

COPY

No. 141

Division No. 1.

Belle Fourche Water District.

PERMIT

to appropriate water from

Spearfish Creek

Lawrence County, South Dakota.

Name of applicant

City of Spearfish

Name of diversion works

Spearfish Water Works No. 2.

Date of first receipt at office of State Engineer March 1, 1919.

Returned to applicant for correction

Corrected application received

Date of water right

March 1, 1919.

Recorded in Book 2 Page 347

One-fifth of work to be completed

November 28, 1921.

Whole work to be completed

May 28, 1924.

Final proof of use of water

May 28, 1924.

Approved

May 28, 1919.

Homer M. Derr,

State Engineer.

STATE OF SOUTH DAKOTA  
COUNTY OF HUGHES.

I hereby certify that the within and foregoing instrument is a true, correct and complete transcript of the instrument as it purports to be, as the same was recorded in the office of the State Engineer.

Witness my hand and official seal, done at my office in Pierre, State of South Dakota

this 21 day of May 1919.

Homer M. Derr  
State Engineer.

No. 141

Water Division No. 1 Bolle Fourche Water District

(Blank to be filled by the State Engineer)

COPY

# APPLICATION FOR A PERMIT To appropriate Water Within the State of South Dakota

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

1. Name of applicant City of Spearfish  
Postoffice address Spearfish, County Lawrence, State South Dakota.

- I. If a corporation: A Municipal Corporation.
  - (a) Name of same City of Spearfish
  - (b) Date and place of incorporation -----
  - (c) Amount of capital stock -----
  - (d) Amount paid in -----
  - (e) Names and addresses of directors: -----

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

- II. Method of accomplishing the work and financial resources of the applicant:
  - (a) Method of accomplishing the work. (Whether by contract, employment of others, or by direct labor) Contract
  - (b) Cash on hand, \$ Probably (c) Treasury stock, \$ -----
  - (d) Bonds to be issued, \$ 50,000.00 (e) Other resources, assessed value property in City.

- 2. Name of diversion works Spearfish Water Works #2
- 3. Quantity of water claimed 1.10 cubic feet per second.
- 4. Source of water supply Spearfish Creek.
- 5. Location of point of diversion At a point in Sec. 33, T. 6 N., R. B. H. M. whence the N. E. Cor of said Sec. 33 bears N. 22° 53' on E. - 1893.6 feet right bank.  
(Right or left bank looking down stream.)

MW-35-6A-22

- 6. Annual periods during which water is to be used continually
- 7. To be used for:
  - I. Irrigation or domestic use:
    - (a) Number of acres to be irrigated ----- acres.
    - (b) Legal subdivisions to be irrigated -----

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

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

- II. Mining, power, manufacturing, transportation, or other purposes:
  - (a) Nature of use -----
  - (b) Amount of power to be generated ----- horse power.
  - (c) Location of plant -----
  - (d) Method of developing power -----
  - (e) Point where water will be returned to stream -----

MAP No 159-1

Following estimates include engineering and contractor's profit.

Pipe line complete in place \$31,600.00

8. Estimated cost of work:
- (a) Head gates, \$1200.00
  - (b) Pumping plant \$ - - - - -
  - (c) Fluming, \$ - - - - -
  - (d) Canal-earth, \$ - - - - -
  - Rock, \$ - - - - -
  - (e) Other structures: Reservoir, 205,000 gals. \$5100.00
- Total \$38,000.00

9. Description of diversion works:

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

Concrete Intake - 16' diameter - 8' deep

II. Dimensions of works:

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

(b) Reservoir: Capacity when filled 205,000 gals. ~~surface~~ Surface area at highwater mark \_\_\_\_\_ acres.

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

(c) Head gate: Width \_\_\_\_\_ feet; height \_\_\_\_\_ feet;

Material \_\_\_\_\_

(d) Canal: Total length \_\_\_\_\_ miles.

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

(Give dimension where reductions in size are made)

10. Time required for completion of work 5 years.
11. Time required for complete application of water to the proposed beneficial use 5 years.
12. Choice of newspaper for publication of notice of intention to appropriate Queen City Mail, Spearfish, S. D., (a weekly newspaper)

STATE OF SOUTH DAKOTA,  
County of Lawrence ss.

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

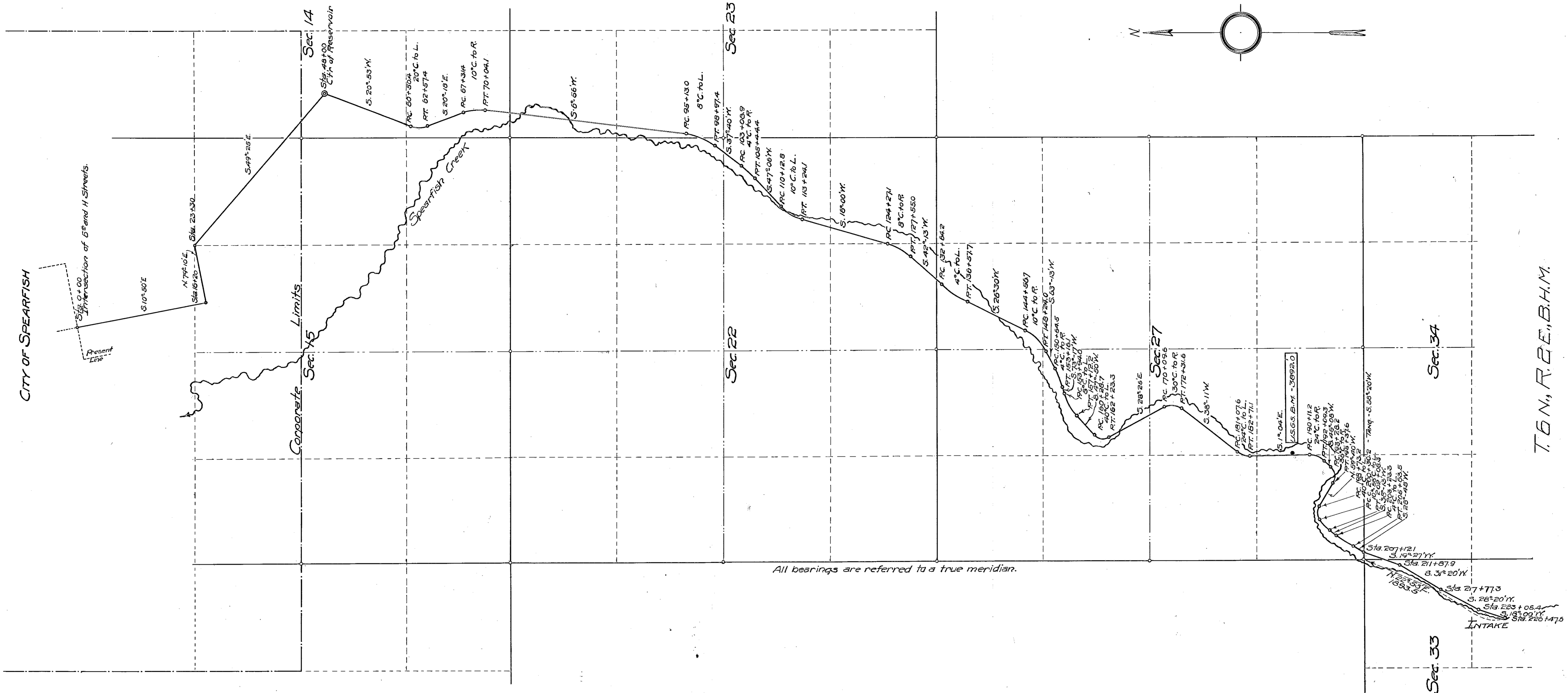
foregoing statement, and examined the maps accompanying the same, and that I know of my own personal knowledge that the matters therein stated and shown are true.

Signed E. H. Warren

Subscribed and sworn to before me this 25th day of February 1919

(SEAL)

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



All bearings are referred to a true meridian.

State of South Dakota } ss.  
County of Lawrence }

I, H. R. Albion, being duly sworn, upon my oath say that I am the engineer employed by the city of Spearfish, South Dakota to investigate an improved municipal water supply; that a survey was made under my direction and the annexed map accurately represents such survey; and that the accompanying statements hereon are true and correct.

*H. R. Albion* C.E.  
Deputy State Surveyor.

Subscribed and sworn to before me this 30<sup>th</sup> day of January, A.D. 1919.

*G. V. Minnett*  
Notary Public.  
My Commission expires June 21, 1921

Source of water supply - Spearfish Creek.  
Amount available - 4.0 second-feet at weir above diversion point.  
Amount required - 1.1 second-feet.  
Amount now used - None; water all sinks within one mile below intake.

Proposed installation -  
8" steel pipe from city (Sta. 0+00) to new reservoir, (Sta. 48+00)  
8" wood pipe from reservoir to intake, (Sta. 226+47.6)  
New reservoir of reinforced concrete - capacity 205,000 gal/s.  
Intake of masonry or concrete - sand filter. 16" diam. by 8' deep.  
No diversion dam necessary.

Elevations - Sea level datum.  
City - 3650.0 - B.M. in city - 3647.0  
Reservoir 3650.0  
Intake 3957.4

Estimated daily discharge into reservoir - 723,600 gallons.

PROPOSED  
WATER SUPPLY IMPROVEMENT  
FOR THE CITY OF  
**SPEARFISH**  
SOUTH DAKOTA.

H. R. ALBION  
CIVIL ENGINEER  
DEADWOOD  
SO. DAK.

SCALE  
1" = 800'

RECEIVED  
MAR 1 1919  
OFFICE OF THE ENGINEER  
PIERRE, S. DAK.

Approved May 28, 1919,  
*James M. Derr*  
State Engineer.

T. 6 N., R. 2 E., B. 1 M.

Remarks by State Engineer:

This permit is granted with the specific reservation that it is subject to all existing water rights and privileges, and that it shall not interfere with or impair the legal rights contained therein in any way whatsoever.

STATE OF SOUTH DAKOTA } ss.  
County of Hughes

Pierre, South Dakota, May 28, 1919.

This is to certify that the foregoing application was received at this office at nine o'clock a.m. upon the 1st day of March 1919 and that after examination it was found to comply with the provisions of the Irrigation Code of South Dakota. Notice of intention to appropriate was published, proof of publication was duly filed, and a hearing was held in this office on May 10th, 1919.

*Harner M. Derr*  
State Engineer.

Number of permit 141-1

Date of first receipt of application March 1, 1919.

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

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

Date from which applicant may claim right March 1, 1919.

Approved May 28, 1919. Recorded in Book 2 Pages 346 & 347.

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

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before November 28, 1921.

2nd. The whole of said work is to be completed on or before May 28, 1924.

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is May 28, 1924.

4th. The water appropriated shall be used for the ~~purpose of~~ Municipal purposes to supply city and inhabitants with water at all times and for all purposes.

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 1.10 cubic feet of water per second of time; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further, said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before - - - - - 19; said water to be used during the following described annual periods.

Continuously.

Witness my hand this 28th day of May 1919.

*Harner M. Derr*  
State Engineer.

**AFFIDAVIT OF PUBLICATION**

STATE OF SOUTH DAKOTA )  
 County of Lawrence ) SS.

E. H. Warren, of said County and State, being first duly sworn, on his oath says: That the QUEEN CITY MAIL is a legal newspaper of general circulation, printed and published in Spearfish, in said County and State, and has been such newspaper during the time hereinafter mentioned; and that I, E. H. Warren, the undersigned, am the manager of said newspaper, in charge of the advertising department thereof, and have personal knowledge of all facts stated in the affidavit; and that the advertisement headed:

*Notice of Intention to appropriate Water*

a printed copy of which is hereunto attached, was printed in said newspaper for *Two* successive and consecutive weeks, the first publication being made on the *19<sup>th</sup>* day of *March* 191*9* and the last publication thereof on the *16<sup>th</sup>* day of *April* 191*9*; that the full amount of the fees charged for publishing same, to-wit: the sum of \$*11.00* inures solely to the benefit of the publisher of the MAIL; that no arrangement or understanding for a division thereof has been made with any person other than the publisher, and that no part thereof has been agreed to be paid to any other person whomsoever.

*E. H. Warren*

Subscribed and sworn to before me this *16<sup>th</sup>* day of *April* 191*9*

*J. W. Rawson*  
 My commission expires June ~~Notary~~ Public, Lawrence County, S. D.

**Attorney's Affidavit Ex-Rel Fees**

STATE OF SOUTH DAKOTA )  
 County of Lawrence ) SS.

.....being first duly sworn, on his oath says that he is.....the Attorney... of the plaintiff, defendant, estate named in annexed notice; that the full amount of fees charged for such publication, and as appears by the foregoing affidavit of E. H. Warren, for the publication of such notice has been paid; that no agreement or understanding for any division thereof has been made with any person whomsoever, and that no part thereof has been refunded or rebated by the party publishing said notice.

Subscribed and sworn to before me this ..... day of ..... 191 .....

Notary Public, Lawrence County, S. D.

Notice of Intention to appropriate Water.  
 (First Publication March 19, 1919).  
 Appropriation of Water  
 Office of the State Engineer, Pierre, S. D., March 11, 1919.—Notice is hereby given that the City of Spearfish, whose postoffice address is Spearfish, Lawrence county, S. D., has made an application in accordance with the provisions of the irrigation laws of South Dakota for a permit to appropriate for beneficial use 1.10 cubic feet of water per second of time from Spearfish creek through the Spearfish Water Works No. 2, the point of diversion of which is to be located upon the right bank of said stream in the SE ¼ of the NE ¼ of section 23, township 6 N., range 2 E., T. 11. M.; said water to be used for municipal purposes for the city of Spearfish.  
 This application will be taken up by the state engineer at his office at Pierre for consideration and appropriate action upon the 10th day of May, 1919, at 9 a. m., at which time all persons who believe that the prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare, and also parties making the application, and to be benefited, are notified to be present either by sworn affidavit or in person for the purpose of presenting any relative testimony.  
 Homer M. Derr, State Engineer.

Publication fees.....	\$11.00
Notary fees.....	.25
Total.....	\$11.25

Received payment.

*E. H. Warren*

WATER LICENSE NO. 141-1

(1) WHEREAS, On the 1st day of March A. D. 19 19 the City of Spearfish

made Water Right Application No. 141-1 for a permit to use 1.10 cubic feet per second of the waters of Spearfish Creek County of Lawrence State of South Dakota for municipal

purposes; and (2) WHEREAS, On the 28th day of May A. D. 19 19 Permit No. 141-1 with a date of priority of March 1, 1919 was issued to said applicant for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 28th day of May A. D. 19 24 and for the application to beneficial use of said water on or before the 28th day of May A. D. 19 24.

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

and:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 1.10 cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent. water is used for municipal purposes by the City of Spearfish

Multiple horizontal lines for additional text or signatures.

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to the City of Spearfish

~~xxx~~  
the holder \_\_\_\_\_ and owner \_\_\_\_\_ of said permit No. 141-1 a water right, dating from March 1, 1919  
to use of 1.10 cubic feet per second of the waters  
of Spearfish Creek

in the County of Lawrence and State of South Dakota, or so much thereof as may be necessary for the  
purposes hereinbelow mentioned, to be diverted at a point 820 ft. South and 360 ft. West of the NE  
Corner, Section 33, 16N, R2E, which is a common diversion point for Permits Nos.  
138-1 and 148-1

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

for the purpose of municipal use

Subject to any limitations listed in Water Right Permit No. 141-1 and subject to the laws of the State of South Dakota.

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

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer

Form 15.

Permit No. 141-1

Water Diversion No. 1 BELLE FOURCHE RIVER Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That the City of Spearfish

\_\_\_\_\_ the holder \_\_\_\_\_ of  
Permit No. 141-1, issued upon Application No. 141-1, bearing date of priority of March 1, 1919  
\_\_\_\_\_ authorizing the diversion of 1.1 cu. ft. per second of the waters of \_\_\_\_\_  
Spearfish Creek County of Lawrence, State of South Dakota at \_\_\_\_\_  
a point 820;ft. South and 360 ft. West of the NE Corner, Section 33, T6N,  
R2E, which is a common diversion point for Permits Nos. 138-1 and 148-1  
\_\_\_\_\_, for \_\_\_\_\_ municipal

\_\_\_\_\_ purposes, has e complied with the provisions of the laws of the State of South Dakota relating to proof of  
completion of the works of diversion set out and described in said Permit; that said works are verified as satisfactory  
~~condition~~ for diverting and conveying to the place of intended use 1.10 cu. ft. per second of water.

Date August 17, 1972

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

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

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

Name of Applicant (Same as Form 2) CITY OF SPEARFISH  
Post Office Address \_\_\_\_\_, State S. DAK.  
If a Corporation show date and place of incorporation \_\_\_\_\_

13. Notice of Appropriation (If available)  
Date of Posting MARCH 1, 1919 Date of Recording MAY 28, 1919  
Recording Data \_\_\_\_\_

14. Date of start of construction of water supply system SPRING 1919

15. Date that water was first applied to beneficial use SUMMER 1919

16. Name of owner of original water supply system CITY OF SPEARFISH

17. Amount of water originally applied to beneficial use 1.1 c. f. s.

18. Present Use of Water  
Amount of water now being used 1.1 c. f. s.  
Date that this amount of water was first used 1919

19. Chronological History of Water Use  
ORIGINAL PIPELINE WAS INSTALLED FROM POINT OF DIVERSION SHOWN ON APPLICATION. DIVERSION POINT CHANGED TO BE SAME AS UNDER PERMIT NO 148-1

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

STATE OF SOUTH DAKOTA )  
County of LAWRENCE ) ss.

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

Signed R. Earl Schultz

Subscribed and sworn to before me this 20<sup>TH</sup> day of JULY, 1919

How Harrington  
(Notary Public - or other qualified Officer)

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

Permit No. 141-1

Water Division 1 BELLE FOURCHE RIVER Water District

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

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

I have this day made a thorough examination of the water use system constructed by THE CITY OF SPEARFISH holder

of Permit No. 141-1, bearing date of priority of MARCH 1, 1972

authorizing the diversion of 1.10 cu. ft. per second of the waters of SPEARFISH CREEK

for MUNICIPAL purposes, in LAWRENCE County.

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

The Water Use System consists of,

A. Works used to divert the water:

INTAKE STRUCTURE ON SPEARFISH CREEK  
W/ 5' X 5' X 5' INTAKE BOX

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

1 MILE OF 10" BURIED STEEL PIPE  
3 1/2 MILES OF 8" " " "

C. Works used to apply water to beneficial use.

550,000 GALLON STORAGE RESERVOIR  
W/ 8" LINE TO CITY MAINS

The system is in the following condition: GOOD

The point of diversion is located AT A POINT IN SECTION 33, T6N, R2E, WHENCE  
NE CORNER OF SAID SECTION BEARS N 72° 03' E, 1893.5 FEET

The works are capable of diverting and conveying to the place of use 1.1  
cu. ft. per second of water which is to be used for MUNICIPAL USE

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

comprising a total of \_\_\_\_\_ acres of land.

DIVERSION POINT FOR PERMIT NO 141-1, 148-1 AND  
138-1 ARE IDENTICAL

Date MAY 10, 1972

Durton Jones  
(Signature)

WATER RIGHT SPECIALIST  
WATER RESOURCES COMMISSION

REPRODUCTION: REDUCTION 25% ROLL NO. 2 DATE MICROFILMED



DEPARTMENT OF WATER & NATURAL RESOURCES

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

141-1  
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	PRICRITY 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	3.50
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

141-1



# CITY OF SPEARFISH

722 MAIN STREET, SPEARFISH, SOUTH DAKOTA 57783

November 19, 1991



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

Re: Water Right #'s 141-1 (1.1cfs); 149.1 (.44cfs); 138-1 (.5 cfs); 148-1 (1.5 cfs); 150-1 (1.0 cfs)

Dear Mr. Hatch:

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

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

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

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

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

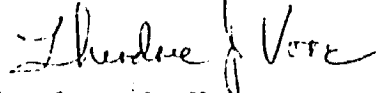


John Hatch  
November 8, 1991  
Page 2

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

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

Respectfully Requested,



Theodore J. Vore  
Public Works Administrator  
CITY OF SPEARFISH

TJV/bsk

141-1

*South Dakota*



GREAT FACES. GREAT PLACES.

DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

December 18, 1991

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

Dear Mr. Vore:

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

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

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

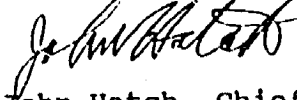
December 18, 1991  
Theodore J Vore  
Page 2 of 2

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

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

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

Very truly yours,



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

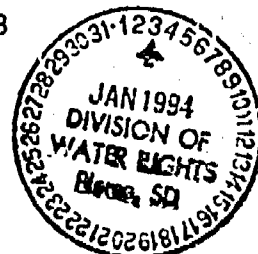
141-1



# CITY OF SPEARFISH

722 MAIN STREET, SPEARFISH, SOUTH DAKOTA 57783

December 29, 1993



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

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

Dear Mr. Hatch:

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

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

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

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

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

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



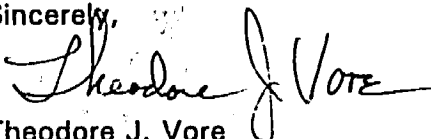
PUBLIC WORKS, 642-8271 • PLANNING & ZONING, 642-8277 • LIBRARY, 642-4645  
WASTE WATER TREATMENT PLANT, 642-5764 • FINANCE OFFICE, 642-7775 • POLICE DEPT., 642-2755  
FAX, 642-3210

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John Hatch  
December 29, 1993  
Page 2

Please advise us as to any changes or further requests the City of Spearfish should make to secure our above referenced Water Rights.

Sincerely,



Theodore J. Vore  
Public Works Administrator  
CITY OF SPEARFISH

TJV/bsk



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

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

January 31, 1994

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

Dear Mr. Vore:

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

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

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

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

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

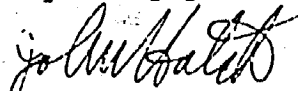
141-1

Theodore J Vore  
January 31, 1994  
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reviewed on a case by case basis to determine if approval could be recommended.

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

Very truly yours,



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

enclosures

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