

Considered: _____

Vested Right Claim _____

22

WATER PERMIT NO. 1416-1

MAP No. same

Name of Applicant Richard Cundy

Post Office Address Route 1, Box 55, St. Onge SD 57779

Amount of Water Claimed 0.20 Total Acres 14

Source of Water Supply Spearfish Creek

Water to be used for irrigation County Lawrence

About 3 1/2 miles N of Spearfish.

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received August 14, 1987 Fee \$15.00 Remarks _____

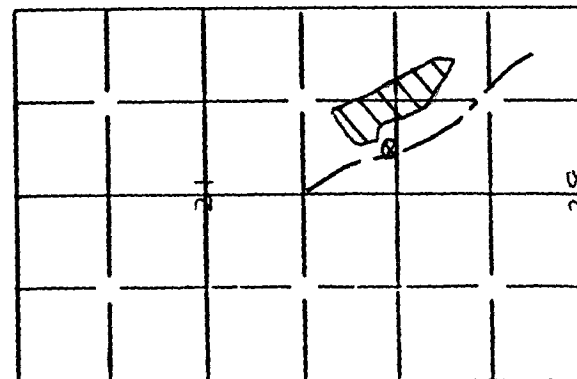
Corrected Application Received _____ Period of Annual Use April 1 - Oct 31

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

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

Diversion Point Spearfish Creek: SW 1/4 SE 1/4
section 21-T7N-R2E

Land to be Irrigated S 1/2 SE 1/4 section 21;
N 1/2 NE 1/4 section 28; all in T7N-R2E



Well Log: Driller NA Licensed YES _____ NO _____

Depth of Well _____ REMARKS _____

Type of Map aerial photo PREPARED BY Rassool Ahadi Reviewed and the Number
assigned on October 3, 1987 By Ron Duvall

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1416-1 FOR IRRIGATION

(1) Richard Cundy
of RR 1, Box 55 St. Onge, South Dakota 57779
made Application No. 1416-1, August 14, 1987
for validation of a vested right claim to appropriate 0.20
cubic feet of water per second from Spearfish Creek,
Lawrence County, South Dakota for irrigation purposes.
Vested Water Right No. 1416-1 was validated December 2, 1987
with a priority date of April 1, 1920. 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 0.20 cubic
feet of water per second for beneficial use. The location of the
diversion point(s) is: 2060 feet West and 50 feet North of the SE
Corner of Section 21, T7N, R2E (SW 1/4 SE 1/4)

The location of the irrigated acreage is: _____

T7N, R2E Section 21 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 8.3 Acres

SE $\frac{1}{4}$ SE $\frac{1}{4}$.8 Acres

Section 28 NE $\frac{1}{4}$ NE $\frac{1}{4}$ 4.0 Acres

NW $\frac{1}{4}$ NE $\frac{1}{4}$.9 Acres

TOTAL 14.0 ACRES

(3) Pursuant to Section 46-5-30.1 Richard Cundy

of RR 1, Box 55, St. Onge, South Dakota 57779

the holder(s) and/or owner(s) of Vested Water Right No. 1416-1

is issued a license to appropriate 0.20 cubic feet of

water per second from Spearfish Creek with a

priority date of April 1, 1920 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.

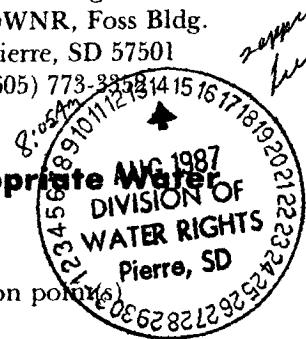
1416-1 and subject to South Dakota State Law.

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

Resources
MAY 1 1988

(See instructions)

No. 1416-1 Hydrologic Unit 10120203
Basin Belle Fourche River
Newspaper Queen City Mail, Box 7, Spearfish (Wed)
Belle Fourche Daily Post, 1004 5th Ave



Application For Soil/Water Compatibility Permit and Permit To Appropriately Use Water

- Type of Application: ☐ New ☒ Vested Right ☐ Amend Permit No. _____
☐ Change Acreage ☐ Change diversion point(s) ☐ Add diversion point(s)
☐ Add Acreage ☐ Increase diversion rate ☐ Other _____

1. Name of Applicant Richard Cundy Phone No. 642-3130

Post Office Address Route 1, Box 55, St. Onge South Dakota State 57779
(Street, RR or Box) (City) Zip Code

2. Amount of water claimed (c.f.s.) .2 Total acres irrigated 14

3. Source of Water supply Spearfish Creek

4. Location of point of diversion SW 1/4 SE 1/4 Section 21, T7N-R2E

County Lawrence

5. Counties where water will be used Lawrence

6. Annual period during which water is to be used April 1 - October 31

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

Land Description	No. Acres Irr.
SW 1/4 SE 1/4 Section 21 T7N-R2E	8.3
SE 1/4 SE 1/4 Section 21 T7N-R2E	.8
NE 1/4 NE 1/4 Section 28 T7N-R2E	4.0
NW 1/4 NE 1/4 Section 28 T7N-R2E	.9

Land Description	No. Acres Irr.

Attach sheet if more space is needed

8. Type of Irrigation: Gravity: _____ Towline: _____ Center Pivot: _____ Gun: ☒ Other: _____
(Specify) Alfalfa

9. Crops to be Irrigated: _____

10. Give a description of proposed project. (Attach sheet if more space is needed)

This application is to validate 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 maps, soils information and any other technical information.

STATE OF ~~SO~~OUTH DAKOTA)
County of Lawrence)^{ss}

I, Richard Cundy, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is truly representative of the water to be used, and that the matters stated in this application are true and correct.

Signed Richard & Cundy

Subscribed and sworn to before me this 13 day of August 1987

Alice P. Edwood
Notary Public

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 use of water 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) Richard Cundy
 Post Office Address Route 1, Box 55, St. Onge, South Dakota 57779
(Street, RR or Box) WR No. 72-1 (State) (Zip Code)
A. Notice of Appropriation See WR No. 48-1 &/ Date of Posting _____
 Date of recording 1909 Recording date Office of State Engineer, Pierre SD
Where Book Page
B. Date of start of construction of water supply system 1909C. Date that water was first applied to beneficial use 1910D. Name of owner of original water supply system Todd PettigrewE. Amount of water originally applied to beneficial use 34 cfsF. Present Use of Water - Amount of water now being used irrigation - .2 cfsDate that this water was first used 1910

G. Chronological History of Water Use

The water was originally used for a Stucco Mill thru Pettigrew Ditch. After abandonment of the mill in 1920's, the water was used to irrigate the land. The water has always been put to beneficial use since the ditch was abandoned.

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 Laurens) ss

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

Signed Richard L CundySubscribed and sworn to before me Aug 13, 1987
Alie P Edward
 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.

Richard L Cundy 8-13 87
(Print name)

 _____ 19____
(Print name)

VESTED WATER RIGHT

The Water Management Board hereby validates Vested Water Right No. 1416-1

Richard Cundy
(applicant)

Route 1, Box 55, St. Onge
(post office address)

SD
(state)

57779
(zip code)

Date of receipt of Application August 14, 1987.

Validated December 2, 1987.

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

1. The date from which the applicant may claim right is April 1, 1920.
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 _____

0.20 cubic feet per second; neither shall it exceed the capacity of the above described water supply system nor shall it exceed the amount of water needed for beneficial uses served. For irrigation purposes said appropriation must be limited to not more than 2 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water has been actually and beneficially applied for irrigation. The water is to be used during the following described annual period Apr 1 - Oct 31.

Vested Water Right No. 1416-1 was validated subject to the qualifications listed in Attachment A.

WATER MANAGEMENT BOARD

By: John H. Hatt

(Chief Engineer)

Division of Water Rights
Dept. of Water and Natural Resources

MAY 1 1988

, 1988.

ATTACHMENT A
VESTED WATER RIGHT NO. 1416-1

1. That Vested Water Right No. 1416-1 is subject to domestic use rights. Diversion of water under Water Right No. 1416-1 is contingent upon supplies being available first to domestic users.
2. That the pump capacity used to divert water pursuant to Vested Water Right No. 1416-1 be no greater than 90 gpm (0.2 cfs).
3. This water right is subject to the irrigation water use questionnaire being submitted each year.

Water District

Report Of Examination Of Works And/Or Application Of Water To Beneficial Use

TO: Chief Engineer, Division of Water Rights, DWNR, Foss Bldg., Pierre, SD 57501

I have this day made a thorough examination of the water use system constructed by Richard Cundy
 of Route 1, Box 55, St. Onge, S.D. holder of
 Permit No. 1416-1, bearing the priority of April 1, 1920 19— authorizing
 the diversion of 0.2 cu. ft. per second of the waters of Spearfish Creek
 for irrigation purposes, in Lawrence County.

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

A. Works used to divert the water:

Pump: Rainmaster, Continental, 1000 GPM
 Motor: Rainmaster, Continental, 40 HP
 Pump and the motor are attached together.

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

~ 300 ft. of 8 in. PVC.

C. Works used to apply water to beneficial use:

App. 20 sprinklers, 4 in. dia.
 Total 1000 GPM.

The system is in the following condition excellentThe point of diversion is located 2060 ft. W. 50 ft. N. from SE corner of Section 21, T7N-R2EThe works are capable of diverting and conveying to the place of use 2.2cu. ft. per second of water which is to be used for irrigation

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

<u>Section 21, T7N-R2E.</u>		<u>Section 28, T7N-R2E</u>	
<u>SW 1/4 SE 1/4</u>	<u>8.3 ac.</u>	<u>NW 1/4 NE 1/4</u>	<u>.9 ac.</u>
<u>SE 1/4 SE 1/4</u>	<u>.8 ac.</u>	<u>NE 1/4 NE 1/4</u>	<u>4.0 ac.</u>

comprising a total of 14 acres of land and the license should be issued for .2 cfsApplicable permit qualifications have been complied with ✓(?) Yes — NoExceptions to compliance are: _____ Date 8/11/87

(signature)

MZ Had

LICENSE FOR PERMIT NUMBER Richard Cundy , 8/11/87

1. Legal location of wells: _____

dams & structures: _____

2. Well Information: Well Drilling Firm _____

No. of wells _____ Depth _____

Casing a) diameter _____ Screen a) type _____

b) length _____ b) length _____

c) type _____ Static Water Level _____

Pump a) make Rainmaster; Continental Motor a) make Rainmaster; Continental

b) model no Tag b) model no. SS 6480

c) size _____ c) horsepower rating 40

d) capacity 1000 GPM d) motor efficiency rating _____

e) turbine pump _____
no. of stages _____

3. Distribution lines:

a) size of lines 8"

b) type PVC

c) length ~ 300 ft.

4. Dam information:

a) height to crest _____

b) height to spillway _____

c) crest width _____

d) crest length _____

e) spillway length _____

f) spillway width _____

g) approx. storage _____

h) Distribution lines or canals:

1) size _____

2) type _____

3) length _____

i) Outlet tubes:

1) diameter _____

2) type _____

3) valued (Y/N) _____

4) valve type _____

5) location on structure _____

5. System Type: a) sideroll:

1) length _____ feet

2) diameter of pipe _____

3) make, model & number of sprinklers _____

4) spacing of sprinklers _____

5) nozzle size _____

b) towline:

1) length _____ feet

2) make, model & number of sprinklers _____

3) spacing of sprinklers _____

4) nozzle size _____

5. System Type: c) center pivot

- 1) make _____
- 2) number of towers _____
- 3) distance between towers _____
- 4) overall length _____
- 5) End gun (Y/N) _____
- 6) high or low pressure _____
- 7) make & size of nozzles _____
- 8) PSI reading while system is running _____
- 9) GPM _____

d) Gate Pipe

- 1) length _____
- 2) diameter _____
- 3) spacing of gates _____

e) Siphons

- 1) number _____
- 2) size _____

f) Portable boom

- 1) make _____
- 2) serial number _____
- 3) nozzle size _____
- 4) capacity (GPM) _____
- 5) PSI _____

g) Gun ~~*~~

- 1) make _____
- 2) serial number not a g
- 3) nozzle size 4"
- 4) capacity (GPM) 1000 Gpm (new as not sure)
- 5) PSI ?
- 6) hose size -
- 7) hose length -

h) Hydromatic

- 1) make _____
- 2) model _____
- 3) serial number _____
- 4) length _____
- 5) nozzle size _____
- 6) spacing _____
- 7) PSI _____
- 8) capacity (GPM) _____

* At the time of inspection the guns were not available.

One of them was located in a barn which was looked at.

YES NO

Check Items Pump and the motor were

also stored in the barn. However they all looked to be in very good conditions.

NA _____

? _____

✓ _____

1. Soil and water permit lands agree with lands being irrigated conditions.

2. Special Qualifications to permit being abided by.

3. All Structures, wells and lands on map.

REMARKS:

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

Pierre, August 14, 19 87

RECEIVED OF Richard Cundy, Route 1, Box 55, St. Onge, SD 57779

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

Fee for Application for Permit No. <u>1416-1</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	00	VR
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____			
Fee to retain Future Use Permit No. _____ after period of seven years.			
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____			
Fee for Filing Transfer Form _____			
Fee for Filing Extension Request _____			
Fee for Certified Copy of _____			
Fee for Print Copy of Map _____			
Fee for Certifying _____			
Fee for _____			
(Any Other Work Provided by Law)	Total	15	00

By John Hatch
Chief Engineer JOHN HATCH (ms)

NOT TO SCALE



NR4had
Nat. Res. Eng.

August 27, 1987

Ø = Div. Pt.

V.R. Appl. No. 1416-1

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

AFFIDAVIT OF APPROPRIATOR AND WITNESSES.

-----00000000000-----

State of South Dakota } ss:
County of Butte

Todd M. Pettigrew, being first duly sworn, upon his oath deposes and says that his post office address is Belle Fourche, Butte County, South Dakota; that he is the owner of the tract of land hereinafter described, to wit: the South Half, (SH) of the Southeast Quarter, (SE $\frac{1}{4}$) of Section Twenty one, (E1) and the North Half, (NH) of the Northeast Quarter, (NE $\frac{1}{4}$) of Section Twenty eight, (E8) in Township Seven, (7) North, Range Two (2) East of the Black Hills Meridian, in Lawrence County, South Dakota; That, during the Month of February, A.D. 1898, (One Thousand Eight Hundred and Ninety Eight), he constructed a water ditch for the purpose of diverting a portion of the water of Spearfish Creek for Power purposes; that the point of diversion of the said water is the headgate of the said ditch which is located on the Right bank of Spearfish Creek at a point which is South 57° 28' West- 1,756.7 feet from the Corner to Sections E1, E2, E7 & E8, T.7 N.R. 2 E.B.M.M.; that the ditch is Ten Feet wide on the bottom; Sixteen feet wide on the water line and carrying water Two and one-half feet deep; That the grade of the said ditch is 2.8 feet per mile and the carrying capacity is Thirty Six, (36.0) cubic feet of water per second; that this ditch extends in a Northerly direction a distance of 0.393 miles to a point on the Right bank of Spear fish Creek, from which the aforesaid Corner to Sections E1, E2, E7 & E8 bears South 56° 51' East- 1,728.0 feet; that at this point the water is used in a turbine waterwheel to generate Seventy two (72.) Horsepower of energy for the operation of a Stacey Mill and is there returned to the natural watercourse.

Deposant further stated that water was first diverted through the said ditch on the First day of February, A.D. One Thousand Eight Hundred and Ninety Eight, (1898) and that a continuous application of the same to a beneficial use as hereinbefore set forth has been made from that date to the present time and in the quantity and manner before stated.

AND ON MICROFILM WHICH MEET THE RECOMMENDED REQUIREMENTS OF THE NATIONAL BUREAU OF STANDARDS FOR PERMANENT MICROPHOTOGRAPHIC REPRODUCTIONS. REPRODUCTION 25X ROLL NO. 4 2 DATE MICROFILMED 3-3-92 OPERATOR

Dependant further affirms that there is no one who holds any right, title or interest in this appropriation, the improvements, ditches, flumes or mill or the power supplied by it, excepting himself, and that the appropriation of the waters of Spearfish Creek at this point does not interfere with the enjoyment of rights acquired for irrigation purposes at other points on the said Creek and further, that the purpose of this affidavit is to establish a proper record of the priority of this appropriation of water in the office of the State Engineer of the State of South Dakota in order that the same may be properly adjudicated and be afforded protection under the laws of the State.

Appropriator.

Subscribed and sworn to before me in my office at Belle Fourche, South Dakota, on the 2nd day of April A.D. 1909.

Notary Public.

Corroborating Witnesses.

We, E. C. Cook of Black Hills
and J. H. Hager of Black Hills
do solemnly swear that we are well acquainted with the above named affiant, having known him for 30 years and 45 years, respectively, and that we are each familiar with the appropriation of water as hereinbefore described and each personally know that the statements herein made by him relative to the said appropriation insofar as the time and manner of the diversion and appropriation of the waters of Spearfish Creek are concerned, are true and correct.

Subscribed and sworn to before me at my office in Belle Fourche, Butte County, S. Dakota, on the 30th day of April A.D. 1909.

Notary Public.

REPRODUCTIONS: REDUCTION 25% ROLL NO. 8 2 3-3 8 2 DATE MICROFILMED 1/10/80 OPERATOR



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 1995

709-1

1407-1

1416-1

Bob Christofferson
530 State Street
Spearfish, SD 57783

Dear Mr. Christofferson:

Enclosed, as we discussed, are 1994 irrigation questionnaires pertaining to Partial Vested Water Right No. 709-1, Water Permit No. 1407-1 and Vested Water Right No. 1416-1. They are all currently listed in the name of Richard Cundy.

You indicated you were operating the systems for Mr. Cundy. I have enclosed copies of the above which will help you in determining which questionnaire goes with which water source and acreage. You may keep these for your records.

I have made a notation in our records to send future irrigation questionnaires directly to you as the operator. If, at some point in time, things change and you no longer operate the systems, please contact us.

Please complete the questionnaires and return them to our office as soon as possible. Thank you for contacting me concerning the questionnaires. If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Division
(605) 773-3352

enclosures



Department of Water & Natural Resources

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

WATER RIGHTS DIVISION
(605) 773-3352

July 23, 1987

Richard Cundy
St. Onge, Box 55
Spearfish, South Dakota 57783

RE: Vested Right Claim
New Permit Application

Dear Mr. Cundy:

Enclosed you will find the completed application forms for your well located in SE $\frac{1}{4}$ Section 24, T7N-R2E. Please read the applications carefully, sign and notarize them.

Enclosed you will also find a set of application forms to validate your vested right for the 14 acres in Section 21, T7N-R2E. Please read the forms carefully, sign and notarize them. The filing fee for the Vested Right Application is \$15.00. Please return all the forms with the filing fee to this office.

If you have any questions, please contact me.

Sincerely,

Rassool Ahadi
Natural Resources Engineer

RA:ms

Copy



Department of Water & Natural Resources

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

October 5, 1987

Richard Cundy
Route 1, Box 55
St. Onge SD 57779

Dear Mr. Cundy:

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

Please contact us if you have any questions.

Sincerely,

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

RON DUVALL
Water Resources Engineer
605 773-3352



Water & Natural Resources

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

October 6, 1987

Richard Cundy
Rt 1, Box 55
St. Onge SD 57779

RE: Notarization of the Affidavit of Water Use

Dear Mr. Cundy:

Enclosed you will find an Affidavit of Water Use form required to file your vested right claim on Pettigrew Claim. This form like other application forms must be stamped by the notary. Please take the enclosed form to the same notary (Alice Earwood) to be stamped. The form without notary stamp is not valid.

Sincerely,

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

RASSOOL AHADI
Natural Resources Engineer
605 773-3352

enclosure

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 1416-1, Richard Cundy

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. 1416-1, Richard Cundy, Route 1, Box 55, St. Onge SD.

The Chief Engineer is recommending VALIDATION of Application No. 1416-1 for 0.2 cfs because 1) water has been appropriated as described for irrigation use with a priority date of April 1, 1920, 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. 1416-1 is subject to domestic use rights. Diversion of water under Water Right No. 1416-1 is contingent upon supplies being available first to domestic users.
2. That the pump capacity used to divert water pursuant to Vested water Right No. 1416-1 be no greater than 90 gpm (0.2 cfs).
3. This water right is subject to the irrigation water use questionnaire being submitted each year.

See the attached report for additional information.



JOHN HATCH, Chief Engineer
October 7, 1987

Report on the Richard Cundy's Claim (Spearfish Creek)
Vested Water Right Application No. 1416-1
October 5, 1987

Background

Pursuant to SDCL 46-5-49 and ARSD 74:02:01:20, Richard Cundy has filed an application to validate a vested right claim. The application claims 0.2 cfs of Spearfish Creek water to irrigate 14 acres in Sections 21 and 28, T7N-R2E, in Lawrence County. The diversion point is located in the SW1/4 SE1/4 Section 21, T7N-R2E.

Document Search

The following documents were found pertaining to the Richard Cundy Claim:

- 1) Affidavit of Water Use, signed by Todd M. Pettigrew and filed April 28, 1909. The affidavit claimed 36 cfs of Spearfish Creek water to be diverted to generate electricity, with a priority date of February 1, 1898.
- 2) Water Right No. 48-1, was issued to Todd M. Pettigrew, with a priority date of March 27, 1909, for an additional 34 cfs of Spearfish Creek water to generate electricity for a stucco mill. This water right was brought up for cancellation at the July 8, 1987 Board meeting, however, it was deferred for further investigation based on objections by Melvin Delzer and Richard Cundy.

Discussion

LeRoy Mernaugh, Division engineer, investigated Water Right No. 48-1 on April 8, 1987. The point of diversion for this water right is on property owned by the City of Spearfish. The power plant and stucco mill were located on Cundy's property. Mr. Cundy stated that there was an old stucco mill on his property years ago, but was abandoned. The mill and ditch were reported to have been abandoned in the early 1920's.

The use of the ditch was to divert Spearfish Creek waters to generate electricity for the stucco mill. Water Right No. 48-1 and the Affidavit of Water Use, signed by Todd M. Pettigrew specified the use as electrical generation only. No irrigation was specified. The investigations by Water Rights Division engineers found no facilities for the generation of power; therefore Water Right No. 48-1 and the Affidavit of Water Use should be cancelled for forfeiture for nonuse and abandonment.

The 1987 investigations by the Water Rights Division engineer found that 14 acres are being irrigated from Spearfish Creek on Richard Cundy's property. Mr. Cundy stated that in the 1920's, after the stucco mill ditch was abandoned, his father bought the land from Pettigrew and started to conduct irrigation on the land. He also stated that the land had been irrigated since, with some short periods of non irrigation.

Mr. Cundy now owns twenty 4 inch guns which he uses to irrigate the land. The pump has a maximum capacity of 1,000 gallons per minute using a Rainmaster Continental 40 HP Motor. Since water use for irrigation purposes started in the 1920's, the use can be vested as of the date the irrigation of the land commenced. A priority date of April 1, 1920 was assigned based on when the farming and irrigation of the land was claimed to have started.

Conclusions and Recommendations

- 1) The irrigation system is capable of diverting more water than the amount of water claimed. The pump is capable of diverting 1000 gpm (2.23 cfs). The pump capacity for Water Right Claim No. 1416-1 should be no more than 90 gpm (0.2 cfs).
- 2) It is recommended that the Vested Water Right Claim for Richard Cundy be validated for 0.2 cfs of water to irrigate 14 acres of land as described in Application No. 1416-1 with a priority date of April 1, 1920.
- 3) It is recommended that the Affidavit of Water Use, signed by Todd M. Pettigrew and Water Right No. 48-1 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. 1416-1. 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 Richard Cundy, Route 1, Box 55, St. Onge SD 57779.

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 26, 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. 1416-1. 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 Richard Cundy, Route 1, Box 55, St. Onge SD 57779.

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

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

Sincerely,

Ron Duvall
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

Date _____

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

Name

Newspaper



Department of Water & Natural Resources

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

October 29, 1987

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

Richard Cundy
Route 1, Box 55
St. Onge SD 57779

Dear Mr. Cundy:

Your Application No. 1416-1 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publishers of the QUEEN CITY MAIL printed at Spearfish and the BELLE FOURCE DAILY POST printed at Belle Fourche SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Duvall". The signature is written in a cursive, flowing style.

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. 1416-1 to Appropriate Water

Notice is hereby given that Richard Cundy whose mailing address is Route 1, Box 55, St. Onge, South Dakota has filed an application to validate a vested right claim to appropriate 0.2 cubic feet of water per second from Spearfish Creek to irrigate 14 acres with a claimed priority date of 1909. The Spearfish Creek diversion point is located in the SW 1/4 SE 1/4 Section 21, T7N, R2E. The irrigated acreage is located in the S 1/2 SE 1/4 Section 21; N 1/2 NE 1/4 Section 28; 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. 1416-1 for 0.2 cfs because 1) water has been appropriated as described for irrigation with a priority date of April 1, 1920, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

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

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

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

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

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

No. 1416-1

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

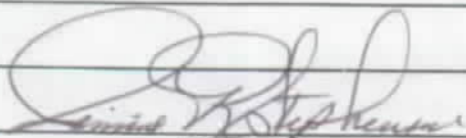
A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

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: 99 lines x. 2564 = 2538

99 lines x. 2051 = 2030

total = 4568

NOTICE OF HEARING

To Validate Vested
Right Application No. 1416-1
To Appropriate Water

Notice is hereby given that Richard Cundy whose mailing address is Route 1, Box 55, St. Onge, South Dakota, has filed an application to validate a vested right claim to appropriate 0.2 cubic feet of water per second from Spearfish Creek to irrigate 14 acres with a claimed priority date of 1909. The Spearfish Creek diversion point is located in the SW 1/4 SE 1/4 Section 21, T7N, R2E. The irrigated acreage is located in the S 1/2 SE 1/4 Section 21; N 1/2 NE 1/4 Section 28; 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. 1416-1 for 0.2 cfs because 1) water has been appropriated as described for irrigation with a priority date of April 1, 1920 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

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

The recommendation of the Chief Engineer is not final or binding upon the Board and the Board is authorized to 1) approve validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application after it reaches a conclusion based upon facts presented at the public hearing. Any interested person who may be affected by a Board decision and who intends to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, must file a written petition with BOTH the applicant and the Chief Engineer by November 20, 1987. The petition may be informal, but it must include a statement describing the petitioner's interest in the application, 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 on an adversary proceeding. The applicant or any person, after filing a petition, has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

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

Nov 2 1987

No. 1416-1

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Butte) ss.

I, Marion Lucas hereby

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

Water was taken from the Belle Fourche Daily post

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

city of Belle Fourche

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

November 4 1987

November 11, 1987

Marion Lucas
(Signature)

Editor
(Title)

November 11, 1987
(Date Signed)

Cost of Printing: \$40.06

Public Notice

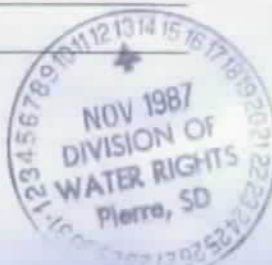
NOTICE OF HEARING
TO VALIDATE
Vested Right Application
No. 1416-1
to Appropriate Water

Notice is hereby given that Richard Cundy whose mailing address is Route 1, Box 55, St. Onge, South Dakota has filed an application to validate a vested right claim to appropriate 0.2 cubic feet of water per second (cfs) from Spearfish Creek to irrigate 14 acres with a claimed priority date of 1909. The Spearfish Creek diversion point is located in the SW 1/4 SE 1/4 Section 21, T7N, R2E. The irrigated acreage is located in the S 1/2 SE 1/4 Section 21; N 1/2 NE 1/4 Section 28; 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. 1416-1 for 0.2 cfs because 1) water has been appropriated as described for irrigation with a priority date of April 1, 1920, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water and 4) it is in the public interest.

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

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



tion may be informal, but it must include a statement describing the petitioner's interest in the application, the reasons for the petitioner's opposition to or support of the application, and the signature and mailing address of the petitioner or his legal counsel if legal counsel is obtained. The applicant need not file a petition.

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

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

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

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

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

November 16, 1987

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



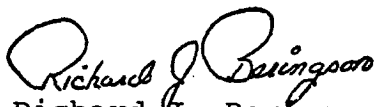
Dear Mr. Hatch:

Pursuant to the notice provided by the Chief Engineer under SDCL 46-2A-4 the South Dakota Department of Game, Fish and Parks intends to be a party to water right claim 1416-1 on Spearfish Creek, Lawrence County.

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

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

Sincerely,


Richard U. Beringson
Secretary

RJB/ld

cc: Richard Cundy

**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 24, 1987
(date)

page 1

Parties of Record before Water Management Board regarding Vested Right
Application No. 1416-L, Richard Cundy

For:

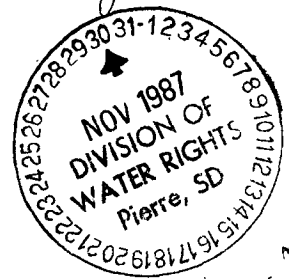
Richard Cundy
Route 1, Box 55
St. Onge SD 57779

Interested:

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

John Hatch, Chief Engineer
Water Rights Division
Pierre, SD,

H. C. C. S. K.



In reply to your letter concerning
taking my water use irrigation
rights out of specific on Pettigrew
permit, I wish to say.

It has been used always
since the 1400 years
and never taken enough water
to harm the fish.

I feel it is wrong and
unnecessary to cancel my affidavit
of water use.

The large colony of Federal protected
Blue Heron right beside Spearfish
Creek eat fish every day and are
none of a threat to my
irrigation.

I have gone to a lot of expense
pump & high line and need the
water & will not harm the fish.

Sincerely Richard Cundy



Department of Water & Natural Resources

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

October 30, 1987

NOTICE OF CANCELLATION

TO: Richard Cundy, RR #1 Box 55, St Onge, SD 57779

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

SUBJECT: Cancellation of Affidavit of Water Use, signed by
Todd M Pettigrew

The Water Management Board will consider cancellation of the Affidavit of Water Use signed by Todd M Pettigrew at 1:00 pm, December 2, 1987 in the Roosevelt & Jefferson Rooms, Howard Johnson's, 2211 LaCrosse, Rapid City, SD.

The hearing(s) will be conducted pursuant to the provisions of SDCL 46-1-1 thru 46-1-10, 46-1-14 thru 46-1-15; 46-2-3.1, 46-2-9, 46-2-11, 46-2-17; 46-5-36, 46-5-37, 46-5-37.1; 46-2A-1 thru 46-2A-7; and Board Rules ARSD 74:02:01:36 thru 74:02:01:41. These are contested cases pursuant to procedures contained in SDCL 1-26.

The Chief Engineer of the Water Rights Division is recommending cancellation of the Affidavit of Water Use due to abandonment or forfeiture.

The recommendation of the Chief Engineer is not final or binding upon the Board. The Board is authorized to 1) cancel, 2) cancel portions of, 3) delay action on, or 4) take no action on the Affidavit of Water Use signed by Todd M Pettigrew based upon facts presented at the public hearing. Our records show you to be the owner of property covered by the Affidavit of Water Use. If you wish to oppose the cancellation and if you intend to participate in the hearing before the Board and present evidence or cross-examine witnesses according to SDCL 1-26, you must file a written petition with the Chief Engineer by November 20, 1987. The petition may be informal, but it must include a statement describing the reasons for your opposition to the cancellation, and your signature and mailing address or your legal counsel if legal counsel is obtained. The Board may consider any abandoned or forfeited water to be available for appropriation subject to the provisions of SDCL 46-1, 46-2, 46-2A and 46-5.

These hearings are adversary proceedings. Any party 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.

Further information on the proposed cancellation or to assure access to the hearing by the handicapped can be obtained by contacting the Water Rights Division, DWNR, Joe Foss Building, Pierre, SD (605-773-3352) for assistance prior to the hearing. The time of the hearing will be automatically extended for at least twenty days upon your written request to the Chief Engineer after a petition has been filed to oppose the cancellation. If an extension is requested, the hearing on the cancellation will be continued until the next regular Board Meeting March 2-3, 1988. Any request for extension must be filed with the Chief Engineer by November 20, 1987.

1415-1

CERTIFICATION

I hereby certify that on October 30, 1987 I have personally deposited with the U.S. Mail, a postage prepaid envelope containing Notice of Cancellation addressed to Richard Cundy, RR #1, Box 55, St. Onge SD 57779.

Karen Schlaak
KAREN SCHLAAK
Senior Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 2nd day of November, 1987.



John Hatch
Notary Public



Department of Water & Natural Resources

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

December 22, 1987

NOTICE

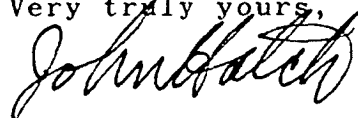
Richard Cundy
RR 1, Box 55
St. Onge SD 57779

Dear Mr. Cundy:

This will notify you that the Water Management Board cancelled the Affidavit of Water Use, signed by Todd M Pettigrew.

This action was taken under the conditions outlined in our notice to you dated October 30, 1987.

Very truly yours,



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



Department of Water & Natural Resources

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

MAY 1 1988

Richard Cundy
Route 1, Box 55
St. Onge, South Dakota 57779

Dear Mr. Cundy:

Enclosed are your Validated Vested Water Right and Water License No. 1416-1.
As long as you use the water beneficially, as stated in the Water License,
the State Water Laws provide that you have a continuing right to use the
water.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch". The signature is written in a cursive style.

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

JH: ms

enclosures



DEPARTMENT OF WATER & NATURAL RESOURCES

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

14/16-1

May 6, 1991

TO: Spearfish Creek Water Right Owners
(See Attached List With Priority Dates)

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

SUBJECT: Diversions from Spearfish Creek

If drought conditions continue in the Black Hills area during 1991, we expect another irrigation season with very low flows in Spearfish Creek. As I understand it, during the 1990 irrigation season, there were short periods of time when there were no flows in Spearfish Creek at different locations.

I believe that a short reach of the creek channel below Cook Ditch's diversion received the most attention from the news media. Although state law does not require instream flows for fish and wildlife and aesthetic purposes, state law does give preference to water for domestic use which includes livestock watering.

We would like to work with you to maintain minimum flows in the creek for domestic use during 1991. Maintenance of minimum flows should reduce news media attention to Spearfish Creek.

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

cc: Representative Harvey Krautschun

SPEARFISH CREEK WATER RIGHTS

PERMIT NO.	NAME	PRIORITY DATE	RATE (CFS)
*43-1	Homestake Mining Co	01/04/1909	100.00
138-1	City of Spearfish	11/12/1917	0.50
141-1	City of Spearfish	03/01/1919	1.10
148-1	City of Spearfish	01/27/1930	1.50
150-1	City of Spearfish	01/27/1930	1.00
+1041-1	US Bur Sport & Fish	02/19/1937	6.66
X1385-1	Homestake Mining Co	10/01/1876	1.67
1386-1	Walton-Schuler Ditch	03/20/1887	8.50
1387-1	Tonn-Evans Ditch	05/01/1876	14.40
1388-1	Bowman Ditch	06/11/1877	8.0
1389-1	Cook Ditch	06/10/1877	21.60
1392-1	Mann Ditch	03/21/1878	1.45
1394-1	Kemper Ditch	07/31/1881	33.00
1399-1	Cook-Burns Ditch	06/15/1881	33.0
1400-1	Owens-Gay Ditch	03/01/1877	1.74
1403-1	Ramsdell Ditch	10/01/1876	2.00
1416-1	Richard Cundy	04/01/1920	0.20

* - Power Generation, non-consumptive

+ - Fish Hatcher in City of Spearfish

X - For municipal use, City of Spearfish

1416-1



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

August 22, 2019

LaVon M Colwell
4669 S Idalia St
Aurora CO-80015

RE: Ownership changes on Water Right or Vested Water Right Nos. 322-1, 709-1, 1325-1, 1326-1, 1327-1, 1328-1 and 1416-1

Dar Ms. Colwell:

Thank you for visiting with me regarding the ownership changes for the water rights and vested water rights listed under Richard L & Bernice G Cundy.

Enclosed are partially completed "Notice of Transfer of Ownership" forms for use in filing the ownership changes. Please review and complete as needed. Upon completion, please sign and return the forms to our office with a required filing fee of \$50 each (total of \$350). The check or money order for the fee can be made payable to the Water Rights Program.

I have included copies of all the water rights and vested water rights for your review. You may keep these for your records. If you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads 'Genny McMath'.

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

enclosures

RECEIVED

AUG 30 2019

WATER RIGHTS
PROGRAM

NOTICE OF TRANSFER OF OWNERSHIP

PAID

AUG 30 2019

Ck# 2101

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

No. 1416-1

Date: August 27, 2019

I/We request that Vested Water Right No. 1416-1

formerly owned by: Richard L Cundy

be transferred to: (name & address) Bernice G. Cundy Trust

% LaVon M. Colwell - trustee

4669 S. Idalia St. Aurora, CO 80015 Telephone No. 303-690-6457

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

14 acres - S 1/2 SE 1/4 Section 21 and N 1/2 NE 1/4 Section 28, T7N, R2E

I/We understand that the validity of Vested Water Right No. 1416-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

A fee of Fifty Dollars (\$50.00) is required to cover the filing fees as required under SDCL 46-2-13. This form must be signed by the new owner.

I/We LaVon M. Colwell, the new owner, certify that the above information is true and correct.

LaVon M. Colwell
(Signed by new owner)

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

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

RECEIPT

WATER RIGHTS PROGRAM

South Dakota Department of Environment and Natural Resources

Date **August 30**

20 **19**

Bernice G Cundy Trust & LaVon Colwell 4669 S Idalia St Aurora CO 80015

RECEIVED OF

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

Fee for Application for Permit No. _____ to Appropriate Water, to construct and to put water to beneficial use	50	00
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 1416-1		
Fee for _____		
Fee for Issuing New Well Driller's License No. _____ for C.Y. _____		
Fee for Renewal of Well Driller's License No. _____ for C.Y. _____		
Fee for Issuing Well Pump Installer's License No. _____ for C.Y. _____		
Fee for Renewal of Well Pump Installer's License No. _____ for C.Y. _____		
(Any Other Work Provided by Law)	TOTAL	50 00

No. **09196**

By *Jeanne Goodman*
Chief Engineer *JEM*

1416-1



DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3182
www.denr.sd.gov

September 4, 2019

LaVon M Colwell
4669 S Idalia St
Aurora CO-80015

RE: Ownership changes on Water Right or Vested Water Right Nos. 322-1, 709-1, 1325-1, 1326-1, 1327-1, 1328-1 and 1416-1

Dear Ms. Colwell:

I am writing to acknowledge receipt of the transfer forms and filing fees you submitted for the above listed water rights and vested water rights.

The ownership changes have been completed. Water Right or Vested Water Right Nos. 322-1, 709-1, 1325-1, 1326-1, 1327-1, 1328-1 and 1416-1 are now all listed under "Bernice G Cundy Trust" with you listed as the trustee.

Enclosed for your records are seven receipts in the amount of \$50 each which you paid for filing the ownership changes. If you have any questions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Genny McMath".

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

enclosures