

Considered: _____

Vested Right Claim
WATER PERMIT NO. 1412-1

MAP No. same

Name of Applicant Higgins Gulch, West Ditch c/o Robert Humphrey

Post Office Address Route 1, Box 170, Spearfish SD 57783

Amount of Water Claimed 1.5 cfs Total Acres 210

Source of Water Supply Higgins Gulch

Water to be used for irrigation County Lawrence

About 3 miles N of Spearfish

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received June 8, 1987 Fee \$15.00 Remarks _____

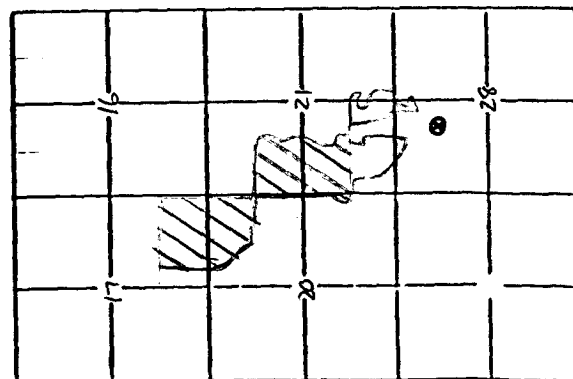
Corrected Application Received _____ Period of Annual Use Apr 1 - Oct 31

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

WI-1 Description same as Application YES NO REMARKS _____

Diversion Point Higgins Gulch: 1700ft E and 1310ft S (NE $\frac{1}{4}$ NW $\frac{1}{4}$) from NW corner section 28-T7N-R2E

Land to be Irrigated S $\frac{1}{2}$ SE $\frac{1}{4}$ section 17; N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ section 20; S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ section 21; all in T7N-R2E



Well Log: Driller _____ Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map aerial photo PREPARED BY Rasool Ahadi Reviewed and the Number assigned on September 28, 1987 By Ron Duvall

No. 1412-1 Hydrologic Unit 10120203
 Map No. Same Basin Belle Fourche R
 Newspaper Queeen City Mail Box 7 Spearfish (Wed)
Belle Fourche Daily Post 1604 56 Ave

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

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

New ☐ Vested Right ☒ Future Use ☐☐ Application to amend Permit No. _____ with old priority date retained☐ Change diversion point(s) ☐ Add diversion point(s) ☐ Change acreage ☐ Other ☐☐ Application to: ☐ Change use ☐ Change diversion point(s) ☐ Add diversion point(s)☐ Add Acreage ☐ Increase diversion rate ☐ Other _____ See Permit No. _____☐ Application to: ☐ Use ☐ Transfer water reserved by Future Use Permit No. _____1. Name of Applicant Higgins Gulch, West Ditch/Robert Humphrey Phone No. 642-2116Post Office Address Route 1, Box 170 Spearfish, South Dakota State 57783
(Street, RR or Box) City Zip Code2. Amount of water claimed (c.f.s) See attached Total acres irrigated 210.03. Source of Water supply Higgins Gulch 13104. Location of point of diversion 1700 ft E, 900 ft S from NW Corner Section 28, T7N-R2E_____ County Lawrence5. Counties where water will be used Lawrence6. Annual period during which water is to be used April 1 thru October 31

7. List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.
SEE ATTACHED SHEET	

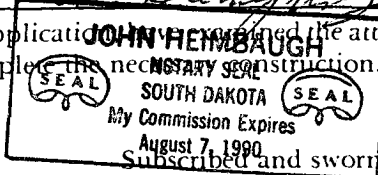
Land Description	No. Acres Irr.

Attach sheet if more space is needed

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

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

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

STATE OF SOUTH DAKOTA
County of LAWRENCE)^{ss}I, Robert Humphrey the applicant, certify that I have read the foregoing application, examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed John Hembach
3rd day of JUNE 1987

NOTARY PUBLIC

NOT TO SCALE

Higgins Gulch acreage
Spring Branch acreage

M. H. Ford
Nat. Res. Eng.
9/28/87

7-2

0.5
7-2

17 16
20 21

20 21
29 28

V.R. Appl. No. 1412-1

VESTED WATER RIGHT

The Water Management Board hereby validates Vested Water Right Claim No. 1412-1.

Higgins Gulch West Ditch

Rt 1, Box 170, Spearfish

(applicant)

(post office address)

South Dakota

57783

(state)

(zip code)

Date of receipt of Application June 8, 19 87.

Validated December 2, 19 87.

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 April 20, 1877*, ~~19~~ 87.
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 the first 1.5 cfs and the balance of any flow left up to 3.0 cfs after Higgins Gulch East Ditch has diverted 0.91 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 April 1-October 31.

The applicable portions of Location Certificate No. 78144 have been incorporated into Permit Nos. 1412-1 and 1413-1 and the abandoned portions of Certificate No. 78144 have been cancelled.

Vested Water Right No. 1412-1 was validated subject to the qualifications listed in Attachment A.

* See Attachment B

WATER MANAGEMENT BOARD

By: John H. Haled

(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

MAY 1 1988, 19 88.

ATTACHMENT A
VESTED WATER RIGHT NO. 1412-1

1. That Vested Water Right No. 1412-1 is subject to domestic use rights. Diversion of water under Water Right No. 1412-1 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 Higgens Gulch West Ditch within one year of validation of Vested Water Right No. 1412-1. The measuring device shall be permanently installed. The design shall be approved prior to construction, by the Chief Engineer.

ATTACHMENT B
Vested Water Right No. 1412-1

Explanation of the priority date:

1. The judgement of the Circuit Court, filed December 3, 1894 and the Supreme Court Opinion filed June 17, 1896 in the case of Scott vs Toomey states:

The West Ditch would have a priority date of April 20, 1877.

The priority date for the East Ditch would be later than the one for the West Ditch. The Court did not specify a specific date as the priority date of the East Ditch.

2. Approximately 20 acres of land located in the SW 1/4 SW 1/4 and SE 1/4 SW 1/4, Section 21, T7N, R2E which belongs to Mr. Dick Cundy and have the priority date of the East Ditch are being irrigated from the West Ditch based on an agreement between Mr. Cundy (East Ditch) and Mr. Humphrey (West Ditch).

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1412-1 FOR IRRIGATION

(1) Higgins Gulch, West Ditch & Robert Humphrey of RR #1, Box 170, Spearfish, SD 57783 made Application No. 1412-1, June 8, 1987, for validation of a vested right claim to appropriate the first 1.5 cubic feet of water per second (cfs) from Higgins Gulch, via the West Ditch and the balance of any flow in Higgins Gulch up to a total of 3.0 cfs after Higgins Gulch East Ditch has diverted 0.91 cfs (Vested Water Right No. 1413-1), Lawrence County, South Dakota for irrigation purposes. Vested Water Right No. 1412-1 was validated December 2, 1987 with a priority date of April 20, 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.

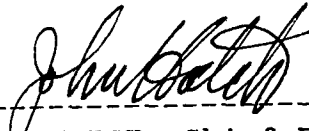
(2) The applicant is entitled to divert as described in (1) of this license, for beneficial use. The location of the diversion point is: 1700 feet east and 1310 feet south from the NW corner of Section 28, T7N, R2E.

The location of the irrigated acreage is:

T7N, R2E	Section 17	SW 1/4 SE 1/4	28.0 acres
		SE 1/4 SE 1/4	40.0 "
	Section 20	NE 1/4 NE 1/4	40.0 "
		NW 1/4 NE 1/4	17.0 "
		NE 1/4 SE 1/4	1.5 "
		SE 1/4 SE 1/4	0.8 "
	Section 21	SW 1/4 NW 1/4	35.8 "
		SE 1/4 NW 1/4	7.0 "
		NW 1/4 SW 1/4	36.0 "
		NE 1/4 SW 1/4	3.9 "

Total acres irrigated 210.0

(3) Pursuant to Section 46-5-30.1 Higgins Gulch, West Ditch & Robert Humphrey of RR #1, Box 170, Spearfish, SD 57783 the holder(s) and/or owners(s) of Vested Water Right No. 1412-1 is issued a license to appropriate as described in (1) of this license with a priority date of April 20, 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. 1412-1 and subject to South Dakota State Law.



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

MAY 1 1988

ATTACHMENT TO Application No. 1412-1

Higgins Gulch, West Ditch

Section 17 T7N-R2E

SW $\frac{1}{4}$ SE $\frac{1}{4}$	28.0 Acres		
SE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0 Acres	Subtotal	68.0 Acres

Section 20 T7N-R2E

NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0 Acres		
NW $\frac{1}{4}$ NE $\frac{1}{4}$	17.0 Acres	Subtotal	57.0 Acres

NE $\frac{1}{4}$ SE $\frac{1}{4}$	1.5 Acres		
SE $\frac{1}{4}$ SE $\frac{1}{4}$	.8 Acres	Subtotal	2.3 Acres

Section 21 T7N-R2E

SW $\frac{1}{4}$ NW $\frac{1}{4}$	35.8 Acres		
SE $\frac{1}{4}$ NW $\frac{1}{4}$	7.0 Acres	Subtotal	42.8 Acres

NW $\frac{1}{4}$ SW $\frac{1}{4}$	36.0 Acres		
NE $\frac{1}{4}$ SW $\frac{1}{4}$	3.9 Acres	Subtotal	39.9 Acres

TOTAL ACREAGE FOR HIGGINS GULCH, WEST DITCH 210.0 ACRES

Attachment to Application No. 1412-1

Explanation of the "Amount of Water Claimed"

The Supreme Court Opinion, filed October 7, 1941 and the Amended Judgement of the Circuit Court dated October 27, 1942 in the case of Cundy vs Weber states:

The West Ditch was to take first 75 miner's inches (1.5 cfs) of water, then the East Ditch would take up to 52 miner's inches (1.04 cfs) of the remaining flow in the gulch. If any flow remained after these two amounts were diverted, the West Ditch could divert the balance of the flow of the stream (conversion to cfs added by Division of Water Rights).

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) West Higgins Gulch/Robert Humphrey

Post Office Address Route 1, Box 170, Spearfish, South Dakota 57783
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation May 1877 Date of Posting NA*

Date of recording October 25, 1883 Recording date Lawrence County 27 249
Where Book Page

B. Date of start of construction of water supply system 1877C. Date that water was first applied to beneficial use April 20, 1877D. Name of owner of original water supply system Daniel J. ToomeyE. Amount of water originally applied to beneficial use See attached sheet "Amount of Water Claimed"

F. Present Use of Water - Amount of water now being used irrigation, domestic, also see attached
 Date that this water was first used 1877 sheet

G. Chronological History of Water Use

To the best of my knowledge the ditch has always been in use since it was constructed with no period of non-use.

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.

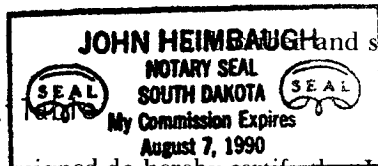
State of South Dakota)

County of Lawrence) ss

I, Robert W. Humphrey the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed Robert W. HumphreyJune 13, 1987

John Heimbaugh
 Notary Public or other qualified officer



*Not Avail

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.

Robert W. Humphrey 6-3 1987
(Print name)

_____, 19_____
(Print name)

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

410902

Pierre, June 8, 19 87

RECEIVED OF Higgins Gulch, West Ditch, Robert Humphrey, Route 1, Box 170

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

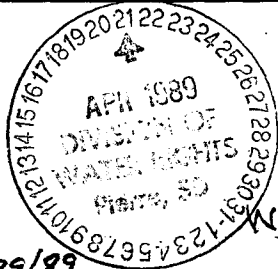
Fee for Application for Permit No. <u>1412-1</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	00	VR
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____			
Fee to retain Future Use Permit No. _____ after period of seven years.			
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____			
Fee for Filing Transfer Form _____			
Fee for Filing Extension Request _____			
Fee for Certified Copy of _____			
Fee for Print Copy of Map _____			
Fee for Certifying _____			
Fee for _____			
(Any Other Work Provided by Law)	Total	15	00

By

Chief Engineer

John Hatch

JOHN HATCH MS



T.YER HELST 3/29/89

WEST HIGGINS DITCH (1.5 cfs + balance to 3 cfs)

MEASURING DEVICE

BROAD CRESTED WEIR - PARTIALLY SUPPRESSED

$$\textcircled{1} Q = CLH^{3/2} \left[1 + .024C^2 \frac{H^2}{d^2} \right] \quad \text{KING'S HANDBOOK PG 5-2, 4th ED.}$$

Given: $H = .4$

$L = 3.0$

$C = 2.58$

$d = 97.6 - 96.5 = 1.1$

KING'S TABLE 47
Table 5-3, 6th edition

$$Q = 2.58 (3) (.4)^{3/2} \left[1 + .024 (2.58^2) \frac{.4^2}{1.1^2} \right]$$

$d = \text{Water Depth Upstream}$

$$Q = 1.9581 [1.0211]$$

$$Q = 1.9994 \text{ cfs}$$

$\textcircled{2}$ Given: $H = .3$

$L = 3.0$

$C = 2.51$

$d = 97.5 - 96.5 = 1.0$

KING'S TABLE 47

$$Q = 2.51 (3) (.3)^{3/2} \left[1 + .024 (2.51^2) \frac{.3^2}{1.0^2} \right]$$

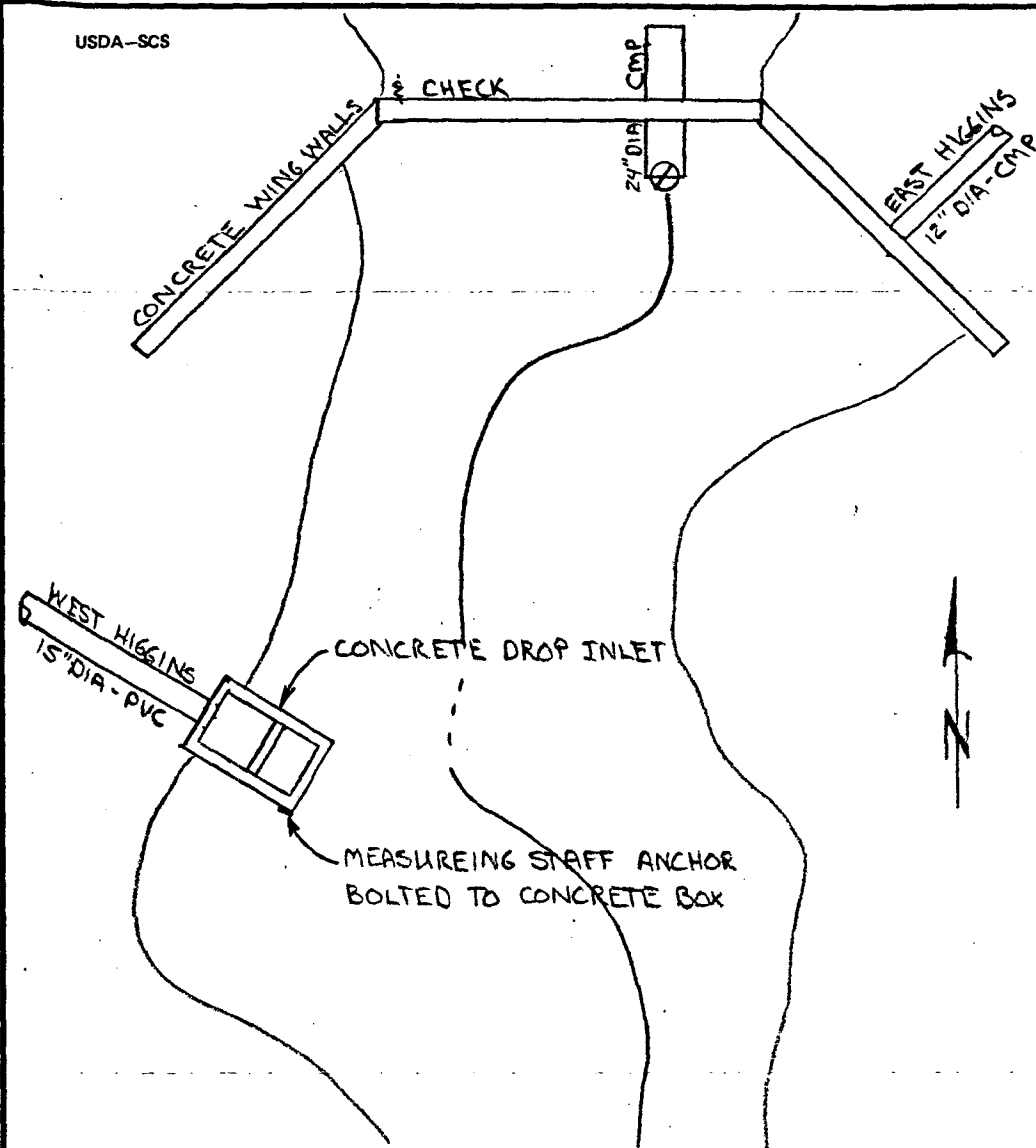
$$= (1.2373) [1.0136]$$

$$= 1.2541 \text{ cfs}$$

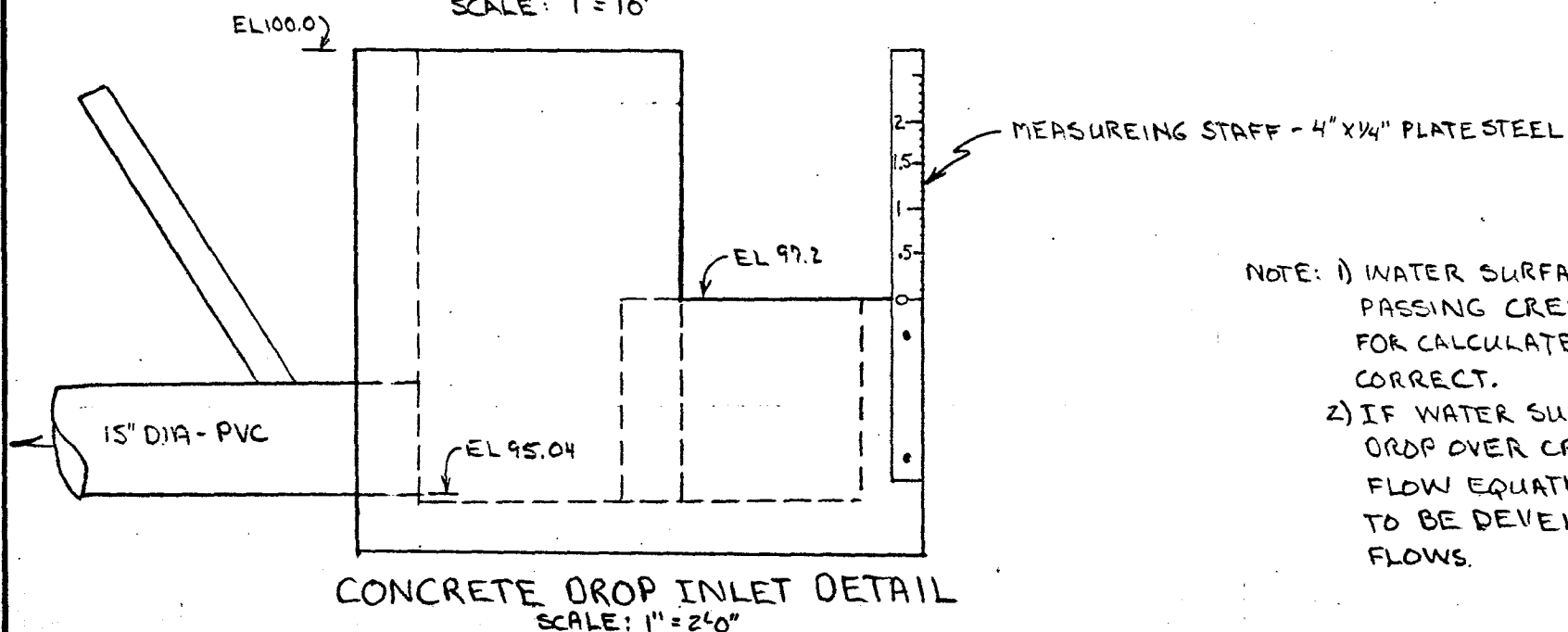
Measuring Staff ($2.5 H^{MIN.}$) UPSTREAM FROM CREST:

$$2.5 (.4) = 1.0'$$

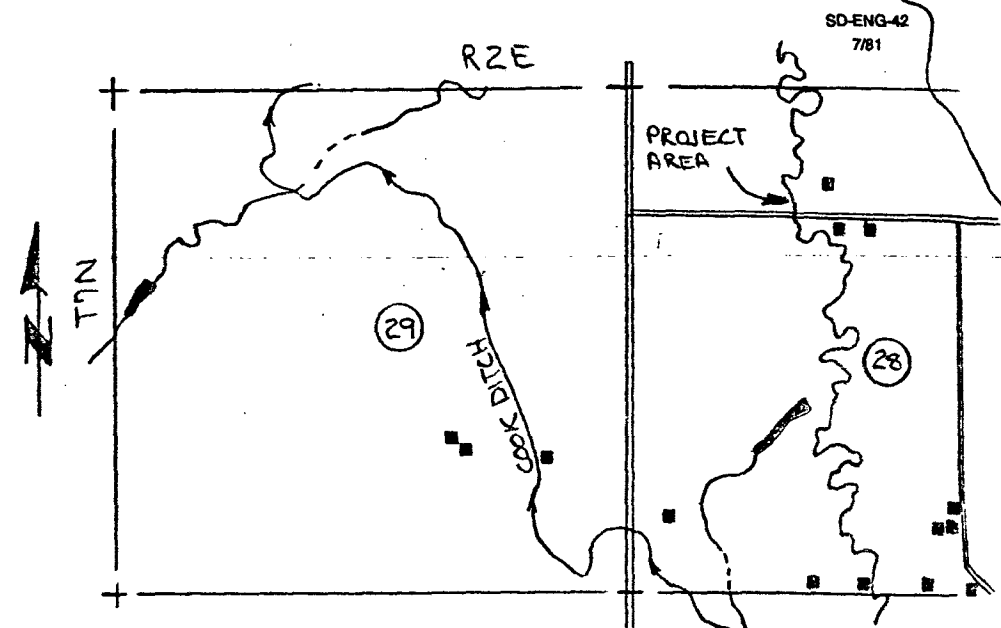
- ∴ 1) USE EXISTING STRUCTURE ; INSTALL MEASURING STAFF IN OUTER SEDIMENT BOX 2' AWAY FROM DROP GREST



PLAN VIEW
SCALE: 1" = 10'



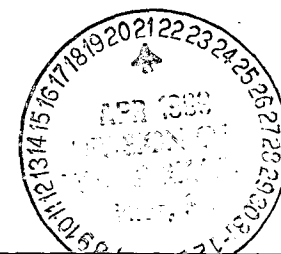
CONCRETE DROP INLET DETAIL
SCALE: 1" = 2'0"



LOCATION MAP
SCALE: 1" = 2000'

DISCHARGE

H (FT)	FLOW (CFS)
1.1	9.75
1.0	8.41
0.9	7.55
0.8	6.01
0.7	4.81
0.6	3.87
0.5	2.87
0.4	2.0
0.3	1.25
0.2	.66
0.1	.23
0.0	.00



- NOTE: 1) WATER SURFACE MUST DROP AFTER PASSING CREST OF DROP INLET FOR CALCULATED FLOW TO BE CORRECT.
2) IF WATER SURFACE DOES NOT DROP OVER CREST FULL PIPE FLOW EQUATIONS WILL HAVE TO BE DEVELOPED TO DETERMINE FLOWS.

MEASUREING DEVICE WEST HIGGINS

SEC 28, T7N - R2E, LAWRENCE CO.

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Designed	T. VERHEIJST	Date	4/17/89	Approved by	Thomas D. Va. Helt
Drawn	T. VERHEIJST	Date	4/17/89	Title	Engineer
Traced		Sheet	No. 1	Drawing No.	
Checked		of			

SOUTH DAKOTA
State Water Resources Commission

STATE OFFICE BUILDING
PIERRE, SOUTH DAKOTA

December 14, 1961

Mrs. Murel Harmon
RFD 1
Spearfish, S. Dak.

Mr. W. O. Dickey
815 State
Spearfish, S. Dak.

Mr. Don L. Bridges
RFD 1
Spearfish, S. Dak.

Re: Higgins Gulch

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.

As a part of this study, a search has been made for written records and documents which pertain to the diversions of the water. The Commission found the following pertaining to irrigation from Higgins Gulch:

(1) A water right location, dated October 25, 1883, claiming location date of May, 1877 and claiming all the flows of Higgins Gulch, filed in Volume 27, page 49, Lawrence County, signed by Daniel J. Teomey.

(2) The Judgement of the Circuit Court, filed December 3, 1894 and the Supreme Court Opinion filed June 17, 1896 in the case of Scott v. Teomey.

In this action the "west" ditch, having a priority of April 20, 1877, was declared to be entitled to so much of the waters of Higgins Gulch as could be diverted by the "west" ditch.

The Supreme Court Opinion, filed October 7, 1941 and the Amended Judgement of the Circuit Court dated October 27, 1942 in the case of Cundy v. Weber.

In this action the Court said the "west" ditch was to take the first 75 minor's inches of water, then the "east" ditch would take up to 52 minor's inches of the remaining flow in the stream. If any flow remained after these two amounts were diverted, the "west" ditch could divert the balance of the flow of the stream.

THIS IS TO CERTIFY THAT THE MICROGRAPHIC IMAGE APPEARING ON THIS SLIDE OF MICROFILM IS AN ACCURATE REPRESENTATION OF THE ORIGINAL RECORD AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS ACCORDING TO THE PROVISIONS OF SOUTH DAKOTA COMPILATION 1-1-72. IT IS FURTHER CERTIFIED THAT THE MICROGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A FURTHER AND AN IMPROVED MANNER MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROGRAPHIC REPRODUCTION. REPRODUCTION 25 ROLL NO. 1 DATE MICROFILMED 5-4-88

Mrs. Burch Harman
Mr. W. E. Dickey
Mr. Don L. Bridges

December 14, 1961

When water rights are involved in Court action, as is the case with the Higgens Gulch Water Rights, the final ruling of the Court in effect becomes the water right to the extent specified by the Court. The Court has specified a priority date of April 20, 1877 for the "west" ditch and has specified definite amounts of water for both the "east" and "west" ditch. The Court has specified that the priority of the "east" ditch is later in priority than the "west" ditch, but has not specified a specific date as the priority of the "east" ditch.

It would be advisable for you to check to see if you can locate additional records that pertain to Higgens Gulch. The Water Resources Commission would appreciate being informed about any additional data you find that you deem applicable, in order to obtain as complete a record as possible, and would arrange to have a representative meet with you to discuss the information contained in this letter and such additional information as you might find, if you so desire.

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 you 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.

Sincerely,

J. W. GRIMES
Executive Officer and
Chief Engineer

Enclos: Map and List

CC: Lois Keith
Spearfish, S. Dak.

LIN 1-27-4. IT IS FURTHER CERTIFIED THAT THE PHOTOGRAPHIC PROCESS USED FOR MICROFILMING OF THE ABOVE RECORDED WAS IN A PERMANENT AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROFILMED DOCUMENT REPRODUCTIONS. REDUCTION 25 ROLL NO. 1 DATE MICROFILMED 5-4-82

DATE MICROFILMED

By *[Signature]*
J. W. GRIMES

No. 78144

Location Certificate Water Right

Higgins' Gulch

Daniel J. Foomey

Filed October 25, 1885, at
1:10 o'clock P. M.

J. J. Tracy, Recorder
By Geo. McCarthy, Deputy.

Know all men by these presents, That I, the undersigned citizen of the U. S. and resident of Lawrence County Dakota, claim by right of location and appropriation for milling, domestic, agricultural, or any other useful or beneficial purposes, the following water right, to wit: All the waters of Higgins' Gulch at a point on Hosenbaum's Ranch, below Jones Springs.

I claim the right to divert and convey said water by ditch, pipe or flumes to any point where it can be used to advantage for any of the aforesaid purposes.

Located in May, 1877, and have been in actual possession of said water right ever since.

Date of this certificate, October 25, 1885.

Daniel J. Foomey

STATE OF SOUTH DAKOTA)
) ss
COUNTY OF LAWRENCE)

I hereby certify that the within instrument is a true, correct and complete copy of the instrument as recorded in my office on the 25th day of October, 1885, at 1:10 o'clock P. M., in Book 27 at Page 249.

Dated this 2 day of September, 1960.

[Handwritten signature]

HIGGINS GULCH IRRIGATION

<u>Name</u>	<u>Field</u>	<u>Acres</u>	<u>Total</u>
W. A.ickey	A	36.0	
	B	31.1	67.1
Mrs. B. Harmon	C	93.0	(93.0)
D. Bridges	D	105.1	105.1
	Ditch Total		265.2
			110.0

*Original
 5-4-82
 110.0*

DIVERSION DITCH SERVICE

NAME OF THE DITCH: *Higgins Gulch Spring and Big Spring*

ADDRESS: *Rt 1 Box 170 Spearfish S.D.*

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

MAXIMUM DIVERSION RATE: C.F.S.

ACREAGE SERVED: *110* ACRES BS = *146.8*

Higgins total = see Higgins Gulch.

LANDOWNER'S NAME	LOCATION OF LAND BEING IRRIG. BY THIS DITCH	ACREAGE	COMMENTS
---------------------	---	---------	----------

Robert W. Humphrey
Higgins Gulch

D

110

*including 5 acres of
tree belt*

see the photo

Viola McNammy

B 56.

64.3

D. L. Zor
Big Spring

A

32.5 Ac



Department of Water & Natural Resources

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

WATER RIGHTS DIVISION
(605) 773-3352

February 2, 1987

Robert Humphrey
RR 1, Box 170
Spearfish, South Dakota 57783

RE: Higgens Gulch, West Ditch

Dear Mr. Humphrey:

Enclosed you will find a set of application forms to file your vested right claim. Please review the forms for accuracy, sign and notarize and return to this office. The filing fee is \$15.00.

The twenty acres of Dick Cundy's land in SW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 21, T7N-R2E which are being irrigated from the West Ditch are mentioned in Cundy's application forms.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Rassool Ahadi".

Rassool Ahadi
Natural Resources Engineer

RA:ms
Enc.

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 1412-1, Higgens Gulch West 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. 1412-1, Higgens Gulch West Ditch, c/o Robert Humphrey, Roue 1, Box 170, Spearfish, South Dakota.

The Chief Engineer is recommending VALIDATION of Application No. 1412-1 for the first 1.5 cfs from Higgens Gulch and the balance of any flow in Higgens Gulch up to a total of 3.0 cfs, after Higgens Gulch East Ditch has diverted 0.91 cfs and that the applicable portions of Location Certificate No. 78144 have been incorporated into Permits No. 1412-1 and No. 1413-1 and the abandoned portions of Certificate No. 78144 have been cancelled, because 1) water has been appropriated as described for irrigation use with a priority date of April 20, 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. 1412-1 is subject to domestic use rights. Diversion of water under Water Right No. 1412-1 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 Higgens Gulch West Ditch within one year of validation of Vested Water Right No. 1412-1. 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 20, 1987

Report on the Higgens Gulch Claims
Vested Water Right Applications No. 1412-1 and No. 1413-1
October 13, 1987

Background

Pursuant to SDCL 46-5-49 and ARSD 74:02:01:20, Higgens Gulch West and East Ditches have filed applications to validate their vested right claims. The Higgens Gulch Claims consist of two vested water right claims:

- 1) Higgens Gulch West Ditch (Application No. 1412-1), claims the first 1.5 cfs of Higgens Gulch water and the balance of any flow in Higgens Gulch after Higgens Gulch East Ditch has diverted 1.04 cfs to irrigate 210 acres in Sections 17, 20, and 21, T7N-R2E, in Lawrence County. The diversion point is located in the NE1/4 NW1/4 Section 28, T7N-R2E, in Lawrence County.
- 2) Higgens Gulch East Ditch (Application No. 1413-1), claims 1.04 cfs of Higgens Gulch water after Higgens Gulch West Ditch has diverted the first 1.5 cfs from Higgens Gulch to irrigate 64 acres in Sections 21 and 28, T7N-R2E, in Lawrence County. The diversion point is located in the NE1/4 NW1/4 Section 28, T7N-R2E, in Lawrence County.

Document Search

The following documents were found pertaining to the Higgens Gulch Vested Water Right Claims:

- 1) Location Certificate No. 78144 dated October 25, 1883, which was signed by Daniel J. Toomey, claimed a location date of May 1877. The certificate claimed all the flows of Higgens Gulch, was filed with the Lawrence County Register of Deeds and was recorded in Volume 27, Page 249.
- 2) A Judgement of the Circuit Court, filed December 3, 1894, and a Supreme Court Opinion filed June 17, 1896, in the case of Scott vs. Toomey. In this case, the West Ditch, with a priority date of April 20, 1877, was declared to be entitled to so much of the Higgens Gulch water as could be diverted by the West Ditch.
- 3) The Supreme Court Opinion, filed October 7, 1941, and the Amended Judgement of the Circuit Court dated October 27, 1942, in the case of Cundy vs. Weber. In this action, the court said that the West Ditch was to take the first 75 miner's inches (1.5 cfs) from Higgens Gulch, then the East Ditch would take up to 52 miner's inches (1.04 cfs) of remaining flow in the stream. If any flow remained after these two amounts were diverted, the West Ditch could divert the balance of the flow of the stream.

The court did not specify a priority date for East Ditch. However, it did state that the West Ditch could divert the first 1.5 cfs from Higgens Gulch and the balance of any flow in Higgens

Gulch after Higgens Gulch East Ditch has diverted 1.04 cfs. Both Ditches have a common priority date of April 20, 1877, however, West Ditch has the first right and East Ditch has the second right with West Ditch having the third right to any remaining Higgens Gulch flows.

Discussion

The Water Resources Commission investigated the irrigation from Higgens Gulch in the early 1960's. At that time, 265.2 acres were mapped as being irrigated from the gulch in this area.

Recent investigations by the Water Rights Division engineers have found that a total of 274 acres - 210 acres West Ditch and 64 acres East Ditch - is being irrigated from the Higgens Gulch. The increase in the acreage is mainly due to the addition of the areas being irrigated that are covered by trees and also the shelter-belt located in the SE1/4 Section 17, T7N-R2E.

To determine the amount of water needed to irrigate 210 and 64 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 properly irrigate 70 acres, 3.0 cfs will be used to irrigate 210 acres and 0.91 cfs will be used to irrigate 64 acres.
- 2) Using the SCS, S.D. Irrigation Guide, the peak consumption occurs in July. The crops in the area use 28.8% of their annual water consumption during the Month of July. Assuming the crops need 3 feet of water every irrigation season, a total of 822 acre-feet of water is needed for the season, from which 236.7 acre-feet or 3.8 cfs - 2.9 cfs for 210 acres and 0.9 cfs for 64 acres - will be used in the Month of July. Since the water is diverted through a system of pipelines, no water loss due to the irrigation system is anticipated.

Conclusions and Recommendations

- 1) The headgates for the West and East Ditches are capable of diverting more water than the diversion rates claimed.
- 2) Based upon the 1.0 cfs per 70 acres criteria, the peak quantity of water necessary to irrigate the land under Higgens Gulch West Ditch Claim would be 3.0 cfs and Higgens Gulch East Ditch Claim would be 0.91 cfs. Comparing this to the SCS, South Dakota Irrigation Guide calculations, these quantities of water appear to be reasonable.
- 3) It is recommended that Higgens Gulch West Ditch Vested Water Right Claim be validated for the first 1.5 cfs from Higgens Gulch and the balance of any flow in Higgens Gulch up to a

total of 3.0 cfs (after Higgens Gulch East Ditch has diverted 0.91 cfs) to irrigate 210 acres as described in Application No. 1412-1, with a priority date of April 20, 1877, and that Higgens Gulch East Ditch Vested Water Right Claim be validated for 0.91 cfs from Higgens Gulch (after Higgens Gulch West Ditch has diverted the first 1.5 cfs from Higgens Gulch) to irrigate 64 acres as described in Application No. 1413-1 with a priority date of April 20, 1877.

- 4) It is recommended that if Vested Water Right Application No. 1412-1 and No. 1413-1 are validated, that the applicable portions of Location Certificate No. 78144 be incorporated into No. 1412-1 and No. 1413-1, and that the abandoned portions of Location Certificate No. 78144 be cancelled.



Rassool Ahadi
Natural Resources Engineer



Department of Water & Natural Resources

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

October 29, 1987

QUEEN CITY MAIL
Box 7
Spearfish SD 57783

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 1412-1. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before November 4, 1987.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Higgins Gulch, c/o Robert Humphrey, Rt 1, Box 170, Spearfish SD.

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

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

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

Date _____

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

Name

Newspaper



Department of Water & Natural Resources

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

October 29, 1987

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

Dear Sir:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 1412-1. Please publish this notice once each week for two consecutive weeks in your paper. The first publication should be on or before November 4, 1987.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Higgins Gulch West Ditch, c/o Robert Humphrey, Rt 1, Box 170, 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

SOUTH Dakota Department of
Water & Natural Resources

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

October 29, 1987

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

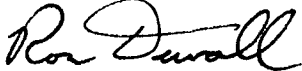
Higgins Gulch West Ditch
c/o Robert Humphrey
Rt 1, Box 170
Spearfish SD 57783

Dear Mr. Humphrey:

Your Application No. 1412-1 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publishers of the QUEEN CITY MAIL printed at Spearfish and the BELLE FOURCE DAILY POST printed at Belle Fourche SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

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

Sincerely,



Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

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

NOTICE OF HEARING To Validate
Vested Right Application No. 1412-1 to Appropriate Water

Notice is hereby given that Higgens Gulch West Ditch, c/o Robert Humphrey whose mailing address is Rt 1, Box 170, Spearfish, South Dakota has filed an application to validate a vested right claim to appropriate the first 1.5 cubic feet of water per second (cfs) from Higgens Gulch to irrigate 210 acres via the West Ditch with a claimed priority date of April 20, 1877 and the balance of any flow in Higgens Gulch after Higgens Gulch East Ditch (Application No. 1413-1) has diverted 1.04 cfs. The Higgens Gulch diversion point for the West Ditch is located in the NE 1/4 NW 1/4 Section 28, T7N, R2E. The irrigated acreage is located in the S 1/2 SE 1/4 Section 17; N 1/2 NE 1/4, E 1/2 SE 1/4 Section 20; S 1/2 NW 1/4, N 1/2 SW 1/4 Section 21; all in T7N, R2E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 1412-1 for the first 1.5 cfs from Higgens Gulch and the balance of any flow in Higgens Gulch up to a total of 3.0 cfs, after Higgens Gulch East Ditch has diverted 0.91 cfs and that the applicable portions of Location Certificate No. 78144 be incorporated into No. 1412-1 and No. 1413-1 and that the abandoned portions of No. 78144 be cancelled because 1) water has been appropriated as described for domestic use and irrigation with a priority date of April 20, 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 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.

(continued)

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. 1412-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Butte) ss.

I, Marion Lucca hereby

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

Water was taken from the Belle Fourche Daily Post

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

City of Belle Fourche

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

November 4, 1987

November 11, 1987

Marion Lucca
(Signature)

Editor
(Title)

November 11, 1987
(Date Signed)

Cost of Printing: \$ 47.12



NOTICE OF HEARING
TO VALIDATE
Vested Right Application
No. 1412-1

to Appropriate Water

Notice is hereby given that
Higgins Gulch West Ditch, c/o
Robert Humphrey whose mail-
ing address is Rt. 1, Box 170,
Spearfish, South Dakota has
filed an application to validate a
vested right claim to appropri-
ate the first 1.5 cubic feet of
water per second (cfs) from
Higgins Gulch to irrigate 210
acres via the West Ditch with a
claimed priority date of April
20, 1877 and the balance of any
flow in Higgins Gulch after
Higgins Gulch East Ditch
(Application No. 1413-1) has
diverted 1.04 cfs. The Higgins
Gulch diversion point for the
West Ditch is located in the NE
1/4 NW 1/4 Section 28, T7N,
R2E. The irrigated acreage is
located in the S 1/2 SE 1/4 Sec-
tion 17; N 1/2 NE 1/4, E 1/2 SE
1/4 Section 20; S 1/2 NW 1/4,
N 1/2 SW 1/4 Section 21; all in
T7N, R2E.

Pursuant to SDCL 46-2A-2
the Chief Engineer of the Water
Rights Division recommends
VALIDATION of Vested Water
Right Application No. 1412-1
for the first 1.5 cfs from Higgins
Gulch and the balance of any
flow in Higgins Gulch up to a
total of 3.0 cfs, after Higgins
Gulch East Ditch has diverted
0.91 cfs and that the applicable
portions of Location Certificate
No. 78144 be incorporated into
No. 1412-1 and No. 1413-1 and
that the abandoned portions of
No. 78144 be cancelled because
1) water has been appropriated
as described for domestic use
and irrigation with a priority
date of April 20, 1877, 2) the use
has been developed without un-
lawful 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 Jeffer-
son Rooms, 2211 LaCrosse,
Rapid City, SD, December 2,
1987 at 1:00 p.m.



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

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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 application or to assure access to the hearing by the handicapped can contact the Water Rights Division, Joe Foss, Pierre SD (605 773-3352) for assistance. 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. 1412-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Lawrence) ss.

I, Jimmie R. Stephenson hereby
certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Queen City Mail

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

City of Spearfish

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

November 3rd, 1987

November 10th, 1987



(Signature)

Publisher

(Title)

11-10-87

(Date Signed)



Cost of Printing: 118 x .2564 = 30.26

118 x .2051 = 24.21

Total = 54.47

NOTICE OF HEARING

To Validate Vested
Right Application
No. 1412-1 to
Appropriate Water

Notice is hereby given that Higgins Gulch West Ditch, c/o Robert Humphrey whose mailing address is Rt 1, Box 170, Spearfish, South Dakota has filed an application to validate a vested right claim to appropriate the first 1.5 cubic feet of water per second (cfs) from Higgins Gulch to irrigate 210 acres via the West Ditch with a claimed priority date of April 20, 1877 and the balance of any flow in Higgins Gulch after Higgins Gulch East Ditch (Application No. 1413-1) has diverted 1.04 cfs. The Higgins Gulch diversion point for the West Ditch is located in the NE 1/4 NW 1/4 Section 28, T7N, R2E. The irrigated acreage is located in the S 1/2 SE 1/4 Section 17; N 1/2 NE 1/4, E 1/2 SE 1/4 Section 20; S 1/2 NW 1/4, N 1/2 SW 1/4 Section 21; all in T7N, R2E.

Pursuant to SDCL 46-2A-2 the Chief Engineer of the Water Rights Division recommends VALIDATION of Vested Water Right Application No. 1412-1 for the first 1.5 cfs from Higgins Gulch and the balance of any flow in Higgins Gulch up to a total of 3.0 cfs, after Higgins Gulch East Ditch has diverted 0.91 cfs and that the applicable portions of Location Certificate No. 78144 be incorporated into No. 1412-1 and No. 1413-1 and that the abandoned portions of No. 78144 be cancelled because 1) water has been appropriated as described for domestic use and irrigation with a priority date of April 20, 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, 46-2-1 thru 46-2-3.1, 46-2-9 thru 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.

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

Nov 3 1987

SOUTH Dakota Department of
Water & Natural Resources

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

October 1, 1987

Higgins Gulch, West Ditch
c/o Robert Humphrey
Rt 1, Box 170
Spearfish SD 57783

Dear Mr. Humphrey:

This letter is to inform you that the vested right claim for Higgins Gulch, West 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

WATER RIGHTS DIVISION
(605) 773-3352

November 10, 1987

Ed Nelson
Bennett & Main
618 State Street
Belle Fourche, South Dakota 57717

Dear Mr. Nelson:

Enclosed is a copy of Location Certificate No. 78144, as you requested.
If you have any questions, please contact us.

Sincerely,

Genny McMath
Natural Resources Analyst

GM:ms
Enc.



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 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 No. 1412-1 on Higgins Gulch, Lawrence County.

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

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

Sincerely,

Richard J. Beringson
Secretary

RJB/ld

cc: Higgins Gulch, West Ditch % Robert Humphrey

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

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

November 20, 1987

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



Dear Mr. Hatch:

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

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

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Ron Koth".

Ron Koth
Water Permits Coordinator

RK/ld

November 25, 1987
(date)

page 1

Parties of Record before Water Management Board regarding Vested Right
Application No. 1412-1, Higgins Gulch West Ditch

For :

Robert Humphrey
Higgins Gulch West Ditch
Route 1, Box 170
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
P.O. Box 36900
Billings MT 59107-6900

Bruce Kayman
U.S. Bureau of Reclamation
P.O. Box 226
Newell SD 57760

SOUTH Dakota Department of
Water & Natural Resources

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

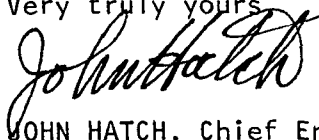
MAY 1 1988

Higgins Gulch, West Ditch
c/o Robert Humphrey
Rural Route 1, Box 170
Spearfish, South Dakota 57783

Dear Mr. Humphrey:

Enclosed are your Validated Vested Water Right and Water License No. 1412-1.
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



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

Higgins Gulch, West Ditch
c/o Robert Humphrey
Rt 1, Box 170
Spearfish SD 57783

RE: Installation of a Permanent Measuring Device for
Vested Right No. 1412-1

Dear Mr. Humphrey:

As a reminder, the Water Management Board, at the December 2 and 3, 1987 meeting, validated your vested right claim on Higgins Gulch, West 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





Department of Water & Natural Resources

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

May 5, 1989

Robert Humphrey
Rt. 1, Box 170
Spearfish, S.D. 57783

RE: Vested Water Right No. 1412-1, Higgens Gulch West,
Installation of Flow Measuring Device.

Dear Mr. Humphrey:

We have reviewed plans and specifications for your measuring device designed by the Soil Conservation Service. According to the proposed plan, the existing structure will be modified and used as a broad crested weir, partially suppressed, with a length of 3.0 feet. The measuring device will be used to measure the flow in the Higgens Gulch West Ditch. The plans and specifications are approved as submitted.

The installation must meet the design criteria set forth by the Soil Conservation Service.

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

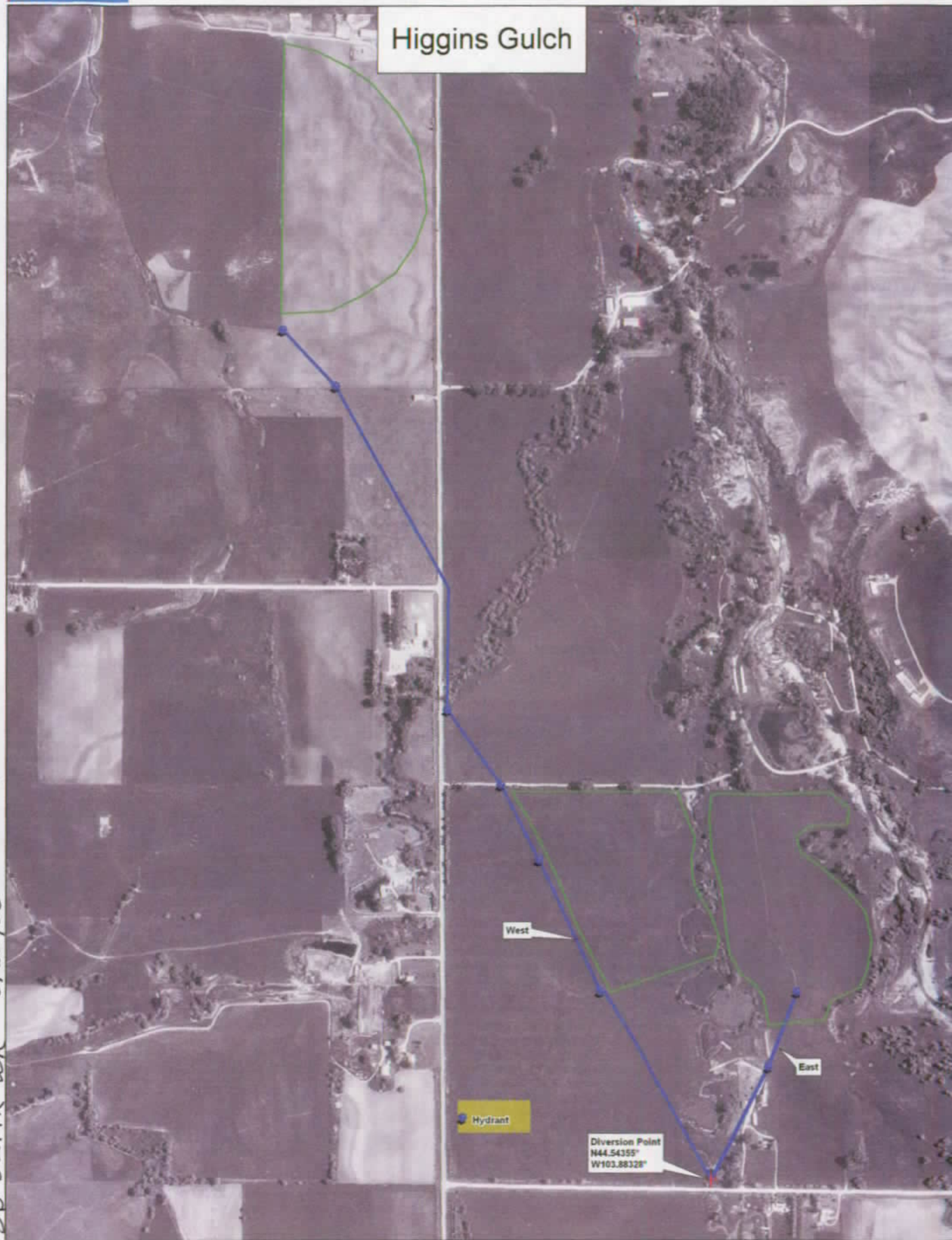
Very truly yours,

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



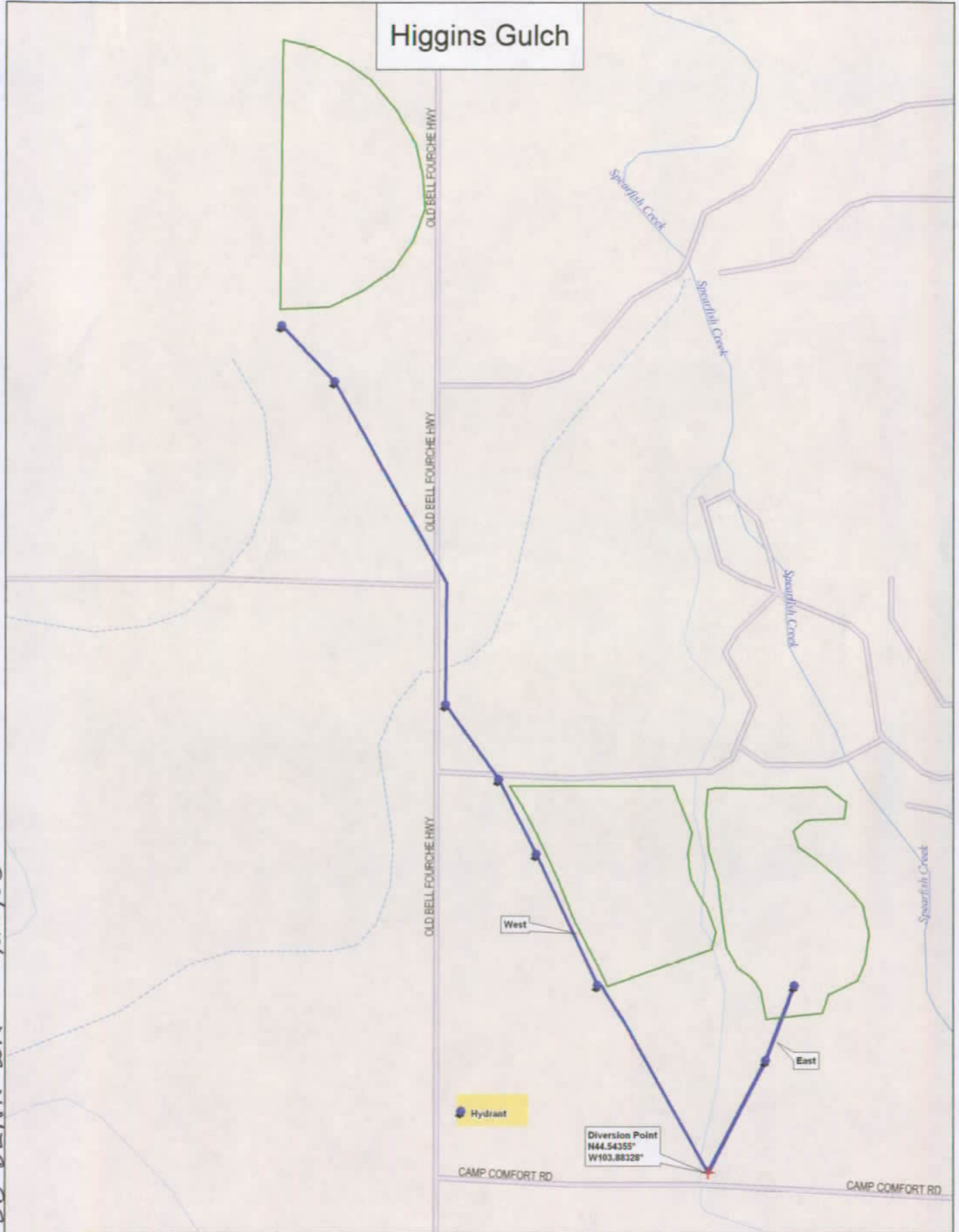
Higgins Gulch

Don Strop
SD DENR WR
3/25/05



Den Stroup Donald E. Stroup
SD DENR WR 8/25/05

Higgins Gulch



1412-1

RECEIVED

AUG 21 2007

WATER RIGHTS
PROGRAM

Eric Gronlund
State of South Dakota
Water Rights Program
Joe Foss Building
523 E Capitol Ave
Pierre, SD 57501-9980

August 20, 2007

Mr. Eric Gronlund,

I have outlined in yellow my irrigated acres on the maps you have sent me. The legal for my property irrigated under the Higgins Gulch Ditch (water right #1412-1) is:

S1/2SE1/2 of Section 17, except the highway right of way to Lawrence County; and the N1/2NE1/4 of Section 20 (except 1 acre in SE corner of NE1/4NE1/4 for church and known as Lot 1), all in T7N, R2E, B.H.M., Lawrence County, SD, subject to easements, reservations and restrictions of record.

I irrigate a much larger area than what you have outlined. (The entire area marked in yellow is irrigated).

I also outlined in yellow the property I own that is irrigated under the Spring Branch Ditch (water right #1424-1). The legal for this property is:

NW1/4SE1/4 of Section 17, Township 7 North, Range 2 East of the Black Hills Meridian, Lawrence County, SD (ID # 24000-00702-174-00)

The underground pipeline extends further than what you show. I marked in blue approximately how it lays.

If your department would have a representative in our area sometime, I would like to meet with them to go over things.

It is my objective to get the water rights as accurate as possible and make certain they are transferred into my name correctly.

Thank you for your help. Please feel free to contact me anytime.



Layton Lensegrav
10902 SD Hwy 34
Belle Fourche, SD 57717
605-723-3094 Home
605-641-1124 Cell

Higgins Gulch

CLUNDY

West

East

Hydant

 Diversion Point
 N44.5420°
 W102.8822°

Scale 1:10,400

1" = 866.7 ft

Data Zoom 14-3

Don Stroup Arnold & Stroup
 5015/2/3/12/5/05
 WA 62042-1000

WATER KILLERS

AUG 21 2007

RECEIVED

SPEARFISH CREEK IRRIGATION DITCHES - CONTACT INFORMATION

Updated 7/8/14

1392-1	MANN DITCH Edgar Burr 209 Evans Ln Spearfish, SD 605-642-7963	COOK DITCH Mike McGuigan 2350 Dairy Ln Spearfish, SD 605-641-2052	1389-1
1403-1	RAMSDELL DITCH Mike Kyte 1121 N. Main St. Spearfish, SD 605-642-4932	SPRING BRANCH DITCH Ross Delzer 19481 US Hwy 85 Belle Fourche, SD 605-642-3778	1424-1
1400-1	OWENS-GAY DITCH Tom Callaway City of Spearfish Spearfish, SD 605-642-1333	KEMPER-COOK-BURNS DITCHES Eric Jennings 19488 Creekside Loop Spearfish, SD 605-642-3411	1399-1 1394-1
1386-1	WALTON-SCHULER DITCH David Rossi Home 605-584-4904 Work 307-682-8530 Back up - Woody Hayes 605-645-2007	HIGGINS GULCH DITCH WEST Layton Lensegrav 10902 SD Hwy 34 Belle Fourche, SD 605-641-1124 or 605-723-3095	1412-1
1387-1**	TONN-EVANS DITCH Jared Capp - President 609 Nellie Lane Spearfish, SD 605-639-9041	HIGGINS GULCH DITCH EAST Cundy Trust c/o Jim Jennings-Co Trustee 19483 Old Belle Rd Spearfish, SD 605-642-2146	1413-1
1388-1	BOWMAN DITCH Phil Kissack 19460 Creekside Loop Spearfish, SD 605-642-4914		

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

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

SPEARFISH CREEK IRRIGATION DITCHES - CONTACT INFORMATION

Updated 7/8/14

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