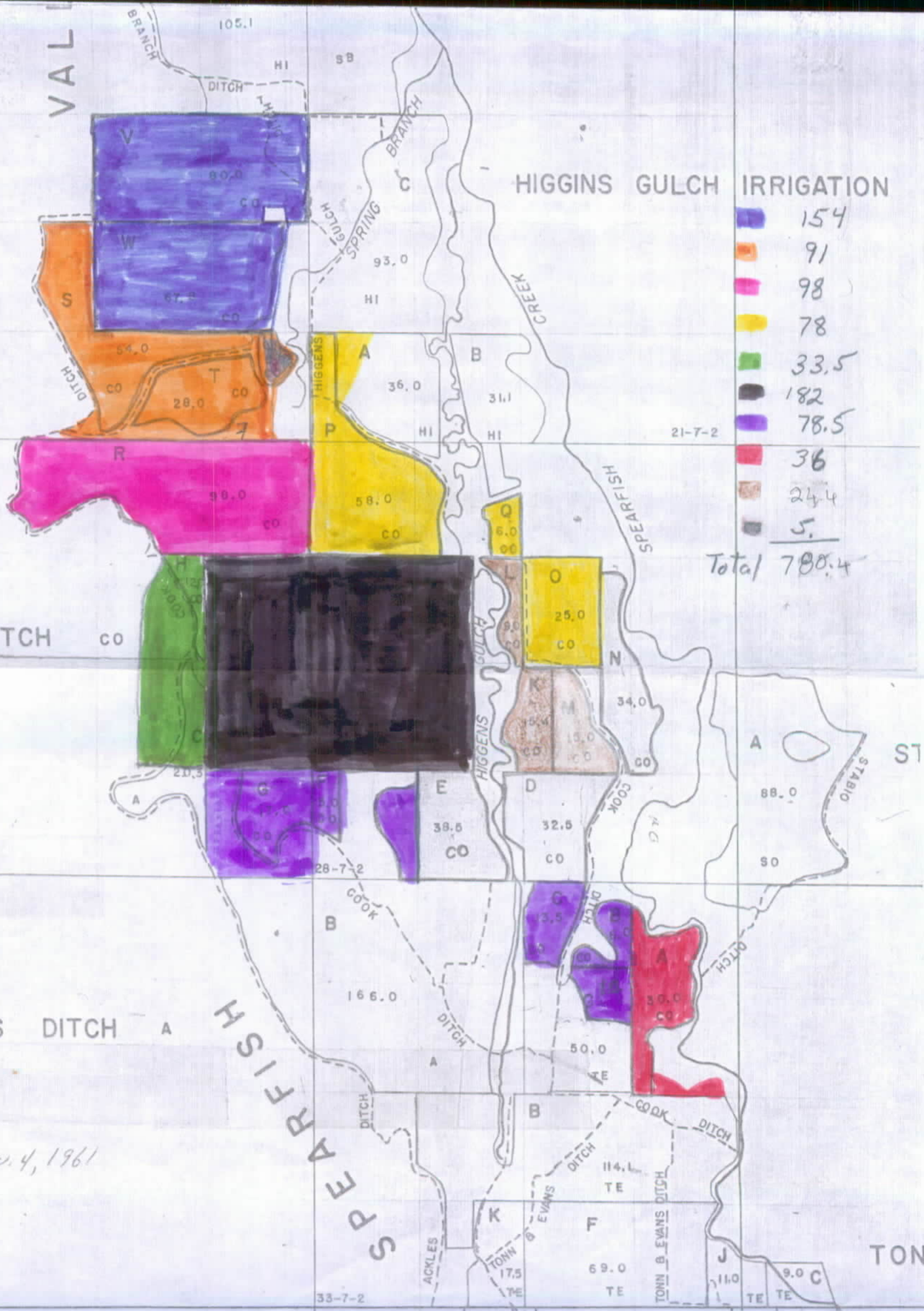
ACKLES DITCH A

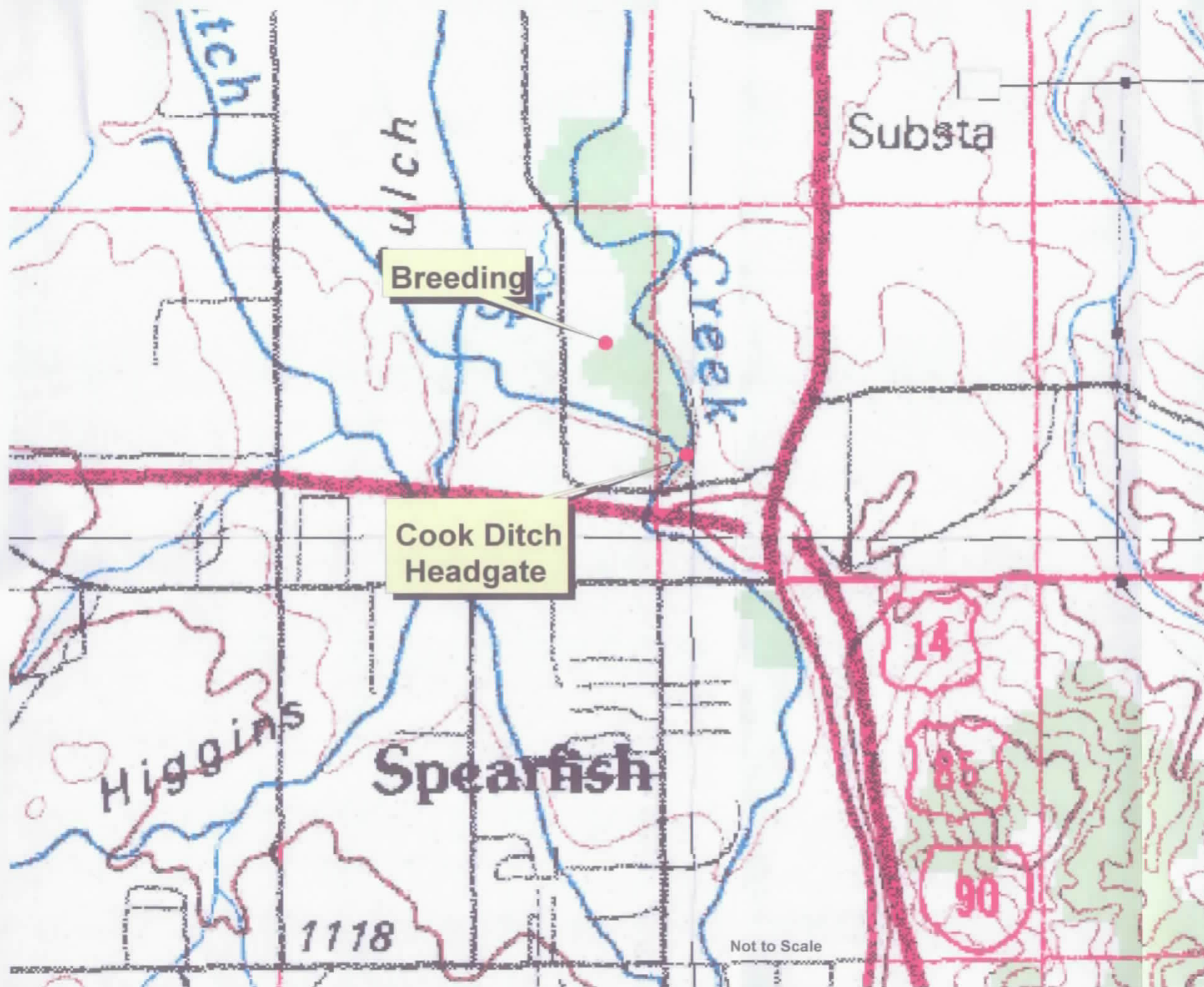
Dec. 4, 1961

32-7-2

33-7-2

TONI



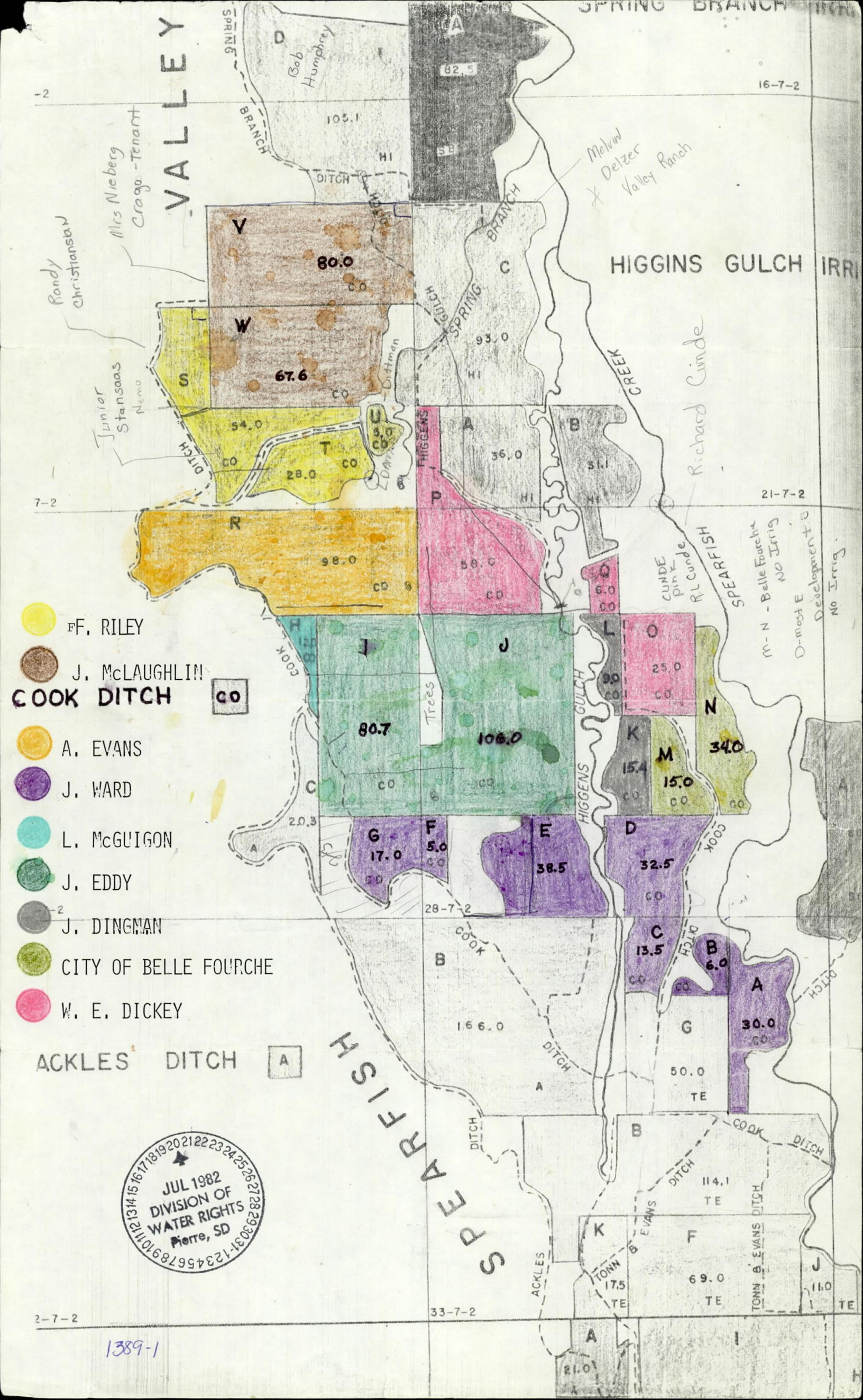


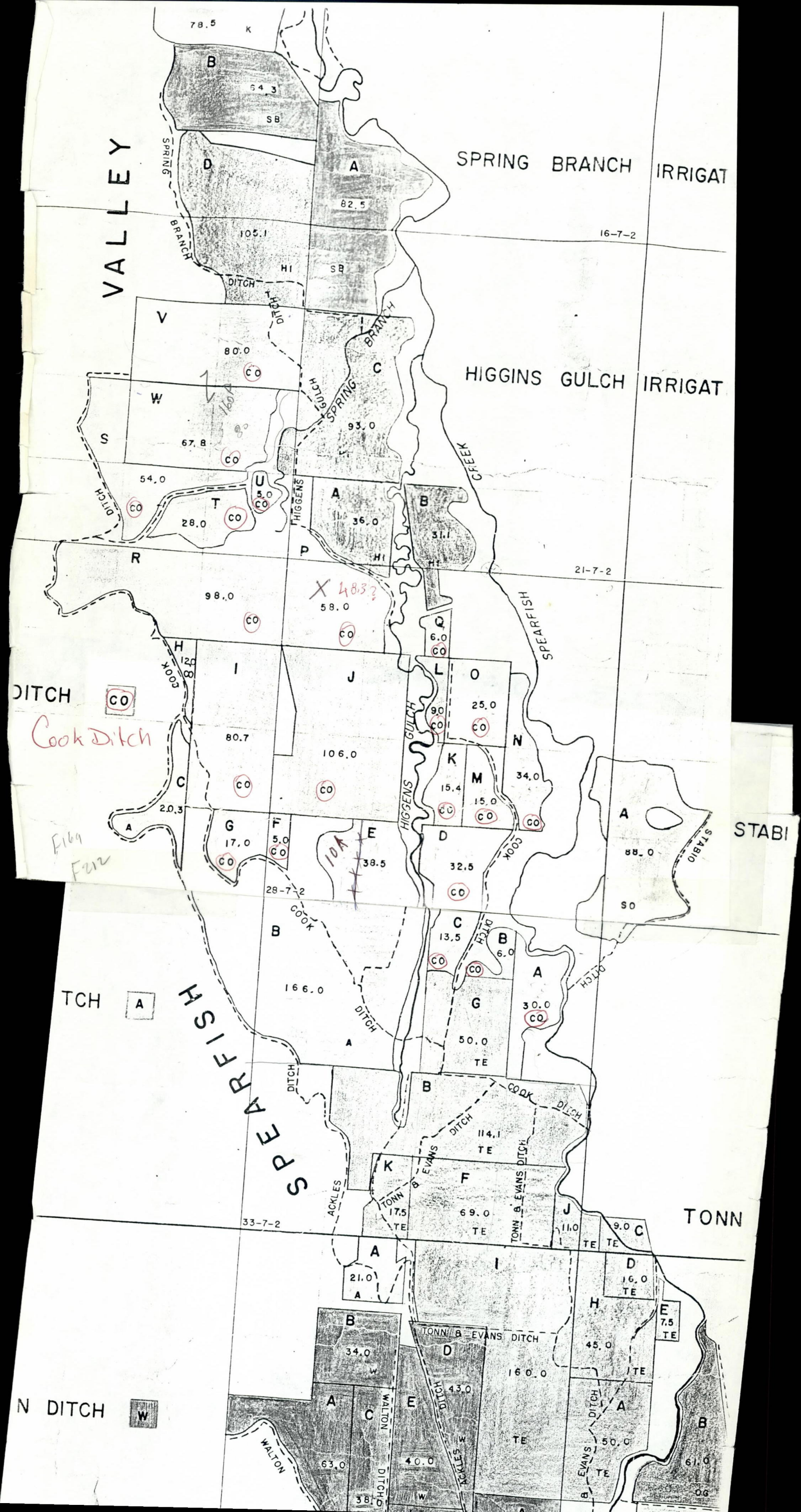
Evon Breeding
642-4144
3910 Brookview Rd

Mike McGuigan
642-2275 Cell 641-2052

Cook Ditch Diversion Point
103.8693 deg
44.5223 deg

Breeding
103.8723 deg
44.5253 deg





SPEARFISH CREEK IRRIGATION DITCHES - CONTACT INFORMATION

Updated 7/8/14

1392-1	MANN DITCH Edgar Burr 209 Evans Ln Spearfish, SD 605-642-7963	COOK DITCH Mike McGuigan 2350 Dairy Ln Spearfish, SD 605-641-2052	1389-1
1403-1	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	1424-1
1400-1	OWENS-GAY DITCH Tom Callaway City of Spearfish Spearfish, SD 605-642-1333	KEMPER-COOK-BURNS DITCHES Eric Jennings 19488 Creekside Loop Spearfish, SD 605-642-3411	1399-1 1394-1
1386-1	WALTON-SCHULER DITCH David Rossi Home 605-584-4904 Work 307-682-8530 Back up - Woody Hayes 605-645-2007	HIGGINS GULCH DITCH WEST Layton Lensegrav 10902 SD Hwy 34 Belle Fourche, SD 605-641-1124 or 605-723-3095	1412-1
1387-1**	TONN-EVANS DITCH Jared Capp - President 609 Nellie Lane Spearfish, SD 605-639-9041	HIGGINS GULCH DITCH EAST Cundy Trust c/o Jim Jennings-Co Trustee 19483 Old Belle Rd Spearfish, SD 605-642-2146	1413-1
1388-1	BOWMAN DITCH Phil Kissack 19460 Creekside Loop Spearfish, SD 605-642-4914		

**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

Mike McGuigan
Cook Ditch
2350 Dairy Ln
Spearfish, SD 57783

Cook Ditch, Vested Water Right No. 1389-1.

Dear Mr. McGuigan:

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

1392-1, 1403-1, 1386-1, 1388-1,
1389-1, 1424-1, 1399-1, 1394-1,
1412-1

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														
605-642-1333														
KEMPER-COOK-BURNS DITCHES														
Eric Jennings														
19488 Creekside Loop														
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														
Work 307-682-8530														
Back up - Woody Hayes 605-645-2007														
HIGGENS GULCH DITCH WEST														
Layton Lensegrav														
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
TONN-EVANS DITCH														
Jared Capp - President														
609 Nellie Lane														
Spearfish, SD														
605-639-9041														
HIGGENS GULCH DITCH EAST														
Cundy Trust														
c/o Jim Jennings-Co Trustee														
19483 Old Belle Rd														
Spearfish, SD														
605-642-2146														
1388-1	<table><tr><td>BOWMAN DITCH</td></tr><tr><td>Phil Kissack</td></tr><tr><td>19460 Creekside Loop</td></tr><tr><td>Spearfish, SD</td></tr><tr><td>605-642-4914</td></tr></table>	BOWMAN DITCH	Phil Kissack	19460 Creekside Loop	Spearfish, SD	605-642-4914								
BOWMAN DITCH														
Phil Kissack														
19460 Creekside Loop														
Spearfish, SD														
605-642-4914														

**1387-1 is actually listed in the name of Spearfish Tonn-Evans Ditch