

Considered: _____

Vested Right Claim:

WATER PERMIT NO. 1400-1

MAP No. same

Name of Applicant Owens - Gay Ditch c/o Josef Meier

Post Office Address 421 Meier Street, Spearfish SD 57783

Amount of Water Claimed 2.3 cfs Total Acres 61

Source of Water Supply Spearfish Creek

Water to be used for irrigation County Lawrence

About North miles side of Spearfish.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received December 30, 1986 Fee \$15.00 Remarks _____

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

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

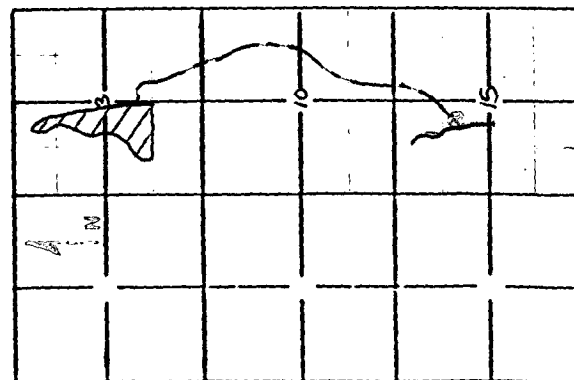
WI-1 Description same as Application YES _____ NO _____ REMARKS _____

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

section 15 - T6N - R2E

Land to be Irrigated E 1/2 NW 1/4 (23.6 ac), N 1/2 SW 1/4

(37.4 ac) section 3 - T6N - R2E



Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map plat & aerial photo PREPARED BY Rasool Ahadi Reviewed and the Number

assigned on August 10, 1987 By Ron Duvall

No. _____	Hydrologic Unit _____
Map No. _____	Basin _____
Newspaper _____	

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 Owens/Gay Ditch/Josef Meier Phone No. 642-2471Post Office Address 421 Meier Street Spearfish, South Dakota State 57783
(Street, RR or Box) Zip Code2. Amount of water claimed (c.f.s.) 2.3 Total acres irrigated 613. Source of Water supply Spearfish Creek4. Location of point of diversion approximately 1780 feet south, 2000 feet east from NW
Corner of Section 15, T6N-R2ECounty Lawrence5. Counties where water will be used Lawrence6. Annual period during which water is to be used April 1 - 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.
NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3 T6N-R2E	7.00
SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 3 T6N-R2E	16.60
NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3 T6N-R2E	34.4
NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 3 T6N-R2E	3.0

Land Description	No. Acres Irr.

Attach sheet if more space is needed

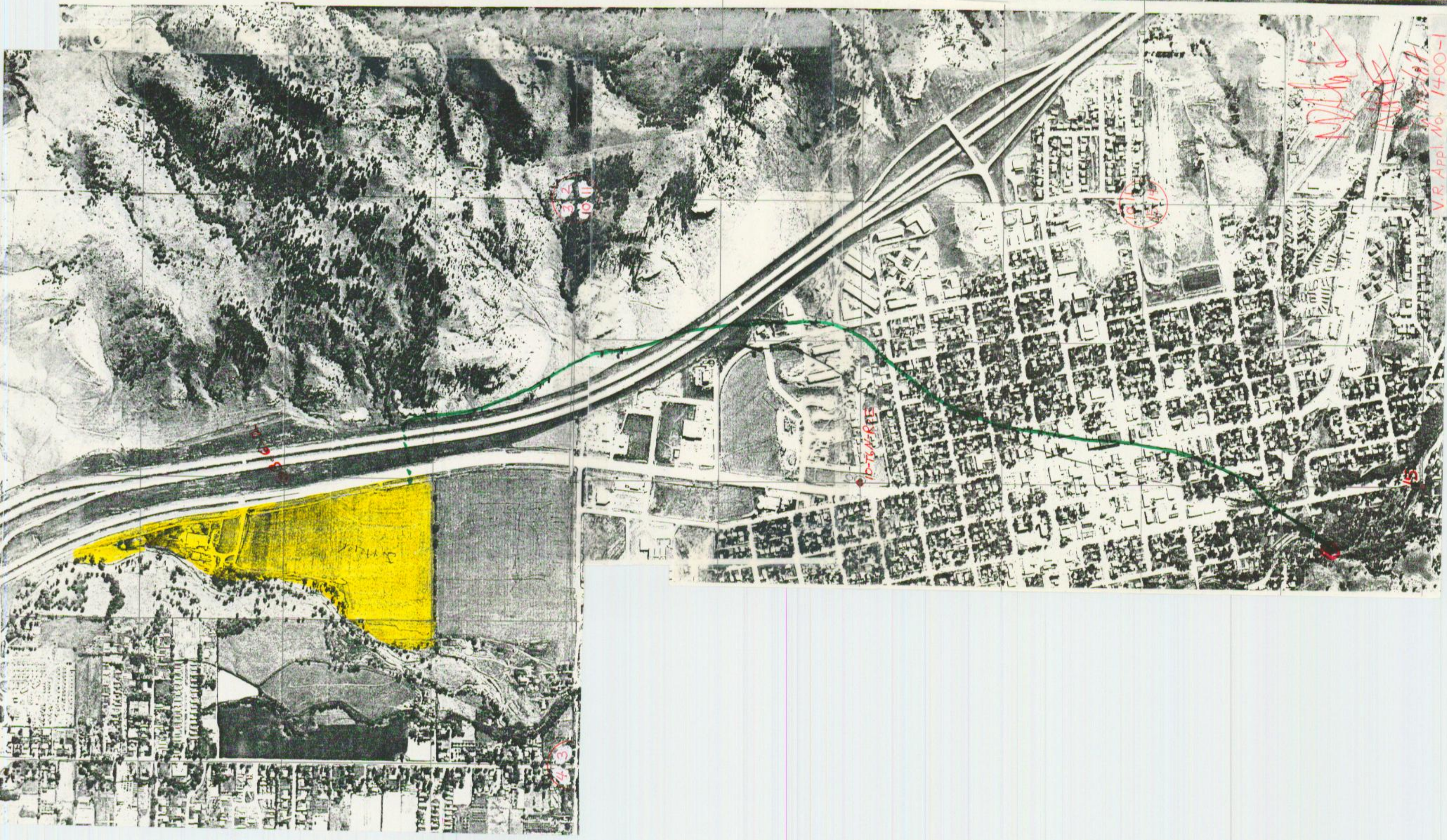
8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

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 ssI, Gary R. Richards, attorney for Josef Meier the applicant, certify that I have read the foregoing application, have examined the attached map and that the matters herein stated are true and that I intend, and am able to complete the necessary construction.Signed *Gary R. Richards*Subscribed and sworn to before me this 29th day of December 19 86*Shantyn R. Ruppel*
Notary Public (or other qualified officer)

2/2/87



VESTED WATER RIGHT

The Water Management Board hereby validates Vested Water Right No. 1400-1

Owens - Gay Ditch
(applicant)

421 Meier Str., 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 March 1, 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 _____
1.74 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.

The applicable portions of the Location Notice (Cooper Water Right) have been incorporated into No. 1400-1 and the abandoned portions of the Cooper Notice have been cancelled.

Vested Water Right No. 1400-1 was validated subject to the qualifications listed in Attachment A.

WATER MANAGEMENT BOARD

By: John Hatch

(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

APR 29 1988

, 19__.

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1400-1 FOR IRRIGATION

(1) Owens-Gay Ditch c/o Josef Meier
of 421 Meier Street, Spearfish, South Dakota 57783
made Application No. 1400-1, December 30, 1986
for validation of a vested right claim to appropriate 2.3
cubic feet of water per second from Spearfish Creek,
Lawrence County, South Dakota for irrigation purposes.
Vested Water Right No. 1400-1 was validated December 2, 1987
with a priority date of March 1, 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 1.74 cubic
feet of water per second for beneficial use. The location of the
diversion point(s) is: approximately 1780 feet South and 2000 feet East
from the NW Corner Section 15, T6N, R2E.

The location of the irrigated acreage is: _____

T6N, R2E Section 3 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 7.0 Acres

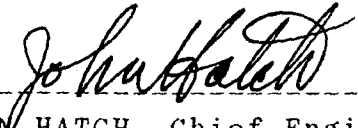
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 16.6 Acres

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 34.4 Acres

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 3.0 Acres

TOTAL 61.0 ACRES

(3) Pursuant to Section 46-5-30.1 Owens-Gay Ditch, c/o Josef Meier
of 421 Meier Street, Spearfish, South Dakota 57783
the holder(s) and/or owner(s) of Vested Water Right No. 1400-1
is issued a license to appropriate 1.74 cubic feet of
water per second from Spearfish Creek with a
priority date of March 1, 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.
1400-1 and subject to South Dakota State Law.


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

ATTACHMENT A
VESTED WATER RIGHT NO. 1400-1

1. That Vested Water Right No. 1400-1 is subject to domestic use rights. Diversion of water under Water Right No. 1400-1 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 Owens-Gay Ditch within one year of validation of Vested Water Right No. 1400-1. The measuring device shall be permanently installed. The design shall be approved prior to construction, by the Chief Engineer.

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) Owens-Gay Ditch/Josef Meier

Post Office Address 421 Meier Street 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 December 4, 1922 Recording date Cook vs Evans Court Case
Where Book Page

B. Date of start of construction of water supply system 1877

C. Date that water was first applied to beneficial use March 1, 1877

D. Name of owner of original water supply system T. R. Cooper etal?

E. Amount of water originally applied to beneficial use 92 (court case) Miners Inches

F. Present Use of Water - Amount of water now being used Irrigation - 92 Miners Inches

Date that this water was first used 1877

G. Chronological History of Water Use

To the best of my knowledge the ditch has always been in use since it was constructed.

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. Richards, attorney for Josef Meier the applicant, certify that I have read the foregoing
(print or type) and that the matters therein stated are true.

Signed Gary R. Richards
December 29, 1986

Subscribed and sworn to before me December 29, 1986

Sharilyn R. Reuppal 2/2/87
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

410682

Gary R. Richards, PO BOX 726 Pierre, December 30, 19 86

RECEIVED OF [redacted] Owens Gay Ditch/Josef Meier, 421 Meier St., Spearfish, SD 57783
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ 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

Chief Engineer

John Hatch
JOHN HATCH/ms

NOT TO SCALE

6-2



Owens-Gay & Ramsdell
Division Point
S51°E 2,680 ft. from the
NW corner, Sec. 15, T6N, R2E

OG
+
RA
Div. pt.

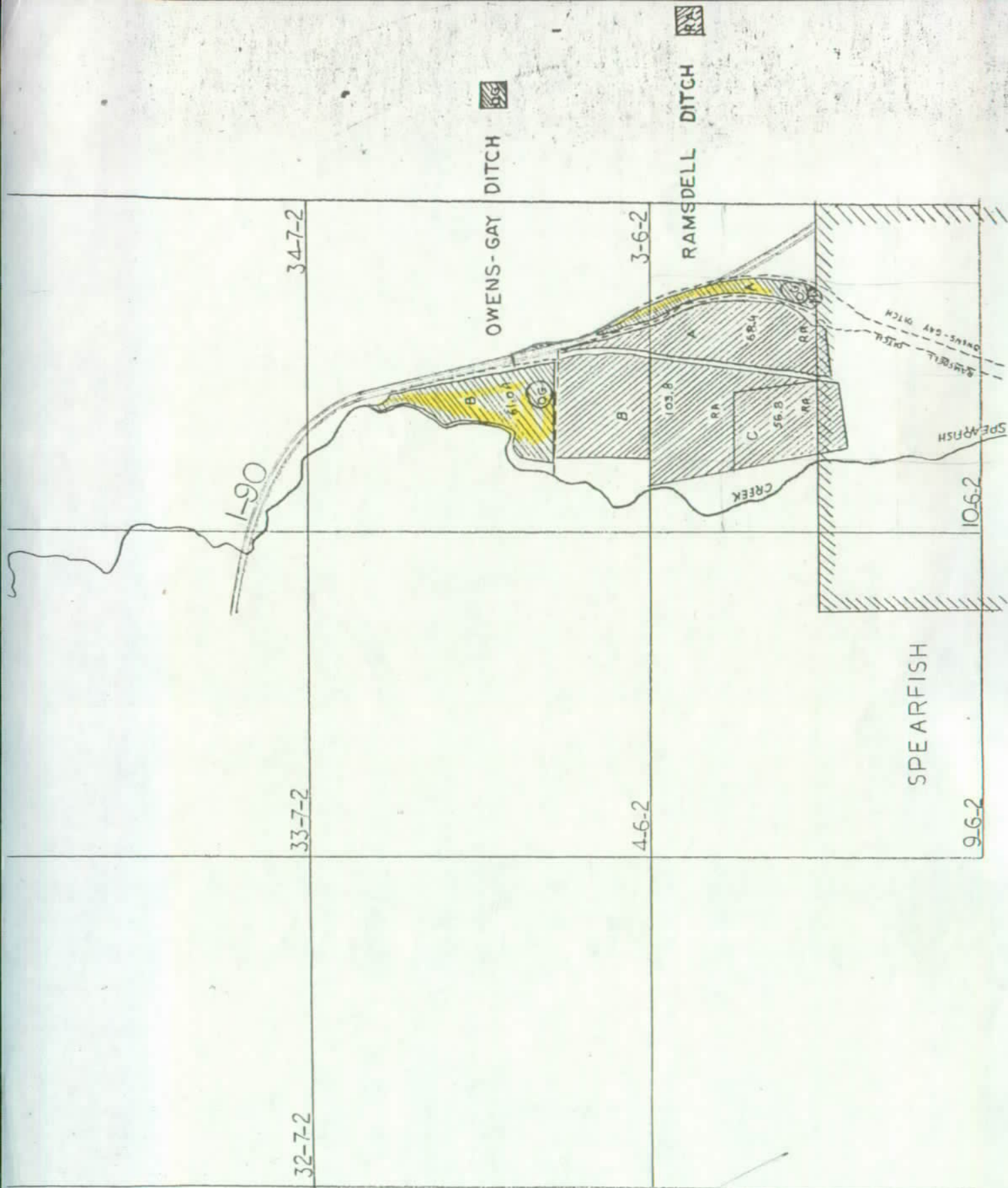
15

L-7H

6-2

Section 15, T6N, R2E

VR Appl. No. 1400-1



V.R. Appl No 1400-1

DIVERSION DITCH SERVICE

NAME OF THE DITCH: Owens - Gay Ditch

ADDRESS:

DIVERSION POINT: ¼ ¼ SEC. T N-R E; SOURCE:

MAXIMUM DIVERSION RATE: C.F.S.

ACREAGE SERVED: ACRES



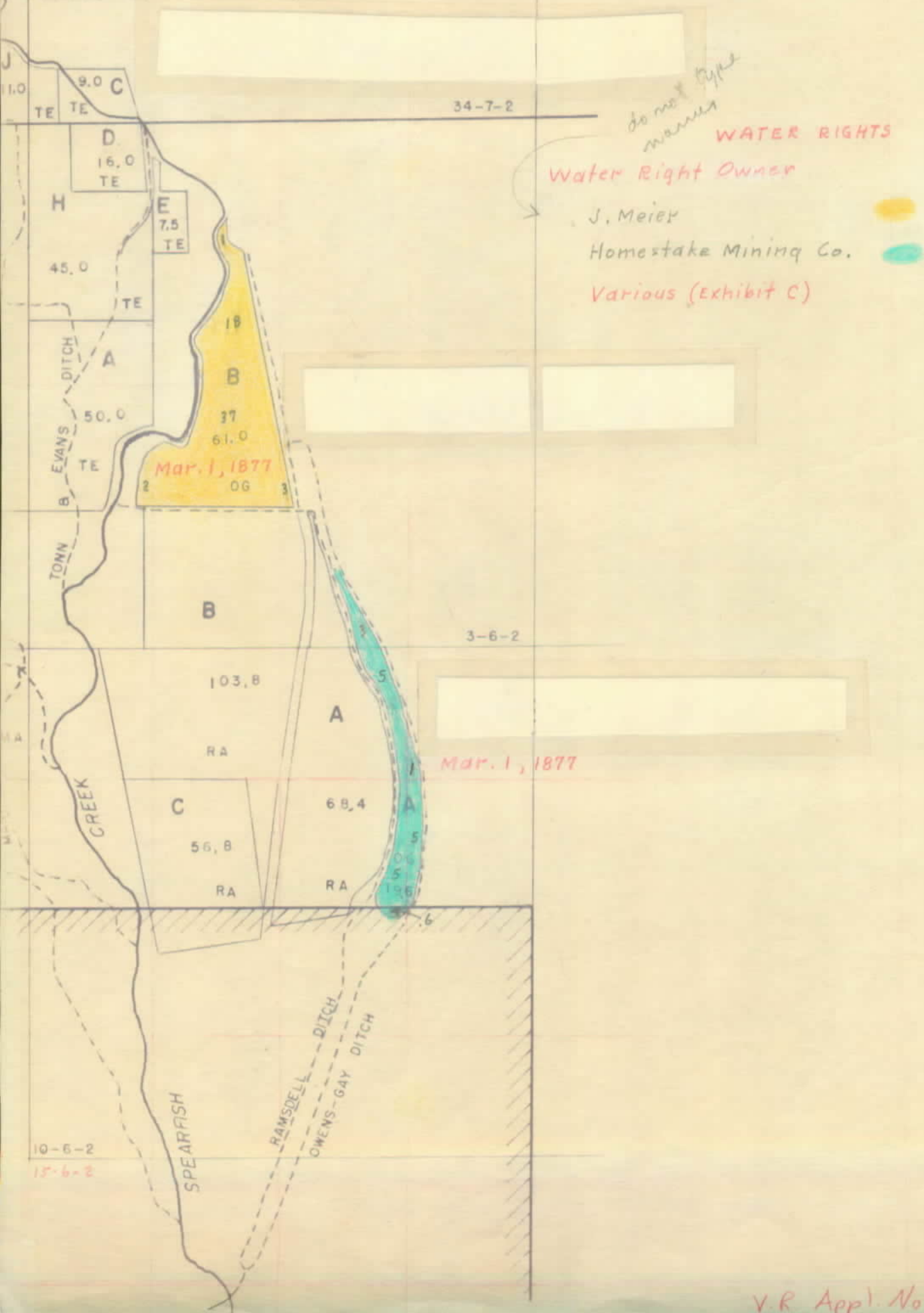
LANDOWNER'S NAME	LOCATION OF LAND BEING IRRIG. BY THIS DITCH	ACREAGE	COMMENTS
Josef Meier	61 acres located in Sec. 3, T6N, R2N; 2 acres, more or less located in Sec.10, T6N, R2N;	63 acres plus or minus 92.62-27.61	Although there has been considerable development in the area, none of this landowner's property has been developed nor is anticipated to be developed in the future. The develop- ment lies in those portions of 10-6-2 lying within the City limits of Spearfish as shown on your map. Map of this landowner's acreage being serviced by the Owens-Gay Ditch is enclosed and outlined in yellow.

50

27-7-2



Scale - 4 inches = 1 mile



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) Owens-Gay Ditch/Josef Meier

Post Office Address 421 Meier Street 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 September 12, 1883 Recording date Lawrence County 27 230
Where Book Page

B. Date of start of construction of water supply system 1877C. Date that water was first applied to beneficial use March 1, 1877 and April 1878D. Name of owner of original water supply system T. R. Cooper et alE. Amount of water originally applied to beneficial use 400 (claimed) - 92 (court case) Miners InchesF. Present Use of Water - Amount of water now being used Irrigation - 92 Miners InchesDate that this water was first used 1877

G. Chronological History of Water Use

To the best of my knowledge the ditch has always been in use since it was constructed.

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. Richards, attorney for Josef Meier the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed Gary R. RichardsSubscribed and sworn to before me December 29, 19 86

Sharilyn R. Reupel 2/2/87
 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.

Josef Meier 12/31 19 86
(Print name)
Josef Meier 12/31 19 86
(Print name)

December 14, 1961

Homestake Mining Company
Legal Department
Lead, S. Dak.

Mr. Josef Meier
311 1/2 Meier
Spearfish, S. Dak.

Re: Owens-Gay Ditch

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 Owens-Gay 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 Gay 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 said that irrigation of 92 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, the NE $\frac{1}{4}$ SW $\frac{1}{4}$, and the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, T6N, R2E, BHM, was covered by a riparian water right which was fourth in priority, based upon settlement of these riparian lands on March 1, 1877, and that irrigation of the same 92 acres was covered by an appropriative water right, which was tenth in priority, based upon a water right location in April, 1878. The Court said that not exceeding 92 miner's inches could be diverted for irrigation of these lands but that this rate of diversion was the total that could be diverted under both the riparian and appropriative water rights. Although the description of lands irrigated are not entirely the same as those now irrigated, the Court was considering, apparently, the lands irrigated from the presently named "Owen-Gay Ditch" or "Gay 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 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.

Homestake Mining Company
Mr. Josef Meier

December 14, 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

Encls: Map and List

CC: Letter, List & Map:
Homestake Mining Company
Engineering Department
Lead, S. Dak.

Mrs. Eugena Ryan
Spearfish, S. Dak.

Mr. Guy Bell, Manager
Josef Meier Irrigation
1205 5th
Spearfish, S. Dak.

Dec. 1964

DITCH DIVERSION SERVICE

Name of Ditch. OWENS - GAY DITCH

Stream. SPEARFISH CREEK

Address. c/o

Purpose. IRRIGATION

Diversion Point. SE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 15, T 6 N, R 2 E, B.H.M.

Maximum Diversion Rate.

Acreage Served.

Description of Lands Served.

Acreage.

Owner

Do not type names

T 6 N, R 2 E, B.H.M.

Sec. 3

NE $\frac{1}{4}$, NW $\frac{1}{4}$

1

SE $\frac{1}{4}$, NW $\frac{1}{4}$

18

B

NE $\frac{1}{4}$, SW $\frac{1}{4}$

37

J. Meier

NW $\frac{1}{4}$, SW $\frac{1}{4}$

2

NW $\frac{1}{4}$, SE $\frac{1}{4}$

3

61

SW $\frac{1}{4}$, SE $\frac{1}{4}$

3

Sec. 10

NW $\frac{1}{4}$, NE $\frac{1}{4}$

5

A

NE $\frac{1}{4}$, NE $\frac{1}{4}$

1

Homestake

SW $\frac{1}{4}$, NE $\frac{1}{4}$

5

Mining Co.

SE $\frac{1}{4}$, NE $\frac{1}{4}$

5

NW $\frac{1}{4}$, SE $\frac{1}{4}$

.6

19.6

Various (Exhibit C)

C

$$Q = V \cdot A$$

$$V = \frac{1.49}{n} (R)^{\frac{2}{3}} (S)^{\frac{1}{2}}$$

$$n = .012$$

$$S = .006 \text{ ft/ft}$$

$$R = \frac{A}{w_p}$$

$$2A = \frac{\pi}{4} D \cdot d = \frac{\pi}{4} (2) (1.7) = 2.67 \text{ ft}^2$$

$$\Rightarrow A = 1.3352 \text{ ft}^2$$

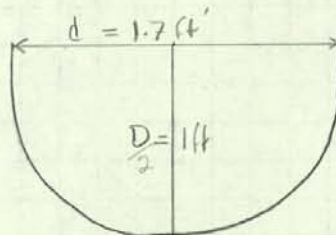
$$2w_p = \pi \frac{D+d}{2} = \pi \frac{1.7+2}{2} = 5.8 \text{ ft}$$

$$\Rightarrow w_p = 2.9 \text{ ft}$$

$$\Rightarrow R = \frac{1.3352 \text{ ft}^2}{2.9 \text{ ft}} = .4595 \text{ ft}$$

$$V = \frac{1.49}{.012} (.4595)^{\frac{2}{3}} (.006)^{\frac{1}{2}} \Rightarrow V = 5.7257 \text{ FPS}$$

$$Q = V A = 1.3352 \text{ ft}^2 \times 5.7257 \text{ FPS} \Rightarrow Q = 7.6 \text{ CFS}$$



$$Q = 7.6 \text{ CFS}$$

Flume
Capacity

COOPER WATER RIGHT.

That we, the undersigned citizens of the United States and residents of Lawrence County and Territory of Dakota, claim by right of location and appropriation 400 inches of water (miners measurement of underhead of 6 inch pressure) of Spearfish creek for agricultural, domestic and culinary purposes to be taken out of the creek a short distance above T. M. Fowers upper sawmill, as the ditch now constructed will show. We also claim the right to convey said water by ditch or by pipe or by flume to any point where they can be used for any of the purposes above named.

This certificate is filed in lieu of the original certificate filed in the office of the Register of Deeds of said County about the 15th day of June, 1877, which said certificate, together with the record thereof was destroyed by fire in Deadwood, September 26, 1877. Said water right shall be known as the Cooper Water Right and was located and appropriated March 1, 1877.

Signed:

T. R. Cooper, Ownes 5/12

John C. Walton, Ownes 3/12

John C. Maurer, Ownes 2/12

Filed September 12, 1883, Book 27, page 230.

RICHARDS, HOOD & BRADY, P.C.

ATTORNEYS AT LAW
TELEPHONE (605) 642-2757

GARY R. RICHARDS
E. JAMES HOOD
THOMAS E. BRADY

Post office

October 21, 1986

P.O. BOX 726
115 E. HUDSON STREET
SPEARFISH, SD 57783-0726

Rassool Ahadi
Natural Resources Engineer
Department of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



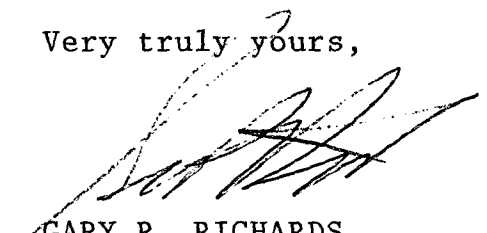
RE: Owens-Gay Ditch

Dear Mr. Ahadi:

Enclosed please find Diversion Ditch Service for Josef Meier together with map and comments.

If you have any further questions, do not hesitate to contact this office.

Very truly yours,


GARY R. RICHARDS

GRR:srr

Encs.

RICHARDS, HOOD & BRADY, P.C.

ATTORNEYS AT LAW
TELEPHONE (605) 642-2757

GARY R. RICHARDS
E. JAMES HOOD
THOMAS E. BRADY

November 20, 1986

P.O. BOX 726
115 E. HUDSON STREET
SPEARFISH, SD 57783-0726

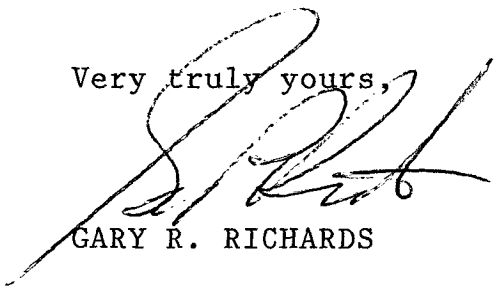


Rassool Ahadi
Natural Resources Engineer
Department of Water & Natural Resources
523 East Capitol
Pierre, SD 57501-3181

Dear Mr. Ahadi:

This is in response to your letter of November 19th advising me that you would be in Spearfish December 1 through 5. I will be happy to meet with you, however, I personally am not a member of the Ownes-Gay Ditch company, I merely represent Mr. Josef Meier who you requested to fill out the appropriate forms and return to you. I forwarded a copy of your letter to Mr. Meier and if he wishes me to represent him in this matter I would be happy to do so.

Very truly yours,


GARY R. RICHARDS

GRR:srr

Enc.

SOUTH Dakota Department of
Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181 (605) 773-3352

WATER RIGHTS DIVISION

December 24, 1986

Gary Richards
PO Box 726
Spearfish, South Dakota 57783-0726

RE: Owens-Gay Ditch

Dear Gary:

Enclosed you will find the application form to license the vested right claim of Owens-Gay Ditch.

Please review the application, sign and notarize them and send them back to us in the enclosed envelope not later than December 31, 1986. The filing fee will be \$15.00.

If you have any questions, please contact me.

Sincerely,

Rassool Ahadi
Natural Resources Engineer

RA:ms
Enc.

RICHARDS, HOOD & BRADY, P.C.

ATTORNEYS AT LAW
TELEPHONE (605) 642-2757

GARY R. RICHARDS
E. JAMES HOOD
THOMAS E. BRADY

December 29, 1986

P.O. BOX 726
115 E. HUDSON STREET
SPEARFISH, SD 57783-0726



Rassool Ahadi
Natural Resources Engineer
S.D. Department of Water &
Natural Resources
523 East Capitol
Pierre, SD 57783

RE: Josef Meier/Owens-Gay Ditch

Dear Mr. Ahadi:

Pursuant to your letter of December 24, 1986, enclosed please find applications and affidavit signed by me on behalf of Josef Meier together with the filing fee of \$15.00.

If there are any questions, please feel free to contact me.

Very truly yours,

GARY R. RICHARDS

GRR:srr
Encs.
cc: Meier

RICHARDS, HOOD & BRADY, P.C.

ATTORNEYS AT LAW
TELEPHONE (605) 642-2757

P.O. BOX 726
115 E. HUDSON STREET
SPEARFISH, SD 57783-0726

GARY R. RICHARDS
E. JAMES HOOD
THOMAS E. BRADY

August 20, 1987



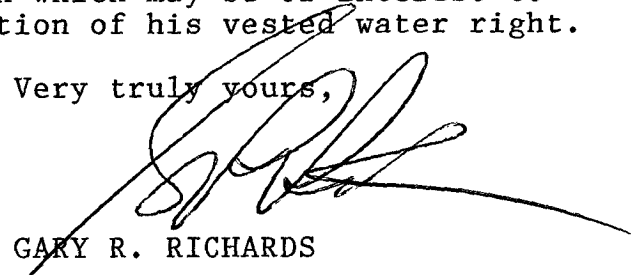
Mr. Ron Duvall
Water Resources Engineer
Dept. of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501

Re: Josef Meier/Owens-Gay Ditch

Dear Mr. Duvall:

This office represents the interests of Mr. Meier and I would appreciate your forwarding to this office a copy of your report, together with any other information which may be of interest to Mr. Meier in assuring the continuation of his vested water right.

Very truly yours,


GARY R. RICHARDS

GRR:jb

cc: Josef Meier

SOUTH DAKOTA Department of
Water & Natural Resources

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

August 11, 1987

Owens-Gay Ditch
Josef Meier
421 Meier St.
Spearfish SD 57783

Dear Mr. Meier:

This letter is to inform you that the vested right claim for Owens-Gay 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,



RON DUVALL
Water Resources Engineer
605 773-3352

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 1400-1, Owens-Gay 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. 1400-1, Owens-Gay Ditch, c/o Joseph Meier, 421 Meier Street, Spearfish, South Dakota.

The Chief Engineer is recommending VALIDATION of Application No. 1400-1 for 1.74 cfs and that the applicable portions of the Location Notice (Cooper Water Right) have been incorporated into No. 1400-1 and the abandoned portions of the Cooper Notice have been cancelled, because 1) water has been appropriated as described for irrigation use with a priority date of March 1, 1877, 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. 1400-1 is subject to domestic use rights. Diversion of water under Water Right No. 1400-1 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 Owens-Gay Ditch within one year of validation of Vested Water Right No. 1400-1. 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 15, 1987

Report on the Owens-Gay Ditch (Spearfish Creek)
Vested Water Right Application No. 1400-1
September 25, 1987

Background

Pursuant to SDCL 46-5-49 and ARSD 74:02:01:20, Owens-Gay Ditch has filed an application to validate a vested right claim. The application claims 2.3 cfs of Spearfish Creek water to irrigate 61 acres in Section 3, T6N-R2E in Lawrence County. The diversion point is located in the SE1/4 NW1/4 Section 15, T6N-R2E

Document Search

The following documents were found pertaining to the Owens-Gay Ditch water right:

- 1) A Location Notice refiled on September 12, 1883, Book 27, Page 30, in Lawrence County, stated that the original Location Notice was destroyed by fire in Deadwood on September 26, 1877. The notice known as Cooper Water Right, is signed by Cooper et al, and claim 400 miner's inches with a priority date of March 1, 1877. The question is whether or not this notice is the same as the Gay water right claim.
- 2) In the Cook vs. Evans Court Case, dated January 30, 1918, the Gay water right and a number of other water rights along Spearfish Creek were adjudicated. In this action, the Circuit Court specified that irrigation of 92 acres in the SW1/4 NE1/4, the NE1/4 SW1/4, and the NW1/4 SE1/4 Section 3, T6N-R2E was covered by a riparian water right which was fourth in priority, based upon settlement of these riparian lands on March 1, 1877. The Court also specified that irrigation of the same 92 acres was covered by an appropriative water right, which was tenth in priority based upon a water right location notice with a priority of April 1878. The court said a maximum of 92 miner's inches could be diverted for irrigation of these lands but that this rate of diversion was the total that could be diverted under both water rights. Although the descriptions of lands irrigated are not entirely the same as those now irrigated, the court was apparently considering the same lands as those being irrigated from the present "Owens-Gay" or "Gay Ditch".

Discussion

The Water Resources Commission investigated the irrigation from Owens-Gay Ditch in the early 1960's. At that time, 91 acres were mapped as being irrigated from the ditch.

Recent investigations by Water Rights Division engineers have found that 61 acres of land are being irrigated from the Owens-Gay Ditch. The headgate which diverts water for both the Owens-Gay Ditch and Ramsdell Ditch has a maximum diversion capacity of 29.5 cfs. The flume on the ditch is capable of carrying approximately 7.6 cfs.

To determine the amount of water needed to irrigate 61 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, 0.87 cfs will be used to irrigate 61 acres. Considering the efficiency of flood irrigation in the area, which according to SCS is 50%, the diversion rate required will be 1.74 cfs.
- 2) Using SCS, S.D. Irrigation Guide, the peak water 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 183 acre-feet of water is needed for the season, from which 53 acre-feet or .86 cfs will be used in the Month of July. Considering a 50% loss due to the system, the total diversion rate required will be 1.7 cfs.

Conclusions and Recommendations

- 1) The headgate and the flume are capable of carrying more water than the 2.3 cfs claimed as the quantity of water necessary for the flood irrigation system to irrigate 61 acres. The quantity claimed, based on the calculations, is in excess of what would be reasonable.
- 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 served by the Owens-Gay Ditch would be 1.74 cfs. Comparing this to the SCS, South Dakota Irrigation Guide calculations, this quantity of water appears to be reasonable.
- 3) It is recommended that the Owens-Gay Ditch Vested Water Right Claim be validated for a diversion rate of 1.74 cfs for irrigation of 61 acres as described in Application No. 1400-1 with a priority date of March 1, 1877.
- 4) It is recommended that if Vested Water Right No. 1400-1 is validated, that the applicable portions of the Location Notice (Cooper Water Right) be incorporated into No. 1400-1 and that the abandoned portions of the Location Notice (Cooper Water Rights) be cancelled.

MR Ahadi

Rassool Ahadi
Natural Resources Engineer



Department of Water & Natural Resources

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

October 22, 1987

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

Owens-Gay Ditch
c/o Josef Meier
421 Meier St
Spearfish SD 57783

Dear Mr. Meier:

Your Application No. 1400-1 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 FOURCHE DAILY POST printed at Belle Fourche. 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,

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 22, 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. 1400-1. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before October 28, 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 Owens-Gay Ditch, c/o Josef Meier, 421 Meier St, 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 22, 1987

QUEEN CITY MAIL
Box 7
Spearfish SD 57783

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Natural Resources Engineer
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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

Instruction to Newspaper - Publish first publication of the following Notice on or before October 28, 1987 with 2nd publication 1 week later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Right Application No. 1400-1 to Appropriate Water

Notice is hereby given that Owens-Gay Ditch, c/o Josef Meier whose mailing address is 421 Meier Street, Spearfish, South Dakota has filed an application to validate a vested right claim to appropriate 2.3 cubic feet of water per second (cfs) from Spearfish Creek to irrigate 61 acres via the Owens-Gay Ditch with a claimed priority date of March 1, 1877. The Spearfish Creek diversion point for the Owens-Gay Ditch is located in the SE 1/4 NW 1/4 Section 15, T6N, R2E. The irrigated acreage is located in the E 1/2 NW 1/4, N 1/2 SW 1/4 Section 3, T6N, R2E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 1400-1 for 1.74 cfs and that the applicable portions of the Location Notice (Cooper Water Right) be incorporated into No. 1400-1 and that the abandoned portions of the Cooper Notice be cancelled because 1) water has been appropriated as described for irrigation with a priority date of March 1, 1877, 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, 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.

No. 1400-1

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 Bell 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 Bell Fourche

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

October 27, 1987

November 3, 1987

Marion Lucas
(Signature)

Editor
(Title)

November 3, 1987
(Date Signed)

Cost of Printing: \$43.08

128 Since 24

Public Notice

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TO VALIDATE
Vested Right Application
No. 1400-1
to Appropriate Water

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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



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No. 1400-1

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

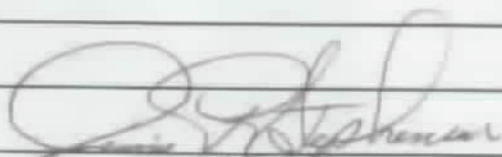
A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

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:

October 28th

November 4th


(Signature)

Publisher
(Title)

11-4-87
(Date Signed)

Cost of Printing: 109 lines x .2064 = \$22.745
23.95 x 80% = 22.36
22.745 + 22.36 = 50.21

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TO VALIDATE VESTED
RIGHT APPLICATION
NO. 1400-1 TO
APPROPRIATE WATER

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Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water rights Division recommends VALIDATION of Vested Water Right Application No. 1400-1 for 1.74 cfs and that the applicable portions of the Location Notice (Cooper Water Right) be incorporated into No. 1400-1 and that the abandoned portions of the Cooper Notice be cancelled because 1) water has been appropriated as described for irrigation with a priority date of March 1, 1877, 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 pro-

ceeding. 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 applica-

tion 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 assis-

tance prior to the hearing date. The

time of the hearing will be automati-

cally 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.

Oct 28 Nov 4

November 24, 1987
(date)

page 1

Parties of Record before Water Management Board regarding Vested Right
Application No. 1400-1, Owens-Gay Ditch

For:

Josef Meier
Owens-Gay Ditch
421 Meier Street
Spearfish SD 57783

Interested:

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

Against:

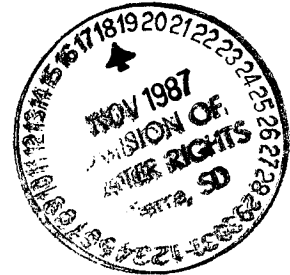
B.E. Martin, Regional Director
Bureau of Reclamation
PO Box 36900
Billings MT 59107-6900

Bruce Layman
U.S. Bureau of Reclamation
PO Box 226
Newell SD 57760

**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 1400-1 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".

Richard J. Beringson
Secretary

RJB/ld

cc: Owens - Gay Ditch % Josef Meier



United States Department of the Interior
BUREAU OF RECLAMATION
Missouri Basin Region
P.O. Box 36900
Billings, Montana 59107-6900



IN REPLY
REFER TO: MB-450
870.

John Hatch, Chief Engineer
Water Rights Division
Joe Foss Building
Pierre, SD 57301

NOV 19 1987

Dear Mr. Hatch:

Pursuant to South Dakota Civil Law 1-26, we hereby make known our objections to Applications to Validate Vested Water Rights (applications) Nos. 1388-1, 1390-1, 1394-1, 1395-1, 1399-1, 1400-1, 1402-1, 1405-1, 1408-1, 1409-1, 1410-1, 1411-1, 1412-1, 1413-1, 1415-1, 1417-1, 1423-1, and 1425-1. These applications are scheduled for consideration by the Water Management Board in Rapid City, South Dakota, on December 2, 1987, at 1:00 pm.

We concur with the Chief Engineer's recommendations regarding the diversion rates for the applications listed above and would object to increases in the diversion rates above those recommended by the Chief Engineer. The Bureau of Reclamation (Bureau) is the owner of water rights for the Belle Fourche Irrigation Project (Project) located on the Belle Fourche River. Most of the vested rights (with the exception of application No. 1423-1) have points of diversion located on tributaries to the Belle Fourche River upstream of the Project diversion dam. The Project could be adversely impacted if the applications are validated with flow rates in excess of those historically utilized.

Finally, we request that you send a copy of the Chief Engineer's recommendation regarding each of the applications listed above to Bruce Laymon who will be representing the Bureau's interests at the hearings. His mailing address is listed below.

U.S. Bureau of Reclamation
Attention: Bruce Laymon
Belle Fourche Project Office
P.O. Box 226
Newell, SD 57760

If you have any questions regarding our interest in these matters, please contact Dave Nelson at (406) 657-6639 or Bob Pike at (406) 657-6469.

Sincerely yours,


Donald R. Glaser

For B. E. Martin
Regional Director

Enclosure

Identical letters sent to attached listing

Mr. Ralph Bahm
RR 1, Box 196
Spearfish, SD 57783

Ms. Della Crago
RR 1, Box 24
Belle Fourche, SD 57717

Mr. Dick Cundy
St. Onge Road
Spearfish, SD 57783

Homestake Mining Company
P.O. Box 875
Lead, SD 57754

Mr. Albert Jeffery
RR 1
Spearfish, SD 57783

Mr. Leland Johnson
Mr. Keith Johnson
RR 1, Box 1011
Spearfish, SD 57783

Mr. Richard Lausser
RR 1, Box 195
Spearfish, SD 57783

Redwater Irrigation Association
P.O. Box 351
Belle Fourche, SD 57717

Mr. R. Thornton Vallery
Star Route, Box 188
Nisland, SD 57762

Mr. James Chenowith
Box 248
Woodrow, CO 80757

Mr. Ralph Crago
RR 1, Box 52B
St. Onge, SD 57779

Mr. Melvin Delzer
Box 1045
Spearfish, SD 57783

Mr. Robert Humphrey
Rt. 1, Box 170
Spearfish, SD 57783

Mr. James Jennings
RR 1, Box 182C
Spearfish, SD 57783

Mr. William Lambert
Box 335
Beulah, WY 82712

Mr. Josef Meier
421 Meier Street
Spearfish, SD 57783

Mr. Wesley W. Thompson
Rt. 1, Box 198A
Spearfish, SD 57783

**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,

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

Owens-Gay Ditch
c/o Josef Meier
421 Meier Street
Spearfish, South Dakota 57783

Dear Mr. Meier:

Enclosed are your Validated Vested Water Right and Water License No. 1400-1.
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 black ink that reads "John Hatch". The signature is written in a cursive style with a large, stylized "J" and "H".

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

JH:ms

enclosures

Equal Opportunity Employer



Department of Water & Natural Resources

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

January 9, 1989

Owens-Gay Ditch
c/o Josef Meier
421 Meier Street
Spearfish SD 57783

RE: Installation of a Permanent Measuring Device for
Vested Right No. 1400-1

Dear Mr. Meier:

As a reminder, the Water Management Board, at the December 2 and 3, 1987 meeting, validated your vested right claim on Owens-Gay 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



SOUTH Dakota Department of
Water & Natural Resources

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

March 15, 1989

Josef Meier
Black Hills Passion Play
Spearfish, S.D. 57783

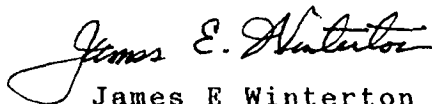
RE: Approval of the Plans and Specifications for a Measuring
Device, Vested Right No. 1400-1

Dear Mr. Meier:

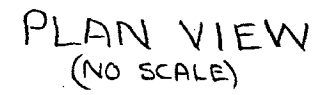
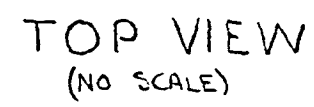
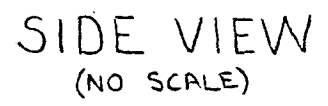
We have reviewed the plans and specifications for your measuring device designed by the Soil Conservation Service. The measuring device will be used to measure the combined flow in Owens-Gay and Ramsdell Ditches. According to the proposed plan, the flume will be installed in the west side of the Canyon Street and will measure the flow for both Ramsdell and Owens-Gay Ditches. To measure the flow in Ramsdell Ditch, a separate measuring device will then be installed in the east side of the street. The plan proposes to use a Parshall Flume with a one foot throat. The plans and specifications are approved as submitted. Please note that the recommendations of the Soil Conservation Service regarding the preparation of the ditch bottom, prior to the installation of the measuring device, must be followed.

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

Very truly yours,



James E Winterton
Natural Resources Engineer
For JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352



HEAD (FT)	FLOW (CFS)
1.3	5.96
1.2	5.28
1.1	4.62
1.0	4.00
0.96	3.76
0.9	3.41
0.8	2.85
0.7	2.33
0.6	1.84
0.5	1.39
0.4	0.99
0.3	0.64
0.2	0.35

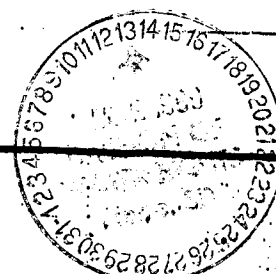
NOTE: 1) INLET & OUTLET OF PARASHALL
FLUME MUST BE LINED W/ ROCK
TO PREVENT UNDERMINING OF
STRUCTURE. USE A 1' THICK LAYER
OF ROCK RIP-RAP W/ ROCK GRADED
FROM 1' DIA. MAX. SIZE DOWN TO
3" MIN. SIZE

2) THIS FLUME WILL MEASURE FLOW
FOR BOTH RAMSDELL & GAY DITCH.
SUBTRACT RAMSDELL'S FLUME FLOW
TO FIGURE GAY DITCH FLOW.

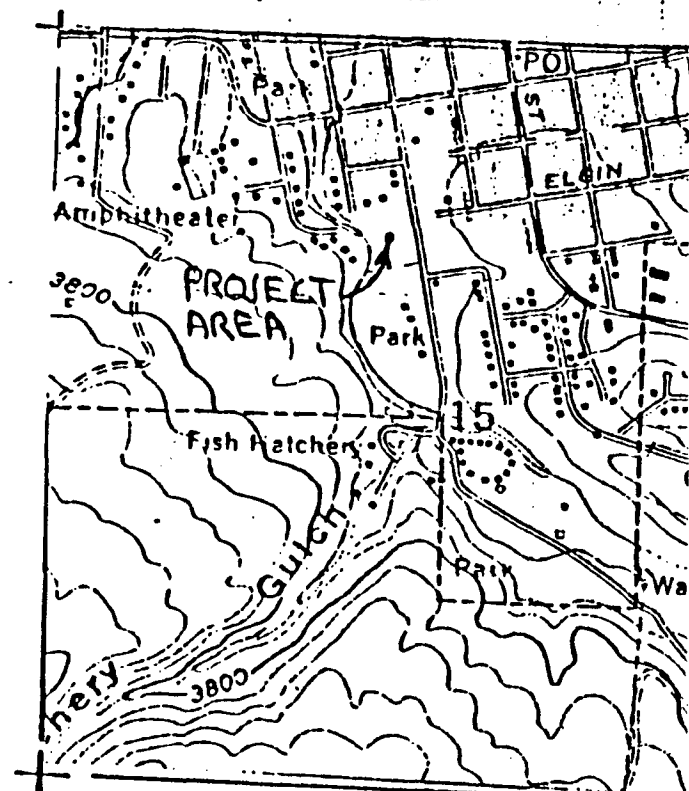
PARASHALL FLUME
GAY DITCH

 U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Designed <u>T. VER HELST</u>	Date <u>3/1/89</u>	Approved by <u>Thomas V. Hel</u>
Drawn _____	Title <u>Ag. Engineering</u>	
Traced _____	Title _____	
Checked _____	Sheet _____	Drawing No. _____
	No _____	
	of _____	



SD-ENG-4
7/61

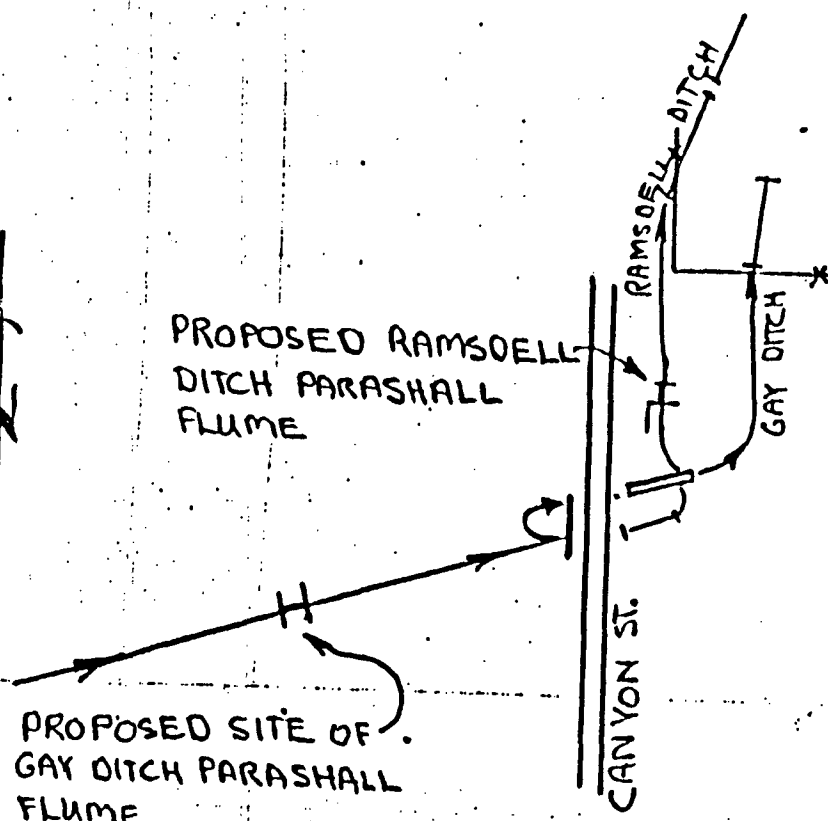
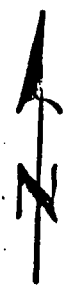


LOCATION MA

SCALE
FEET



DITCH BOTTOM



PROPOSED RAMSOELL
DITCH PARASHALL
FLUME

CANYON ST.

RAMSOELL DITCH

GAY DITCH

PROPOSED SITE OF
GAY DITCH PARASHALL
FLUME

PLAN VIEW
(NO SCALE)

FLOW
VALUES

HEAD (FT)	FLOW (CFS)
1.3	5.96
1.2	5.28
1.1	4.62
1.0	4.00
0.96	3.76
0.9	3.41
0.8	2.85

Gay Mann Ditch

Parashall Flume

$$\text{Measure} - 1.74^{\text{Gay}} \text{ cfs} + 2^{\text{Ramsdell}} = 3.74 \text{ cfs}$$

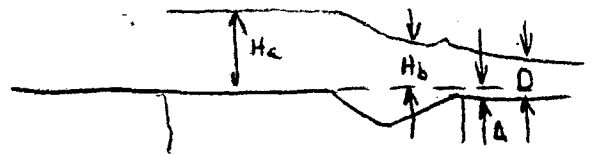
Try 9" Flume x 18"

Submergence Allowed - 60%

$$H_a = 1.14 @ 3.75 \text{ cfs}$$

$$\frac{H_b}{H_a} = .6 \Rightarrow H_b = .6 (1.14)$$

$$H_b = .68$$



Flow Depth - 1.0

$$\begin{aligned} A &= 1.0 - .68 \\ &= .32' \end{aligned}$$

$$\begin{aligned} \text{Upstream Depth} &= H_a + \Delta \\ &= 1.14 + .32 \\ &= 1.46' \end{aligned}$$

Try 12" Flume x 21"

Submergence Allowed - 20%

$$H_a = .96 @ 3.76 \text{ cfs}$$

$$H_b = .2 (.96) = .67$$

Flow depth - 1'

$$A = 1' - .6 = .33$$

$$\text{Upstream Depth} = .96 + .33 = 1.29'$$

WILL USE 12" FLUME
SINCE 9" NOT AVAIL. IN
21" DEPTH

$$\text{CREST EL } 98.28 + .33 = 98.61 \quad \text{USE } 98.61$$

$$\text{TOP EL } 98.61 + 1.75 = 100.36 \quad \text{USE } 100.4$$



Dear Sir:

We would like to move our measuring flume from the east side of Canyon street to the west side of Canyon street. The measuring flume would be west of the division of the sandhill and gay ditch on the city park.

I have talked to the city and they assure me there will be no problem with them. I am sending a- enlarged blue print of the change of the flume. All the water for both ditches will be going through our flume and we will take the measurement of the sandhill flume and subtract it from our reading to get the amount of water we are using. Hopefully I didn't complicate things.

Sincerely,
M. Gray Munkherke
of Mail Ranch



Department of Water & Natural Resources

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

July 18, 1989

Elroy Mundhenke
435 Meier Ave.
Spearfish, SD 57783

RE: Repairing the Flume in Owens-Gay Ditch

Dear Mr. Mundhenke:

Per our telephone conversation of July 11, and today, the flume in Owens-Gay Ditch allows water to flow into the Ramsdell Ditch. This creates a problem for Ramsdell Ditch Company in regulating their flow and diversion rate in their ditch. Since Ramsdell Ditch does not need that amount of water, it is diverted back to the creek which may cause loss of some water due to evaporation and seepage in the ground. Besides, the excess water in the ditch causes Ramsdell Ditch to overflow and flood the basements of some the water users along the ditch.

SDCL 46-7-3 requires that "The owner of any works for storage, diversion, or carriage of water to beneficial use, including wells, shall keep the works in good repair at all times to ensure safety of the works and to prevent waste of water..."

Please note that the flume should be fixed not later than July 28, 1989.

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

Sincerely,

M. RASSOOL AHADI
Natural Resources Engineer
(605) 773-3352

cc: Josef Meier





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

1400-1

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

February 23, 1994

Elizabeth Benning
215 Union Street
Spearfish, SD 57783

RE: Vested Water Right No. 1400-1, Owens-Gay Ditch

Dear Ms. Benning:

Per your request, I have enclosed two copies of application forms to file for change of the location of the diversion point for Owens-Gay Ditch. I have also enclosed a copy of Vested Water Right License No. 1400-1, for Owens-Gay Ditch. Present location of the diversion point is in the SE1/4 NW1/4 Section 15, T6N-R2E.

Please complete the application forms, sign and notarize them, and return them with a \$50.00 filing fee. A map must also be submitted with the application. The map should not be smaller than 8 inches by 11 inches, showing the location of the diversion point and the acreage being irrigated. The map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer, or by any other employee who normally prepares map as part of his/her duties (SCS, ASCS, etc;).

If you have any questions, please feel free to contact me.

Sincerely,

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

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 10, 1994

Elroy Mudhenke
P.O. Box 873
Spearfish, SD 57783

Dear Mr. Mudhenke:

Per your request, enclosed are copies of the two maps in the file for Owens-Gay Ditch. I do not have a blue print showing the exact route of the ditch. I hope these maps will be of assistance to you.

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

enclosures

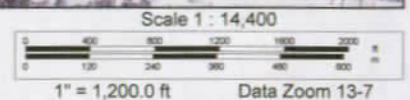
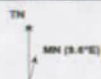
OwensGay Ditch

Pump Station

Weir
N44.48495°
W103.86115°

Diversion Point
N44.48404°
W103.86179°

Owens-Gay & Ramsdell
Ditches Split
N44.48521°
W103.86095°



Don Stroup
3/24/05
50 DENR WR

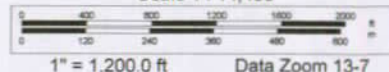




Data use subject to license.
© 2004 DeLorme. XMap® 4.5.
www.delorme.com



Scale 1 : 14,400



1" = 1,200.0 ft Data Zoom 13-7

Don Stroup
SD DENR WR
Ronald C. Stroup
3/24/05

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														
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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	
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Mike Kyte														
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OWENS-GAY DITCH														
Tom Callaway														
City of Spearfish														
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Jared Capp - President														
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605-642-4914														

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